

not considering the case where an employee in a shop makes an instrument fraudulent and continues to use it and that the decision was not to govern in any cases of that kind.

Under statutes for the regulation of automobiles and other motor vehicles, a provision that the owner shall be held responsible for any infraction of the speed limit upon a public highway may be so wide as to authorize a summary conviction of the owner of the motor vehicle for a speed limit offence actually committed by the garage machinist who had taken the car out of the public garage where it had been left for repairs. *R. v. Labbe*, 7 Can. Cr. Cas. 417.

In construing a statute creating an offence against public order and punishable as a crime there is a presumption that *mens rea*, an evil intention, or a knowledge of the wrongfulness of the act, is an essential ingredient until met by clear and definite enactment overriding such presumption. (*Sherras v. DeRutzen*, [1895] 1 Q.B. 918, 921, and *Chisholm v. Doullton*, 22 Q.B.D. 736, applied.) *Rex v. McAllister*, 22 Can. Cr. Cas. 166, 14 D.L.R. 430; and see *Patenaude v. Thivierge*, 39 D.L.R. 755, 26 Can. Cr. Cas. 138.

Upon a charge under the fishery regulations of having in possession sturgeon under the permitted size, the doctrine of *mens rea* was held to apply, it being said that a conviction should not be made against the master in respect of the unauthorized possession by the servant, if there is no knowledge of connivance on the master's part in regard thereto. *R. v. Vachon*, 3 Can. Cr. Cas. 558.

So, where a drug clerk, contrary to instructions from the proprietor and without his knowledge, sold crude opium for other than medicinal purposes, the proprietor was held not liable to be convicted of the offence under 7-8 Edw. VII. (Can.) ch. 50, sec. 1. *The King v. A. & N.*, 16 Can. Cr. Cas. 381.

Province of New Brunswick.

SUPREME COURT.

McKeown, J.] HAYDEN P. CAMERON. [31 D.L.R. 219.

Mortgage — Discharge by administrator—As re-conveyance—Estoppel.

Where a widow holds two mortgages on certain property, the first mortgage as administratrix of her deceased husband's estate, the second mortgage in her own name, and she executes and registers a discharge which recites the second mortgage, but is signed by her "as administratrix," she and her assigns are estopped, as against innocent parties without notice claiming title under a foreclosure of subsequent mortgages, from denying that her personal mortgage had been paid and discharged; the discharge operates by law as a re-conveyance.

J. C. Hartley, K.C., for plaintiff. *M. L. Hayward*, for defendant.