This chapter examines the mens rea or mental fault of the accused. Because an actus reus is treated in law as a bad thing, an intention to cause it is, in law, a bad intention, a guilty mind. Similarly, consciously taking an unjustified risk of causing an actus reus—that is, recklessness—is also a bad state of mind. Unintentionally causing an actus reus by negligence may also be regarded as legally blameworthy. Each of these implies different degrees of ‘fault’. The chapter also discusses subjective and objective fault, intention in crimes other than murder, the distinction between motive and intention, subjective recklessness and malice, wilful blindness, suspicion and reasonable grounds to suspect, the correspondence principle and constructive crime, coincidence in time of actus reus and mens rea, ignorance of the law, absence of a ‘claim of right’ as an element in mens rea and proof of intention and foresight.
3. The elements of a crime: mens rea