

knowledge. The section of the statute under which the prosecution was brought provided as to one class of offence against a licensing law that it must have been "knowingly" committed and as to the others, including the offence of supplying liquor to a constable on duty the word, "knowingly" did not appear in the enactment. This circumstance was viewed by the Court as indicating that the intention of the statute was to make the licensee liable for the act of his servant as regards the offence in question although the licensee himself had not knowingly committed it.

The decision in *Mullins v. Collins* (1874), L.R. 9 Q.B. 292, frequently quoted in support of the criminal liability of the master, does not extend the doctrine of liability of the master so as to include an act of the servant outside of the general scope of his authority. *Somerset v. Hart* (1884), 12 Q.B.D. 360, 53 L.J.M.C. 77; *Coppen v. Moore*, [1898] 2 Q.B. 306; *Watt v. Brown* (1896), 40 Sol. J. 575; *Hogg v. Davidson* (1901), 3 Sc. Sess. Cas. 5th series 49; *Police Commissioners v. Cartman* [1896] 1 Q.B. 655.

Sec. 17 of the Licensing Act, 1872, Eng., imposes a penalty upon a licensee who "suffers" any gaming to be carried on in his premises. To make a licensed person liable under this section, if neither personal knowledge on his part nor connivance is shown, it will be sufficient if the gaming had been allowed by the servant whom the master had left in charge of the premises, so that the servant's permission of the gaming had been an act done in the course of his employment even though contrary to his master's express orders. *Redgate v. Haynes*, 1 Q.B.D. 89; *Bond v. Evans*, 21 Q.B.D. 249. So, in *Somerset v. Hart*, 12 Q.B.D. 360, knowledge of a potman who was not put in charge of the licensed premises was held insufficient to make the master liable.

The doctrine of *Redgate v. Haynes*, 1 Q.B.D. 89, was applied in *Crabtree v. Hole*, 43 J.P. 799, to make the proprietor responsible for gambling which had taken place without his knowledge but which his servant, left in charge, should have discovered and prevented had he taken reasonable care.

The principle to be deduced seems to be that if the form of the enacting statute indicates that the master is to be held responsible without personal knowledge or connivance of the offence against a penal law, such as a licensing Act, the master will be liable if the offence be committed by a person he has left to act for him in the management of the business. *Smith v. Slade*, 64 J.P. 712; *Emary v. Nolloth*, [1903] 2 K.B. 264. *Conlon v. Muldowney*, [1904] 2 Irish R. 498; *McKenna v. Harding*, 69 J.P. 354; *Allchorn v. Hopkins*, 69 J.P. 355. But where there has been no delegation of the conduct or control of the business, he will not be liable in respect of an offence of that class committed without his knowledge or connivance. *Emary v. Nolloth*, [1903] 2 K.B. 264, 72 L.J.K.B. 620, 20 Cox C.C. 507.

In *Anglo-American Oil Co. v. Manning*, [1908] 1 K.B. 536, one Baldwin, a servant of the oil company, was sent out with a travelling tank of oil and with two good measures. He sold oil, however, with a fraudulent measure which had not been given him but which he used for his own profit and not for the benefit of his masters. The Court said that Baldwin's possession must be deemed to be his own possession and not the possession of his employers and set aside a conviction of the latter under the Weights and Measures Act, Imp., 1878. It was pointed out, however, that the Court was