

Palmer, J., held the articles taken on shore, before entering at the custom-house, were not goods within the true meaning of the act. At page 618 he says:—"The duty to make the entry is provided by sections 33 and 34, which make it the duty of any importer to make the entry inward. From this it is apparent that the goods to be entered must be such as are imported; and I think it would be absurd where a man who, as a master or seaman on board a vessel, has left Canada with a shirt or other wearing apparel, to say that, when it is brought back again, either on his back or in his possession, that he has imported it, and to forfeit his vessel because he has not reported it or got a permit to land it."

The custom-house officer also, it seems, told the captain the samples were of no value and he might bring them on shore.

Palmer, J., also held that the captain and the owner had a right to the application of the doctrine of *de minimis non curat lex*.

It is submitted the following rules and principles are deducible from a consideration of the foregoing cases:—

1. The absence of *mens rea* does not avail when the offence has been committed in ignorance or misapprehension of the law.

2. That the maxim as to *mens rea* applies whenever the facts which are present to the prisoner's mind, and which he has reasonable ground to believe, and does believe to be true, would, if true, make his act no criminal offence at all.

3. *Mens rea*, in the legal sense of the expression, should not be confounded with a guilty conscience or evil intention. A statute, which prohibits an act, would be violated, though the act was done without evil intention, or even under the influence of a good motive: *R. v. Hicklin*, L.R. 3 Q. B., 360; *Staney v. Chilworth Gunpowder Co.*, 24 Q. B. D., 90.

4. When an act in itself is neither illegal or immoral, but is made penal by statute, it then becomes a question of construction, whether the common law doctrine of *mens rea* is intended to apply to it or not. If the legislature, however, intend to dispense with this right, it ought to be expressed in clear and explicit language.

5. If a person enter upon an act, improper or immoral from its inception, he necessarily assumes the risk of any penalty that may result at any subsequent stage in carrying it into effect, and in such a case the doctrine of *mens rea* does not apply.