

in this case, comes to be narrowed to the simple point, whether, upon the true construction of the statute here in question, the master was intended to be made criminally responsible for acts done by his servants in contravention of the Act, where such acts were done, as in this case, within the scope or in the course of their employment. In our judgment, it was clearly the intention of the Legislature to make the master criminally liable for such acts, unless he was able to rebut the *prima facie* presumption of guilt by one or other of the methods pointed out in the Act."

The principle thus enunciated was applied by the Court in *Parker v. Alden*, [1899] 1 Q.B. 20, in directing the conviction of a master for an offence against the Sale of Food and Drugs Act, 1875, where the milk he supplied was adulterated by strangers; in *Brown v. Foot*, 66 L.T.N.S. 649, to a case where milk supplied by the person convicted was adulterated by his servant against his express order; in *Fitzpatrick v. Kelly*, L.R. 8 Q.B. 337, where adulterated butter was sold without knowledge of this condition; and in a recent case, where the language of the Act is very similar, *Caldwell v. Bethell*, [1913] 1 K.B. 119. The Courts considered that these were cases in which the Legislature had in effect determined that *mens rea* was not necessary to constitute the offence, because, when the language, scope, and object of the Act was considered, it appeared that, if the master was to be relieved of responsibility, a wide door would be opened for evading the beneficial provisions of the legislation.

[Reference to *Pharmaceutical Society v. London and Provincial Supply Association* (1880), 5 App. Cas. 857.]

Lord Alverstone, C.J., in *Emary v. Nolloth*, [1903] 2 K.B. 264, gives three exceptions to the general rule that a guilty mind is necessary before a person can be convicted. These are: (1) if the offence is prohibited in itself, knowledge is immaterial; (2) where there is an absolute prohibition against selling, it is unnecessary to have knowledge; (3) though knowledge is essential, it will be imputed, where the master has delegated his authority or his own power to prevent.

Of the first exception, *Brooks v. Mason*, [1902] 2 K.B. 743 . . . and *Rex v. Coulombe*, 20 Can. Crim. Cas. 31, . . . are examples.

Channell, J., in *Pearks v. Southern Counties Dairies Co.*, [1902] 2 K.B. 1, states the second exception at p. 11. . . .

Examples of the third exception are found in *Commissioners*