SUPREME COURT OF THE UNITED STATES

No. 92–1441

HAROLD E. STAPLES, III, PETITIONER *v.* UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

[May 23, 1994]

JUSTICE THOMAS delivered the opinion of the Court.

The National Firearms Act makes it unlawful for any person to possess a machinegun that is not properly registered with the Federal Government. Petitioner contends that, to convict him under the Act, the Government should have been required to prove beyond a reasonable doubt that he knew the weapon he possessed had the characteristics that brought it within the statutory definition of a machinegun. We agree and accordingly reverse the judgment of the Court of Appeals.

The National Firearms Act (Act), 26 U. S. C. §§5801–5872, imposes strict registration requirements on statutorily defined "firearms." The Act includes within the term "firearm" a machinegun, §5845(a)(6), and further defines a machinegun as "any weapon which shoots . . . or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger." §5845(b). Thus, any fully automatic weapon is a "firearm" within the meaning of the Act.[1] Under the

[1]As used here, the terms "automatic" and "fully automatic" refer to a weapon that fires repeatedly with a single pull of the trigger. That is, once its trigger is

Act, all firearms must be registered in the National Firearms Registration and Transfer Record maintained by the Secretary of the Treasury. §5841. Section 5861(d) makes it a crime, punishable by up to 10 years in prison, see §5871, for any person to possess a firearm that is not properly registered.

Upon executing a search warrant at petitioner's home, local police and agents of the Bureau of Alcohol, Tobacco and Firearms (BATF) recovered, among other things, an AR–15 assault rifle. The AR–15 is the civilian version of the military's M–16 rifle, and is, unless modified, a semiautomatic weapon. The M–16, in contrast, is a selective fire rifle that allows the operator, by rotating a selector switch, to choose semiautomatic or automatic fire. Many M–16 parts are interchangeable with those in the AR–15 and can be used to convert the AR–15 into an automatic weapon. No doubt to inhibit such conversions, the AR–15 is manufactured with a metal stop on its receiver that will prevent an M–16 selector switch, if installed, from rotating to the fully automatic position. The metal stop on petitioner's rifle, however, had been filed away, and the rifle had been assembled with an M-16 selector switch and several other M–16 internal parts, including a hammer, disconnector, and trigger. Suspecting that the AR–15 had been modified to be capable of fully automatic fire, BATF agents seized the weapon. Petitioner subsequently was indicted for unlawful possession of an unregistered machinegun in violation of §5861(d).

At trial, BATF agents testified that when the AR–15

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depressed, the weapon will automatically continue to fire until its trigger is released or the ammunition is exhausted. Such weapons are "machineguns" within the meaning of the Act. We use the term "semi-automatic" to designate a weapon that fires only one shot with each pull of the trigger, and which requires no manual manipulation by the operator to place another round in the chamber after each round is fired.

was tested, it fired more than one shot with a single pull of the trigger. It was undisputed that the weapon was not registered as required by §5861(d). Petitioner testified that the rifle had never fired automatically when it was in his possession. He insisted that the AR–15 had operated only semiautomatically, and even then imperfectly, often requiring manual ejection of the spent casing and chambering of the next round. According to petitioner, his alleged ignorance of any automatic firing capability should have shielded him from criminal liability for his failure to register the weapon. He requested the District Court to instruct the jury that, to establish a violation of §5861(d), the Government must prove beyond a reasonable doubt that the defendant "knew that the gun would fire fully automatically." 1 App. to Brief for Appellant in No. 91–5033 (CA10), p. 42.

The District Court rejected petitioner's proposed instruction and instead charged the jury as follows:

> "The Government need not prove the defendant knows he's dealing with a weapon possessing every last characteristic [which subjects it][2] to the regulation. It would be enough to prove he knows that he is dealing with a dangerous device of a type as would alert one to the likelihood of regulation." Tr. 465.

Petitioner was convicted and sentenced to five years' probation and a $5,000 fine.

The Court of Appeals affirmed. Relying on its decision in *United States* v. *Mittleider*, 835 F. 2d 769 (CA10 1987), cert. denied, 485 U. S. 980 (1988), the court concluded that the Government need not prove a defendant's knowledge of a weapon's physical properties to obtain a conviction under §5861(d). 971 F. 2d 608, 612–613 (CA10 1992). We granted certiorari, 508 U. S. ___ (1993), to resolve a conflict in

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[2]In what the parties regard as a mistranscription, the transcript contains the word "suggested" instead of "which subjects it."

the Courts of Appeals concerning the *mens rea* required under §5861(d).

Whether or not §5861(d) requires proof that a defendant knew of the characteristics of his weapon that made it a "firearm" under the Act is a question of statutory construction. As we observed in *Liparota* v. *United States*, 471 U. S. 419 (1985), "[t]he definition of the elements of a criminal offense is entrusted to the legislature, particularly in the case of federal crimes, which are solely creatures of statute." *Id*., at 424 (citing *United States* v. *Hudson*, 7 Cranch 32 (1812)). Thus, we have long recognized that determining the mental state required for commission of a federal crime requires "construction of the statute and . . . inference of the intent of Congress." *United States* v. *Balint*, 258 U. S. 250, 253 (1922). See also *Liparota*, *supra*, at 423.

The language of the statute, the starting place in our inquiry, see *Connecticut Nat. Bank* v. *Germain*, 503 U. S. ___, ___ (1992) (slip op., at 5), provides little explicit guidance in this case. Section 5861(d) is silent concerning the *mens rea* required for a violation. It states simply that "[i]t shall be unlawful for any person . . . to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record." 26 U. S. C. §5861(d). Nevertheless, silence on this point by itself does not necessarily suggest that Congress intended to dispense with a conventional *mens rea* element, which would require that the defendant know the facts that make his conduct illegal. See *Balint*, *supra*, at 251 (stating that traditionally, "*scienter*" was a necessary element in every crime). See also n. 3, *infra*. On the contrary, we must construe the statute in light of the background rules of the common law, see *United States* v. *United States Gypsum Co.*, 438 U. S. 422, 436–437 (1978), in which the requirement of some *mens rea* for a crime is firmly embedded. As

we have observed, "[t]he existence of a *mens rea* is the rule of, rather than the exception to, the principles of Anglo-American criminal jurisprudence." *Id.*, at 436 (internal quotation marks omitted). See also *Morissette* v. *United States*, 342 U. S. 246, 250 (1952) ("The contention that an injury can amount to a crime only when inflicted by intention is no provincial or transient notion. It is as universal and persistent in mature systems of law as belief in freedom of the human will and a consequent ability and duty of the normal individual to choose between good and evil").

There can be no doubt that this established concept has influenced our interpretation of criminal statutes. Indeed, we have noted that the common law rule requiring *mens rea* has been "followed in regard to statutory crimes even where the statutory definition did not in terms include it." *Balint*, *supra*, at 251–252. Relying on the strength of the traditional rule, we have stated that offenses that require no *mens rea* generally are disfavored, *Liparota*, *supra*, at 426, and have suggested that some indication of congressional intent, express or implied, is required to dispense with *mens rea* as an element of a crime. Cf. *United States Gypsum*, *supra*, at 438; *Morissette*, *supra*, at 263.

According to the Government, however, the nature and purpose of the National Firearms Act suggest that the presumption favoring *mens rea* does not apply to this case. The Government argues that Congress intended the Act to regulate and restrict the circulation of dangerous weapons. Consequently, in the Government's view, this case fits in a line of precedent concerning what we have termed "public welfare" or "regulatory" offenses, in which we have understood Congress to impose a form of strict criminal liability through statutes that do not require the defendant to know the facts that make his conduct illegal. In construing such statutes, we have

inferred from silence that Congress did not intend to require proof of *mens rea* to establish an offense.

For example, in *Balint*, *supra*, we concluded that the Narcotic Act of 1914, which was intended in part to minimize the spread of addictive drugs by criminalizing undocumented sales of certain narcotics, required proof only that the defendant knew that he was selling drugs, not that he knew the specific items he had sold were "narcotics" within the ambit of the statute. See *Balint*, *supra*, at 254. Cf. *United States* v. *Dotterweich*, 320 U. S. 277, 281 (1943) (stating in dicta that a statute criminalizing the shipment of adulterated or misbranded drugs did not require knowledge that the items were misbranded or adulterated). As we explained in *Dotterweich*, *Balint* dealt with "a now familiar type of legislation whereby penalties serve as effective means of regulation. Such legislation dispenses with the conventional requirement for criminal conduct—awareness of some wrongdoing." *Id*., at 280–281. See also *Morissette*, *supra*, at 252–256.

Such public welfare offenses have been created by Congress, and recognized by this Court, in "limited circumstances." *United States Gypsum*, 438 U. S., at 437. Typically, our cases recognizing such offenses involve statutes that regulate potentially harmful or injurious items. Cf. *United States* v. *International Minerals & Chemical Corp.*, 402 U. S. 558, 564–565 (1971) (characterizing *Balint* and similar cases as involving statutes regulating "dangerous or deleterious devices or products or obnoxious waste materials"). In such situations, we have reasoned that as long as a defendant knows that he is dealing with a dangerous device of a character that places him "in responsible relation to a public danger," *Dotterweich*, *supra*, at 281, he should be alerted to the probability of strict regulation, and we have assumed that in such cases Congress intended to place the burden on the defendant to "ascertain at

his peril whether [his conduct] comes within the inhibition of the statute." *Balint*, *supra*, at 254. Thus, we essentially have relied on the nature of the statute and the particular character of the items regulated to determine whether congressional silence concerning the mental element of the offense should be interpreted as dispensing with conventional *mens rea* requirements. See generally *Morissette*, *supra*, at 252–260.[3]

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[3]By interpreting such public welfare offenses to require at least that the defendant know that he is dealing with some dangerous or deleterious substance, we have avoided construing criminal statutes to impose a rigorous form of strict liability. See, *e. g.*, *United States* v. *International Minerals & Chemical Corp.*, 402 U. S. 558, 563–564 (1971) (suggesting that if a person shipping acid mistakenly thought that he was shipping distilled water, he would not violate a statute criminalizing undocumented shipping of acids). True strict liability might suggest that the defendant need not know even that he was dealing with a dangerous item. Nevertheless, we have referred to public welfare offenses as "dispensing with" or "eliminating" a *mens rea* requirement or "mental element," see, *e. g.*, *Morissette*, 342 U. S., at 250, 263; *United States* v. *Dotterweich*, 320 U. S. 277, 281 (1943), and have described them as strict liability crimes, *United States* v. *United States Gypsum Co.*, 438 U. S. 422, 437 (1978). While use of the term "strict liability" is really a misnomer, we have interpreted statutes defining public welfare offenses to eliminate the requirement of *mens rea*; that is, the requirement of a "guilty mind" with respect to an element of a crime. Under such statutes we have not required that the defendant know the facts that make his conduct fit the definition of the offense. Generally speaking, such knowledge is necessary to establish *mens rea*, as is reflected in the maxim *ignorantia facti excusat*. See generally J. Hawley & M. McGregor, Criminal Law 26–30 (1899); R. Perkins, Criminal Law 785–

The Government argues that §5861(d) defines precisely the sort of regulatory offense described in *Balint*. In this view, all guns, whether or not they are statutory "firearms," are dangerous devices that put gun owners on notice that they must determine at their hazard whether their weapons come within the scope of the Act. On this understanding, the District Court's instruction in this case was correct, because a conviction can rest simply on proof that a defendant knew he possessed a "firearm" in the ordinary sense of the term.

The Government seeks support for its position from our decision in *United States* v. *Freed*, 401 U. S. 601 (1971), which involved a prosecution for possession of unregistered grenades under §5861(d).[4] The defendant knew that the items in his possession were grenades, and we concluded that §5861(d) did not require the Government to prove the defendant also knew that the grenades were unregistered. *Id.*, at 609. To be sure, in deciding that *mens rea* was not required with respect to that element of the offense, we suggested that the Act "is a regulatory measure in the interest of the public safety, which may well be premised on the theory that one would hardly be surprised to learn that possession of hand grenades is not an innocent act." *Ibid*. Grenades, we explained, "are highly dangerous offensive weapons, no less dangerous than the narcotics involved in *United*

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786 (2d ed. 1969); G. Williams, Criminal Law: The General Part 113–174 (1953). Cf. *Regina* v. *Tolson*, 23 Q. B. 168, 187 (1889) (Stephen, J.) ("[I]t may, I think, be maintained that in every case knowledge of fact [when not appearing in the statute] is to some extent an element of criminality as much as competent age and sanity").

[4]A grenade is a "firearm" under the Act. 26 U. S. C. §§5845(a)(8), 5845(f)(1)(B).

States v. *Balint*." *Ibid*. But that reasoning provides little support for dispensing with *mens rea* in this case.

As the Government concedes, *Freed* did not address the issue presented here. In *Freed*, we decided only that §5861(d) does not require proof of knowledge that a firearm is *unregistered*. The question presented by a defendant who possesses a weapon that is a "firearm" for purposes of the Act, but who knows only that he has a "firearm" in the general sense of the term, was not raised or considered. And our determination that a defendant need not know that his weapon is unregistered suggests no conclusion concerning whether §5861(d) requires the defendant to know of the features that make his weapon a statutory "firearm"; different elements of the same offense can require different mental states. See *Liparota*, 471 U. S., at 423, n. 5; *United States* v. *Bailey*, 444 U. S. 394, 405–406 (1980). See also W. LaFave & A. Scott, Handbook on Criminal Law 194–195 (1972). Moreover, our analysis in *Freed* likening the Act to the public welfare statute in *Balint* rested entirely on the assumption that the defendant *knew* that he was dealing with hand grenades—that is, that he knew he possessed a particularly dangerous type of weapon (one within the statutory definition of a "firearm"), possession of which was not entirely "innocent" in and of itself. 401 U. S., at 609. The predicate for that analysis is eliminated when, as in this case, the very question to be decided is *whether* the defendant must know of the particular characteristics that make his weapon a statutory firearm.

Notwithstanding these distinctions, the Government urges that *Freed*'s logic applies because guns, no less than grenades, are highly dangerous devices that should alert their owners to the probability of regulation. But the gap between *Freed* and this case is too wide to bridge. In glossing over the distinction

between grenades and guns, the Government ignores the particular care we have taken to avoid construing a statute to dispense with *mens rea* where doing so would "criminalize a broad range of apparently innocent conduct." *Liparota*, 471 U. S., at 426. In *Liparota*, we considered a statute that made unlawful the unauthorized acquisition or possession of food stamps. We determined that the statute required proof that the defendant knew his possession of food stamps was unauthorized, largely because dispensing with such a *mens rea* requirement would have resulted in reading the statute to outlaw a number of apparently innocent acts. *Ibid*. Our conclusion that the statute should not be treated as defining a public welfare offense rested on the common sense distinction that a "food stamp can hardly be compared to a hand grenade." *Id.*, at 433.

Neither, in our view, can all guns be compared to hand grenades. Although the contrast is certainly not as stark as that presented in *Liparota*, the fact remains that there is a long tradition of widespread lawful gun ownership by private individuals in this country. Such a tradition did not apply to the possession of hand grenades in *Freed* or to the selling of dangerous drugs that we considered in *Balint*. See also *International Minerals*, 402 U. S., at 563–565; *Balint*, 258 U. S., at 254. In fact, in *Freed* we construed §5861(d) under the assumption that "one would hardly be surprised to learn that possession of hand grenades is not an innocent act." *Freed*, *supra*, at 609. Here, the Government essentially suggests that we should interpret the section under the altogether different assumption that "one would hardly be surprised to learn that owning a gun is not an innocent act." That proposition is simply not supported by common experience. Guns in general are not "deleterious devices or products or obnoxious waste materials," *International Minerals*, *supra*, at 565, that put their owners on notice that they stand

"in responsible relation to a public danger." *Dotterweich*, 320 U. S., at 281.

The Government protests that guns, unlike food stamps, but like grenades and narcotics, are potentially harmful devices.[5] Under this view, it seems that *Liparota*'s concern for criminalizing ostensibly innocuous conduct is inapplicable whenever an item is sufficiently dangerous—that is, dangerousness alone should alert an individual to probable regulation and justify treating a statute that regulates the dangerous device as dispensing with *mens rea*. But that an item is "dangerous," in some general sense, does not necessarily suggest, as the Government seems to assume, that it is not also entirely innocent. Even dangerous items can, in some cases, be so commonplace and generally

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[5]The dissent's assertions to the contrary notwithstanding, the Government's position, "[a]ccurately identified," *post*, at 10, is precisely that "guns in general" are dangerous items. The Government, like the dissent, cites *Sipes* v. *United States*, 321 F.2d 174, 179 (CA8), cert. denied, 375 U. S. 913 (1963), for the proposition that a defendant's knowledge that the item he possessed "was a gun" is sufficient for a conviction under §5861(d). Brief for United States 21. Indeed, the Government argues that "guns" should be placed in the same category as the misbranded drugs in *Dotterweich* and the narcotics in *Balint* because "`one would hardly be surprised to learn,' *Freed*, 401 U. S. at 609, that there are laws that affect one's rights of gun ownership." Brief for United States 22. The dissent relies upon the Government's repeated contention that the statute requires knowledge that "the item at issue was highly dangerous and of a type likely to be subject to regulation." *Id*., at 9. But that assertion merely patterns the general language we have used to describe the *mens rea* requirement in public welfare offenses and amounts to no more than an assertion that the statute should be treated as defining a public welfare offense.

available that we would not consider them to alert individuals to the likelihood of strict regulation. As suggested above, despite their potential for harm, guns generally can be owned in perfect innocence. Of course, we might surely classify certain categories of guns—no doubt including the machineguns, sawed-off shotguns, and artillery pieces that Congress has subjected to regulation—as items the ownership of which would have the same quasi-suspect character we attributed to owning hand grenades in *Freed*. But precisely because guns falling outside those categories traditionally have been widely accepted as lawful possessions, their destructive potential, while perhaps even greater than that of some items we would classify along with narcotics and hand grenades, cannot be said to put gun owners sufficiently on notice of the likelihood of regulation to justify interpreting §5861(d) as not requiring proof of knowledge of a weapon's characteristics.[6]

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[6]The dissent asserts that the question is not whether all guns are deleterious devices, but whether a gun "such as the one possessed by petitioner," *post*, at 10 (which the dissent characterizes as a "semiautomatic weapon that [is] readily convertible into a machinegun," *post*, at 1, 11, 19), is such a device. If the dissent intends to suggest that the category of readily convertible semiautomatics provides the benchmark for defining the knowledge requirement for §5861(d), it is difficult to see how it derives that class of weapons as a standard. As explained above, see n. 5, *supra*, the Government's argument has nothing to do with this *ad hoc* category of weapons. And the statute certainly does not suggest that any significance should attach to readily convertible semiautomatics, for that class bears no relation to the definitions in the Act. Indeed, in the absence of any definition, it is not at all clear what the contours of this category would be. The parties assume that virtually *all* semiautomatics may be

On a slightly different tack, the Government suggests that guns are subject to an array of regulations at the federal, state, and local levels that put gun owners on notice that they must determine the characteristics of their weapons and comply with all legal requirements.[7] But regulation in itself is not sufficient to place gun ownership in the category of

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converted into automatics, and limiting the class to those "readily" convertible provides no real guidance concerning the required *mens rea*. In short, every owner of a semiautomatic rifle or handgun would potentially meet such a *mens rea* test.

But the dissent apparently does not conceive of the *mens rea* requirement in terms of specific categories of weapons at all, and rather views it as a more fluid concept that does not require delineation of any concrete elements of knowledge that will apply consistently from case to case. The dissent sees no need to define a class of items the knowing possession of which satisfies the *mens rea* element of the offense, for in the dissent's view the exact content of the knowledge requirement can be left to the jury in each case. As long as the jury concludes that the item in a given case is "sufficiently dangerous to alert [the defendant] to the likelihood of regulation," *post*, at 15, the knowledge requirement is satisfied. See also *post*, at 1, 18, 19. But the *mens rea* requirement under a criminal statute is a question of law, to be determined by the court. Our decisions suggesting that public welfare offenses require that the defendant know that he stands in "responsible relation to a public danger," *Dotterweich*, 320 U. S., at 281, in no way suggest that what constitutes a public danger is a jury question. It is for courts, through interpretation of the statute, to define the *mens rea* required for a conviction. That task cannot be reduced to setting a general "standard," *post*, at 13, that leaves it to the jury to determine, based presumably on the jurors' personal opinions, whether the items involved in a

the sale of narcotics in *Balint*. The food stamps at issue in *Liparota* were subject to comprehensive regulations, yet we did not understand the statute there to dispense with a *mens rea* requirement. Moreover, despite the overlay of legal restrictions on gun ownership, we question whether regulations on guns are sufficiently intrusive that they impinge upon the common experience that owning a gun is usually licit and blameless conduct. Roughly 50 per cent of American homes contain at least one firearm of some sort,[8] and in the vast majority of States, buying a shotgun or rifle is a simple transaction that would not alert a person to regulation any more than would

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particular prosecution are sufficiently dangerous to place a person on notice of regulation.

Moreover, as our discussion above should make clear, to determine as a threshold matter whether a particular statute defines a public welfare offense, a court must have in view some category of dangerous and deleterious devices that will be assumed to alert an individual that he stands in "responsible relation to a public danger." *Dotterweich*, *supra*, at 281. The truncated *mens rea* requirement we have described applies precisely because the *court* has determined that the statute regulates in a field where knowing possession of some general class of items should alert individuals to probable regulation. Under the dissent's approach, however, it seems that every regulatory statute potentially could be treated as a public welfare offense as long as the jury—not the court—ultimately determines that the specific items involved in a prosecution were sufficiently dangerous.

[7]See, *e. g.*, 18 U. S. C. §§921–928 (1988 ed. and Supp IV) (requiring licensing of manufacturers, importers, and dealers of guns and regulating the sale, possession, and interstate transportation of certain guns).

[8]See U. S. Dept. of Justice, Bureau of Justice Statistics, Sourcebook of Criminal Justice Statistics 209, Table 2.58 (1992).

buying a car.[9]

If we were to accept as a general rule the Government's suggestion that dangerous and regulated items place their owners under an obligation to inquire at their peril into compliance with regulations, we would undoubtedly reach some untoward results. Automobiles, for example, might also be termed "dangerous" devices and are highly regulated at both the state and federal levels. Congress might see fit to criminalize the violation of certain regulations concerning automobiles, and thus might make it a crime to operate a vehicle without a properly functioning emission control system. But we probably would hesitate to conclude on the basis of silence that Congress intended a prison term to apply to a car owner whose vehicle's emissions levels, wholly unbeknownst to him, began to exceed legal limits between regular inspection dates.

Here, there can be little doubt that, as in *Liparota*, the Government's construction of the statute potentially would impose criminal sanctions on a class of persons whose mental state—ignorance of the characteristics of weapons in their possession—

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[9]For example, as of 1990, 39 States allowed adult residents, who are not felons or mentally infirm, to purchase a rifle or shotgun simply with proof of identification (and in some cases a simultaneous application for a permit). See U. S. Dept. of Justice, Bureau of Justice Statistics, Identifying Persons, Other Than Felons, Ineligible to Purchase Firearms 114, Exh. B.4 (1990); U. S. Congress, Office of Technology Assessment, Automated Record Checks of Firearm Purchasers 27 (July 1991). See also M. Cooper, Reassessing the Nation's Gun Laws, Editorial Research Reports 158, 160 (Jan.-Mar. 1991) (table) (suggesting the total is forty-one States); Dept. of Treasury, Bureau of Alcohol, Tobacco and Firearms, State Laws and Published Ordinances—Firearms (19th ed. 1989).

makes their actions entirely innocent.[10] The Government does not dispute the contention that virtually any semiautomatic weapon may be converted, either by internal modification or, in some cases, simply by wear and tear, into a machinegun within the meaning of the Act. Cf. *United States* v. *Anderson*, 885 F. 2d 1248, 1251, 1253–1254 (CA5 1989) (en banc). Such a gun may give no externally visible indication that it is fully automatic. See *United States* v. *Herbert*, 698 F. 2d 981, 986 (CA9), cert. denied, 464 U. S. 821 (1983). But in the Government's view, any person who has purchased what he believes to be a semiautomatic rifle or handgun, or who simply has inherited a gun from a relative and left it untouched in an attic or basement, can be subject to imprisonment, despite absolute ignorance of the gun's firing capabilities, if the gun turns out to be an automatic.

We concur in the Fifth Circuit's conclusion on this point: "It is unthinkable to us that Congress intended to subject such law-abiding, well-intentioned citizens to a possible ten-year term of imprisonment if . . . what they genuinely and reasonably believed was a conventional semiautomatic [weapon] turns out to have worn down into or been secretly modified to be a fully automatic weapon." *Anderson*, *supra*, at 1254. As we noted in *Morissette*, the "purpose and obvious effect of doing away with the requirement of a guilty intent is to ease the prosecution's path to conviction." 342 U. S., at 263.[11] We are reluctant to impute that

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[10]We, of course, express no view concerning the inferences a jury may have drawn regarding petitioner's knowledge from the evidence in this case.

[11]The Government contends that Congress intended precisely such an aid to obtaining convictions, because requiring proof of knowledge would place too heavy a burden on the Government and obstruct the proper functioning of §5861(d). Cf. *United States* v. *Balint*, 258

purpose to Congress where, as here, it would mean easing the path to convicting persons whose conduct would not even alert them to the probability of strict regulation in the form of a statute such as §5861(d).

The potentially harsh penalty attached to violation of §5861(d)—up to 10 years' imprisonment—confirms our reading of the Act. Historically, the penalty imposed under a statute has been a significant consideration in determining whether the statute should be construed as dispensing with *mens rea*. Certainly, the cases that first defined the concept of the public welfare offense almost uniformly involved statutes that provided for only light penalties such as fines or short jail sentences, not imprisonment in the state penitentiary. See, *e. g.*, *Commonwealth* v. *Raymond*, 97 Mass. 567 (1867) (fine of up to $200 or six months in jail, or both); *Commonwealth* v. *Farren*, 91 Mass. 489 (1864) (fine); *People* v. *Snowberger*, 113 Mich. 86, 71 N. W. 497 (1897) (fine of up to $500 or incarceration in county jail).[12]

U. S. 250, 254 (1922) (difficulty of proving knowledge suggests Congress did not intend to require *mens rea*). But knowledge can be inferred from circumstantial evidence, including any external indications signaling the nature of the weapon. And firing a fully automatic weapon would make the regulated characteristics of the weapon immediately apparent to its owner. In short, we are confident that when the defendant knows of the characteristics of his weapon that bring it within the scope of the Act, the Government will not face great difficulty in proving that knowledge. Of course, if Congress thinks it necessary to reduce the Government's burden at trial to ensure proper enforcement of the Act, it remains free to amend §5861(d) by explicitly eliminating a *mens rea* requirement.

[12]Leading English cases developing a parallel theory of

As commentators have pointed out, the small penalties attached to such offenses logically complemented the absence of a *mens rea* requirement: in a system that generally requires a "vicious will" to establish a crime, 4 W. Blackstone, Commentaries *21, imposing severe punishments for offenses that require no *mens rea* would seem incongruous. See Sayre, Public Welfare Offenses, 33 Colum. L. Rev. 55, 70 (1933). Indeed, some courts justified the absence of *mens rea* in part on the basis that the offenses did not bear the same punishments as "infamous crimes," *Tenement House Dept.* v. *McDevitt*, 215 N. Y. 160, 168, 109 N. E. 88, 90 (1915) (Cardozo, J.), and questioned whether imprisonment was compatible with the reduced culpability required for such regulatory offenses. See, *e. g.*, *People ex rel. Price* v. *Sheffield Farms-Slawson-Decker Co.*, 225 N. Y. 25, 32–33, 121 N.E. 474, 477 (1918) (Cardozo, J.); *id.*, at 35, 121 N. E., at 478 (Crane, J., concurring) (arguing that imprisonment for a crime that requires no *mens rea* would stretch the law regarding acts *mala prohibita* beyond its limitations).[13] Similarly, commentators collecting the early cases have argued that offenses punishable by imprisonment cannot be

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regulatory offenses similarly involved violations punishable only by fine or short term incarceration. See, *e. g.*, *Regina* v. *Woodrow*, 15 M. & W. 404, 153 Eng. Rep. 907 (Ex. 1846) (fine of £200 for adulterated tobacco); *Hobbs* v. *Winchester Corp.*, [1910] 2 K. B. 471 (maximum penalty of three months' imprisonment for sale of unwholesome meat).

[13]Cf. *Regina* v. *Tolson*, 23 Q. B., at 177 (Wills, J.) (In determining whether a criminal statute dispenses with *mens rea*, "the nature and extent of the penalty attached to the offence may reasonably be considered. There is nothing that need shock any mind in the payment of a small pecuniary penalty by a person who has unwittingly done something detrimental to the public interest").

understood to be public welfare offenses, but must require *mens rea*. See R. Perkins, Criminal Law 793–798 (2d ed. 1969) (suggesting that the penalty should be the starting point in determining whether a statute describes a public welfare offense); Sayre, *supra*, at 72 ("Crimes punishable with prison sentences . . . ordinarily require proof of a guilty intent").[14]

In rehearsing the characteristics of the public welfare offense, we, too, have included in our consideration the punishments imposed and have noted that "penalties commonly are relatively small, and conviction does no grave damage to an offender's reputation." *Morissette*, 342 U. S., at 256.[15] We have even recognized that it was "[u]nder such considerations" that courts have construed statutes to dispense with *mens rea*. *Ibid.*

Our characterization of the public welfare offense in *Morissette* hardly seems apt, however, for a crime that is a felony, as is violation of §5861(d).[16] After all,

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[14]But see, *e. g.*, *State* v. *Lindberg*, 125 Wash. 51, 215 P. 41 (1923) (applying the public welfare offense rationale to a felony).

[15]See also *United States Gypsum*, 438 U. S., at 442, n. 18 (noting that an individual violation of the Sherman Antitrust Act is a felony punishable by three years in prison or a fine not exceeding $100,000 and stating that "[t]he severity of these sanctions provides further support for our conclusion that the [Act] should not be construed as creating strict-liability crimes"). Cf. *Holdridge* v. *United States*, 282 F. 2d 302, 310 (CA8 1960) (Blackmun, J.) ("[W]here a federal criminal statute omits mention of intent and . . . where the penalty is relatively small, where conviction does not gravely besmirch, [and] where the statutory crime is not one taken over from the common law, . . . the statute can be construed as one not requiring criminal intent").

[16]Title 18 U. S. C. §3559 makes any crime punishable by

"felony" is, as we noted in distinguishing certain common law crimes from public welfare offenses, "`as bad a word as you can give to man or thing.'" *Morissette*, *supra*, at 260 (quoting 2 F. Pollock & F. Maitland, History of English Law 465 (2d ed. 1899)). Close adherence to the early cases described above might suggest that punishing a violation as a felony is simply incompatible with the theory of the public welfare offense. In this view, absent a clear statement from Congress that *mens rea* is not required, we should not apply the public welfare offense rationale to interpret any statute defining a felony offense as dispensing with *mens rea*. But see *Balint*, *supra*.

We need not adopt such a definitive rule of construction to decide this case, however. Instead, we note only that where, as here, dispensing with *mens rea* would require the defendant to have knowledge only of traditionally lawful conduct, a severe penalty is a further factor tending to suggest that Congress did not intend to eliminate a *mens rea* requirement. In such a case, the usual presumption that a defendant must know the facts that make his conduct illegal should apply.

In short, we conclude that the background rule of the common law favoring *mens rea* should govern interpretation of §5861(d) in this case. Silence does not suggest that Congress dispensed with *mens rea* for the element of §5861(d) at issue here. Thus, to obtain a conviction, the Government should have been required to prove that petitioner knew of the features of his AR–15 that brought it within the scope of the Act.[17]

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more than one year in prison a felony.

[17]In reaching our conclusion, we find it unnecessary to rely on the rule of lenity, under which an ambiguous criminal

We emphasize that our holding is a narrow one. As in our prior cases, our reasoning depends upon a common-sense evaluation of the nature of the particular device or substance Congress has subjected to regulation and the expectations that individuals may legitimately have in dealing with the regulated items. In addition, we think that the penalty attached to §5861(d) suggests that Congress did not intend to eliminate a *mens rea* requirement for violation of the section. As we noted in *Morissette*, "[N]either this Court nor, so far as we are aware, any other has undertaken to delineate a precise line or set forth comprehensive criteria for distinguishing between crimes that require a mental element and crimes that do not." 342 U. S., at 260. We attempt no definition here, either. We note only that our holding depends critically on our view that if

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statute is to be construed in favor of the accused. That maxim of construction "is reserved for cases where, `[a]fter "seiz[ing] every thing from which aid can be derived,"' the Court is `left with an ambiguous statute.'" *Smith* v. *United States*, 507 U. S. ___, ___ (1993) (slip op., at 16) (quoting *United States* v. *Bass*, 404 U. S. 336, 347 (1971), in turn quoting *United States* v. *Fisher*, 2 Cranch 358, 386 (1805)). See also *United States* v. *R. L. C.*, 503 U. S. ___, ___ (1992) (THOMAS, J., concurring in part and concurring in the judgment); *Chapman* v. *United States*, 500 U. S. 453, 463 (1991) (rule of lenity inapplicable unless there is a "`grievous ambiguity or uncertainty'" in the statute). Here, the background rule of the common law favoring *mens rea* and the substantial body of precedent we have developed construing statutes that do not specify a mental element provide considerable interpretive tools from which we can "seize aid," and they do not leave us with the ultimate impression that §5861(d) is "grievous[ly]" ambiguous. Certainly, we have not concluded in the past that statutes silent with respect to *mens rea* are ambiguous. See, *e. g.*, *Balint*, *supra*.

Congress had intended to make outlaws of gun owners who were wholly ignorant of the offending characteristics of their weapons, and to subject them to lengthy prison terms, it would have spoken more clearly to that effect. Cf. *United States* v. *Harris*, 959 F. 2d 246, 261 (CADC), cert. denied, 506 U. S. ___ (1992).

For the foregoing reasons, the judgment of the Court of Appeals is reversed and the case remanded for further proceedings consistent with this opinion.

So ordered.