

or any part of it was marked, answered, "We have not sufficient evidence before us to shew that he knew it." Held, that it was necessary for the prosecution to shew affirmatively a possession by defendant with knowledge that the stores were marked with the broad arrow. Cockburn, C.J., said: "Actus non facit reum nisi mens sit rea is the foundation of all criminal procedure. The ordinary principle that there must be a guilty mind to constitute a guilty act applies to this case and must be imported into this statute. It is true that the statute says nothing about knowledge, but this must be imported into the statute."

These cases are illustrations of the general rule of law, but this rule is not inflexible as will be seen from the following examples.

(a) *Reg. v. Bishop*, 5 Q.B.D. 259, the defendant was indicted under a statute which made it a misdemeanour for any person to "receive two or more lunatics into any house other than a house for the time being duly licensed." Defendant advertised for patients suffering from "hysteria, nervousness and perverseness," and honestly believed, and on reasonable grounds, as the jury found, that no one of her patients was a lunatic. The learned judge directed the jury that the word "lunatic" as defined by the Act would include a person whose mind was so affected by disease that it was necessary for his own good to put him under restraint. The jury convicted the defendant. The Court of Crown Cases Reserved held that the direction of the learned judge was correct, and that the defendant's belief was immaterial. "If we were to hold that it was, the object of the statute might be frustrated." (Denman, J., p. 261.)

(b) By the Customs Act (R.S.C. c. 32, s. 25) the master of every vessel entering any port in Canada shall go, without delay, when such vessel is anchored or moored, to the custom house of the port where he arrives, and there make a report . . . of every package or parcel of goods on board," etc.

By s. 28: If any goods are unladen from any vessel before such report is made, the master shall incur a penalty of \$400, and the vessel may be detained until such penalty is paid.