COMMON LAW STRICT LIABILITY FOR ENVIRONMENTAL POLLUTION AND DAMAGES

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I. INTRODUCTION

The concept of liability or liability without fault has on occasion been used by Courts in Canada in dealing with environmental protection problems. It has been used more frequently in the United States, and it is applied in both criminal cases and civil cases. In criminal law, for example, offences sometimes do not require any specific or general mens rea. The conduct itself, even if inno-
cently engaged in, results in criminal liability. Because of the harshness of holding people strictly liable in this way, the Courts require strong evidence of a legislative intent to statu-
torily create strict liability before the usual requirement of mens rea is abandoned. Strict liability crimes are usually limited to minor offences or regulatory offences. They are not criminal in any real sense, but are prohibited in the public interest. Although enforced as penal

laws through the utilization of the machinery of the criminal law, the offences have a civil nature and might well be regarded as a branch of administrative law to which traditional principles of criminal law have limited application. Typical examples of this type of offence are Violations of liquor laws, product liability laws and environmental protection laws.

In civil law, it is often the case that one who engages in an activity that has an inherent risk of injury, i.e. nonnatural, ultrahazardous, ab-
normally dangerous activity, is liable for all injuries proximately caused by his negligence, even with- out a showing of negligence. The concept of strict liability applied by the Courts here is based on the theory of Ryland v. Fletcher and the Restatement of Torts (second) sections 519 and 520. This concept is

put into practice in the remedies of both statutory and common law.

The following chapters will dis-
cuss arguments for and against strict liability, criminal law strict liability, strict liability of common law and defences to strict liability.

II. ARGUMENTS FOR AND AGAINST STRICT LIABILITY

In regulatory offences, the imposition of strict liability is favoured by some scholars on the ground that it can promote higher standards of honesty in commerce and advertising, as well as higher standards of respect for the need to preserve the environment and to manage its re-
sources. Besides the protection of social interests, administrative efficiency and the absence of stigma in its use are used to justify the concept. In civil law, strict liability is essen-
tially supported to promote economi-

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in favour of strict liability is unconvincing. Deterrence looks beyond the offender in Court, it looks to all the potential offenders outside. But while no one can be deterred from making unavoidable mistakes, a penalty imposed on those who make them can strengthen the whole system of deterrents, close possible loopholes through which defendant might escape, and encourage everyone to take the utmost care. If even blameless offenders do not escape, there is all the more reason for everyone else to take more care.

Strict liability can serve a utilitarian purpose, and it is not all irrational. But is it unjust? In theory, perhaps not in one sense, at least not in the way strict liability would be unjust in real crimes where bringing a wrongdoer to justice is the aim, because here strict liability would expose a man to condemnation, stigma, shame, and punishment (in the full sense of a penalty deserved by the accused) are out of Court. The penalty is not so much a punishment as a disincetive, so we can not object that defendants are receiving blame or punishment beyond their due. Therefore, in theory, no question should arise of imposing unfair or unjust burdens.

Unfortunately, it appears to be different in practice. First, conviction for regulatory offences may carry a stigma. Second, penalties may be looked upon as more than simple disincetives; they may be thought of as deserved. What is more, the possible penalty allowed by law is frequently imprisonment. According to the estimates of the Law Reform Commission of Canada, it is a legal possibility in over 70% of strict liability offences. Not surprisingly, the social consequences of conviction and punishment for such offences can be quite severe, including loss of job and loss of reputation. Even without imprisonment, the penalties for regulatory offences can be harsh enough. Loss of licence, with resulting loss of livelihood, can sometimes be far more severe than imprisonment itself. Thus, for example, a man convicted without fault of a strict liability polluting offence can lose his licence and job. Quite apart from this, strict liability in the law of regulatory offences is unjust in the second sense conceptual. Even with the aim of mere deterrence, it still offends against the principle that like cases should be treated alike and different cases differently. To treat alike one who is at fault and one who is not at fault is to disregard an important distinction: the two are not in the same category, nor should the law act as if the were. In doing so, strict liability is unjust. Some argue that strict liability in regulatory offences is inhuman because it involves treating persons as things. Can this argument be accepted? In one sense, no, not in the way that the entire abandonment of mens rea in real crimes would be inhuman, since that would entail denying personal responsibility altogether. With strict liability in regulatory offences personal responsibility is not wholly denied. Indeed, so long as mens rea remains the underlying doctrine of the criminal law, far from denying the offender’s responsibility, it pays him too great a compliment. It does not only treat him as a responsible person, but it holds him responsible when he really is not. It treats him as more responsible than he really is. Besides, if punishment is fire, the very paradigm of deterrence and of making crime “an ab at bargain” to the offender, the law pay him the further compliment of regarding him as a deterable and thus responsible person. It looks on him not as an object to be cured but as a person to be deterred. The argument from “inhumanity”, so crucial in the major criminal law, has here no force.

Other advance objections on the ground of liberty. Can these be raised? Of course they can, because a law that imposes penalties but dispenses with mens rea makes individuals act as their own peril. For example, sell food, and you risk paying a penalty for its adulteration even in cases where you could not reasonably have known the food had anything wrong with it. This quite simply reduces the extent to which individuals can predict and avoid the intervention of the criminal law. But the gain in terms of prevention of harm, promotion of high standard of care, and protection of the protection of the public welfare they will outweigh this loss. This is unlike strict liability in civil law or tort law which no one seems to regard as unjust. This branch of law takes the view that a person who undertakes an abnormally dangerous activity is liable if the activity causes injury to other people, eventhough it was not his fault. He is, after all, the one who had the choice. He need not have undertaken the dangerous objects on his land and expose others to the risk. No one is forced to undertake a dangerous activity or keep dangerous objects. Ongoing carrying on an activity likely to result in harm to others will pursue that activity at his own peril. Therefore, strict liability can be just.

But this is quite different from criminal law, for civil law is con-
cerned with shifting the loss, in money terms at least, from the innocent victim to the man who brought about the dangerous situation, from the plaintiff to the defendant. The latter can of course insist against the loss, make it a cost of the enterprise and pass it on to his customers, the public. So ultimately the loss, instead of being borne wholly by one unfortunate victim, is spread among us all. The criminal law, by contrast, is concerned not with shifting the loss, but with punishing and deterring. The fine does not go to compensate victims or potential victims; it is imposed in order to deter. Besides, insola as the fine is treated as a cost of the business and passed on to public, this means that the public foot the bill for a fine to be paid to public, to say the least, an odd situation. Thus strict liability in criminal law can not be justified out he same grounds as in civil law.21

In fact, what strict liability in criminal law provides is that anyone entering into activity likely to result in harm to others will pursuant that activity at his own peril. Again, this make good sense in civil law. Keep a zoo, manufacture fireworks and so forth, and we know that people may get injured as a result. Therefore, it is only right that you should have to compensate them if they do; this is a fair risk of trade. Does this same principle make sense in the same way? To do so it would have to ensure that we stand to gain thereby. One gain could be to ensure that those who cause harm to others, even innocently, should compensate those others, but this taken care of by civil law. Another gain would be to discourage the activity in question without going so far as to prohibit it.22

Other arguments advanced against strict liability are based on certain theories, inter alia Contributory negligence, or assumption of risk theories. The contributory negligence theory objects to the imposition of strict liability in a case where damages suffered by a plaintiff were not only caused by the defendant’s conduct but also by the plaintiff’s contributory negligence. Contributory negligence is defined as conduct by the plaintiff which falls below the standard to which he should conform for his own protection.23 The assumption of risk theory justifies strict liability with very limited. The first limit is usually put in terms of whether the injury stemmed from the risk the presence of which was the reason for making the activity strictly liable. The second limit is usually put in terms of whether the victim has done something which, though not necessarily negligent, has especially exposed him to the risk.24

Stewart and Krier, by using an economic efficiency analysis, put pollution or other forms of environmental degradation in certain circumstances: (1) The plaintiff can more cheaply reduce pollution damage. In this case, requiring the defendant, either under the rubric of strict liability or fault, to compensate the plaintiff for the full amount of unavowed damage, could reduce or destroy the plaintiff’s incentive to take avoidance measures that are socially desirable. (2) The local community gains external benefits from the activity, such as providing employment when there is a slack in the economy, even though the activity gives rise to pollution and other forms of external costs. Imposition of damage liability may cause a pollution source to shut down or reduce its level of activity. If there were no external benefits associated with the activity, shut down in the face of damage liability would ordinarily be desirable. But where external benefits are created by the activity, shut down may not be socially desirable. (3) Coming to the insurance. In this case, the plaintiff with full notice subjects himself to the risk. This is actually a variation of the principle of assumption of risk or Volenti non fit injuria.25

20. Ibid p. 25.
22. Ibid
23. Supra note p. 229.

III. CRIMINAL LAW STRICT LIABILITY

In criminal law, offenses are traditionally divided into two categories, the true criminal offense and the public welfare offense. The distinction between these two is very important, because if the offense is a criminal one, the prosecution must prove a mental element, namely, that the accused who committed the prohibited act did so intentionally or recklessly, with knowledge of the facts which constitute the offense, or with willful blindness towards them. More negligence is excluded from the concept of the mental element required for conviction, with the result that a person who fails to take such precautions as a reasonable and prudent person would take, or who fails to know facts he should have known, is innocent in the eyes of the law.26 If the offense is one concerning the public welfare, there are two possibilities. (1) The prohibited act which constitutes the actus reus of the offense. It is not relevant to prove a mental element, and it is no defense to prove that the accused was entirely without fault, in other words, it is not open to the accused to free himself by showing that he was free of fault. This kind of offense is called an offense of ab-

sought liability. It is not necessary for the prosecution to prove the existence of mens rea, the commission of the prohibited act prima facie resulting in the offence. This gives the accused an opportunity to avoid liability by proving that he took all reasonable care. This involves consideration of what a reasonable man would have done in the same circumstances. A defence is also possible if the accused reasonably but mistakenly believed in certain facts which, if they had been true, would have made the act or omission innocent, as if he had taken all reasonable steps to avoid the particular event. This kind of offence is called an offence of strict liability.29

Various arguments are advanced in justification of absolute liability in public welfare offences. Two predominate. First, it is argued that the protection of social interests requires a high standard of care and attention on the part of those who follow certain pursuits and that such persons are more likely to be stimulated to maintain those standards if they know that ignorance or mistakes will not excuse them. The removal of any possible loophole acts, it is said, is necessary as an incentive to undertake precautionary measures beyond what would otherwise be

29. Ibid.

be, empirically established. There is no evidence that a higher standard of care results from absolute liability. If a person is already taking every reasonable precautionary measure, he is not likely to take additional measures, knowing that however much care he takes, it will not serve as a defence in the event of breach. If he has exercised care and skill, will conviction have a deterrent effect upon him or others? Will the injustice of conviction lead to cynicism and disrespect for the law, on his part and on the part of others? These are among the questions asked. The arguments that no stigma attaches does not withstand analysis, for the accused will have suffered loss of time, legal costs, exposure to the processes of the criminal law at trial and, however one may downplay it, the opprobrium of conviction. It is not sufficient to say that the public interest is engaged and, therefore, liability may be imposed without fault. To serious crimes, the public interest is involved and mens rea must be proven. The administrative argument has little force as well. In sentencing, evidence of due diligence is admissible and therefore the evidence might just as well be heard when considering guilt.33 It is worth noting that historically the penalty for breach of statutes enacted for the regulation of individual conduct in the interest of health and safety was minor. To day, such penalties may amount to thousands of dollars and entail the possibility of imprisonment for a second conviction.34

It is interesting to notice the recommendation made by the Law Reform Commission of Canada to the Ministry of Justice. It was stated that negligence should be the minimum standard of liability in regulatory offences, that such offences were:

- to promote higher standards of care in business, trade and industry,
- higher standards of respect for the environment, and
- therefore the offence is basically and typically an offence of negligence,

that an accused should never be convicted of a regulatory offence if he can prove that he acted with due diligence, meaning that he was not negligent.

What about pollution offences? Are they true criminal offences? Pollution offences are undoubtedly public welfare offences enacted in the interests of public health. Thus, there is no presumption of full mens rea.35 Furthermore, Sprague J., in R. v. Industrial Tankers Ltd., held:

the Crown did not need to prove that the accused's mens rea, but it had to show that the accused had the power and authority to prevent the pollution, and could have prevented it, but did not do so.

32. Ibid.
33. Ibid 395.
34. Chambers v. Richards (1897) 7 H.L.C. 349 at p. 382.
their own advantage constructed a reservoir on their land. The water broke through into the unused and fill-up shaft of an abandoned coal mine and flooded along communicating passages into the adjoining mine of the plaintiff, causing damage. The actual work was done by independent contractors, who certainly were negligent, but according to English law at that time, their negligence was not chargeable against the defendants, who were entirely free from fault of their own. The case at that time was considered to be irreparable as a trespass, because the flooding was not direct and immediate, nor as a nuisance, because the defendant's conduct was not offensive to the senses and the damage was non-recurring. In the other ways, the defendants were held liable. In determining the liability of the defendants, two notions were used. They were Mr. Jutson Blackburn's notion of a thing "likely to do mischief if it escapes" and Mr. Justice Lord Cairns's notion of a "non-natural use." These two notions developed through subsequent decisions in the English Courts and were

1) Ryland v. Fletcher theory.

In this well-known case, the defendants for their own purposes and

35. R. V. Industrial Tankers Ltd. (1968) 4 C.C.C. 81.
36. Supra note 2 p. 398.

reborn in another form. They became part of the criteria by which it is determined whether an activity is abnormally dangerous.

In Canada, the application of the Rylands v. Fletcher principle does not appear to be limited to damage caused by things inherently dangerous. Liability has been found in respect to wide range of substances and activities including gas, oil, sewage, vibration, water, herbicide, insecticide, acide air contaminants and noxious fumes. The criterion appears to be whether in the particular circumstances escape resulting in undue risk of damage to other persons is reasonably likely. An escape from property is not strictly required. Such a case can be seen in Wild V. Allied Tiling & Floors Ltd. A subcontractor on the plaintiff's house under construction was held liable for damage caused by the accidental explosion of a propane gas heater brought onto the premises by the defendant. Liability has also been found with respect to damage caused by shock and vibration resulting from compressed blasting. An instance of it would be

41. Ibid.
43. Ibid p. 366.
44. Ibid.
45. Wild V. Allied Tiling & Floors Ltd (1968), 5 D.L.R. (2d) 56 at 65, 66 (NS).

difficult to say that things are escaping. Proof of an escape often presents little difficulty in the case of environmentally damaging activities that involve discharge of some contaminant into land, air and water. However, escape has been narrowly defined to exclude vibrations caused by pile driving.

55. It is now settled that the term a non-natural use of land does not refer to the degree of land "development", and should not be given an agricultural connotation. The issue is best put in terms of the method of use, rather than the objective of the activity. Special uses resulting in increased risk of harm to others have been held to be non-natural. Conversely, ordinary domestic or commercial installations such as water, gas or electrical systems and materials storage and distribution systems that can be regarded as "reasonable and ordinary use of premises" have been held to be natural.

Several cases suggest that a use is more likely to be regarded as natural where the object is to benefit the

47. Supra note 42 p. 366.
49. Ibid.
51. O'Neill V. Empire Homes (1972), 30 D.L.R. (3d) 508 (N.S.C.A); Brewer V. Keppel (1973), 35 D.L.R. (3) 552 at 555 (N.S.C.2.).
public or at least a fairly extensive group of persons. But community benefit has also been specifically rejected. The result is that the Ryland V. Fletcher principle may be un
avoidable in private environment protections involving damage resulting from the operating processes of ordinary, apparently "reasonable" commercial and industrial activi-
ties.

In the U.S., despite initial judicial hostility, most states now accept some form of the Ryland V. Fletcher rule. But the use of the doctrine in the hazardous waste context is limited by the requirement that the activity involved be non-natur-
al. In pollution suits, Courts are always reluctant to declare polluting industrial activities in industrial area "non-natural." The Texas Supreme court’s decision in Turner V. Big lake oii co. is typical. It stated that oil drilling was not a non-natu-
ral use of land in Texas, and refused to impose strict liability for damage caused by the escape of salt water wastes from oil drilling opera-
tions. The court also noted, how-
ever, that Texas does not impose strict liability for other activities almost universally classified as non-
natural, because such liability is unsui-
ted to their conditions.

The Delaware Supreme court, in Priez V. El. Du Pont de Nemours and Co., applied a rationale similar to that in the above mentioned case to the chemical industry. In this case, the court also refused to hold Do Pont strictly liable for an em-
ployee’s permanent injuries caused by an escape of chlorine gas, be-
cause, according to the court, to say that any corporation or individual possessing or using dangerous sub-
stances upon its or his premises should be held liable as an insurer in the event to injury to other by reason of the mere possession, use, or es-
cape there of would be but to strangle corporates and individual enterpries. However, the court’s decision did not entirely hinder the application of strict liability to prac-
tices that have a “history of doing injury to others or their property.” Thus, a court could expand strict liabil-
ity to include hazardous waste disposal if a plaintiff provided a carefull documented history of in-
jury connected with the disposal of

52. See Grover El 1 V. Foytage La Protec (1963), 45 W.W.R. 313.
53. Supra note 51.
54. Ibid.
56. Maloney, Judicial Protection of the En-
57. Ibid.
58. supra note 5 p. 970.

hazardous waste in-
volved.

In Cities Service Co. V. state case, a Florida court held a mining company strictly liable when a phos-
phate slime reservoir broke and allowed approximately one billion gallons of slime to escape. Although the court recognized that the area was suited to mining, that mining had great economic importance to the area, and that Cities Service had followed accepted mining practices, the court found that Cities Service’s mining was a non-natural use of land.

This case in an important precen-
dent for cases in which hazardous wastes are stored either on the gene-
or’s premises or in an indepen-
dent disposer’s facility. The court’s willingness to classify the storage of phosphate slime as a non-natural use of land, although the mining industry is important to Flor-
da, suggests a new approach in determining what is non-natural. Actually, the court determined the non-natural character of the activity by assessing the size of the risk in-
volved.

By using this approach, a court could classify the storage of hazardous wastes in and around reservoirs as non-
natural use of one’s land — impairing phos-
phate climes in Rensierco is Non-Natural use of landscape of slime involves doctrine of strict liability - Cities Service V. State, 10 Fla., 10 U.L. Rev 104 (1976).

In Restatement (second) sections 519 and 520 theory. The Original Restatement of Torts limits liability to "ultrahazard-
ous activity". Although its criteria derive from Ryland V. Fletcher, most commentators view the ultraha-
azardous activity test as both nar-
rowed because the test require ext-
reme danger, and broader because it ignore the location of the ac-
tivity. The classification of activi-
ty as ultrahazardous under the Restatement is a more mechanical pro-
cess than used in Ryland V. Flet-
cher. Courts have found strict liability applicable when a specific enter-
prise cause unusual and unavoidable risk. Activities traditionally included in this category are blast-
ing, storing of large quantities of dynamite, keeping of wild animals, flying airplanes and crop dust-
ing. As with these activities, ha-
dazardous waste disposal may also re-
sult in serious injury despite pre-
caution.

In Restatement (second), the ul-
trahazardous activity test of the Ori-
ginal Restatement is substituted with "abnormally dangerous activity".

52. Supra Note 5 p. 971.
53. Comment, Strict Liability for Hazardous use of one’s land - Impounding phos-
phate climes in Rensierco is Non-Natural use of landscape of slime involves doctrine of strict liability - Cities Service V. State, 10 Fla., 10 U.L. Rev 104 (1976).
54. supra note 5 p. 972.
55. supra note 5 p. 971.
56. Ibid.
57. 128 Tex. 155, 96 S.W. 2d 222 (1936) see Rodgers - supra note 38.
58. 45 Del. 427, 75 A. 2d 256 (1940) see su-
pra note 5.
59. ibid.
The Restatement (second) enumerates six factors courts should consider in applying the test of (cost not all of them must be met). Factor (a), (b), and (d) are similar to factors in the Original Restatement, but the others differ: (a) existence of high degree of risk of some harm to the person, land or chattels of others; (b) likelihood that the harm that results from it will be great; (c) inability to eliminate the risk by the exercise of reasonable care; (d) extent to which the activity is not a matter of common usage; (e) inappropriateness of the activity to the place where it is carried on; and (f) extent to which its value to the community is outweighed by its dangerous attribute.70

The Restatement (second) imposes strict liability for broader range of activities than does the original Restatement. The Restatement would find defendants liable for activities that create a risk of harm that even utmost care fails to eliminate. The Restatement (second) would impose liability for risk of harm that reasonable care fails to abolish.71

Another different between the two views is that the Restatement (second) includes a balancing test similar to that used in nuisance theory.72

The storage, and sometimes the disposal, of large amounts of toxic waste is an abnormal use of land according to the Restatement (second).73 The storage and disposal of hazardous waste may create (a) a high degree of risk of harm to the person, land, and chattels of others; (b) a likelihood that the resulting harm will be great, (c) an inability to eliminate risk by reasonable care, and (d) an uncommon use of land.74

Disposal of hazardous wastes may not in all cases, however fulfill the remaining two Restatement (second) criteria (a) inappropriateness to the place where the activity is carried on, and (f) more danger than benefit. The danger from these hazardous waste may be considered to be less important than the economic benefit provided by the industries. The last criteria, however, will be fulfilled in many cases.75

The inappropriateness criteria displays consideration similar to those established in the "non-natural use" criteria of Ryland v. Fletcher.76 In cases in which a use would be considered non-natural under a Ryland v. Fletcher analysis, the use would also probably be considered inappropriate under an abnormal use analysis.77

The criterion of greater danger than benefit will often be satisfied by showing the serious and widespread consequences of improper disposal of hazardous waste.78

V. DEFENCE TO STRICT LIABILITY

Generally, strict liability means that it is no defence to say "I did not mean to break the law".79 Or "I did not know the facts were such as to make my conduct illegal".80

Strict liability means liability without fault. But this does not mean that in cases in which strict liability is imposed there is no defence at all. Strict liability is never absolute.81

There must, for example, be proof of actus reus. There must be proof of an act, omission, or condition which is entirely beyond the defendant's or defendant's control. In their development in pollution cases, 'embarrassment of due diligence and reasonable mistakes of fact have been accepted by courts. Mr Justice Dickson in the R v. Sack Ste Marie held:

in a strict liability offence it is open to the accused to avoid liability by proving that he took all reasonable care. This involves consideration of what a reasonable man would have done in the circumstances. A defence is possible if the accused reasonably believed in mistaken set of facts which, if true, would have made the act or omission innocent, or if he took all reasonable steps to avoid the particular accident.82

In the R v. Chapman he held:

An accused may absolve himself or prove that he took all the care which a reasonable man might have been expected to take in all the circumstances or, in other words, that he was in no way negligent.83

An in R v. Byron Creek Collieries Ltd, Mr Justice Provenzano held:

I have no difficulty whatever in concluding that the offence before this court on this appeal is for the same reasons given by Dickson, J, similarly an offence of strict liability. Therefore would be open to the appellant to discharge itself from liability by showing on a balance of probabilities that it had used all reasonable care in the circumstances.84

In civil law, even if a plaintiff can establish the elements necessary under one of the theories of liability for dangerous activities, he may be denied recovery because of one or more defences, including contributory negligence, assumption of risk, plaintiff's unusual sensitivity, the defendant's public duty, and intervening acts of third persons, animals, or God.85 But the use of these defences varies among jurisdic-

71. Supra note 5 p. 975.
72. Ibid.
73. Supra note 5 p. 975.
74. Ibid.
75. Ibid.
76. Ibid.
77. Ibid.
78. Ibid.
79. Ibid.
80. Ibid.
81. Ibid.
82. Ibid.
83. Supra note 2 p. 975.
85. R. v. Byron Creek Collieries Ltd.
86. Supra note 3 p. 978.
normally Dangerous Activity. If the court, as a matter of law, defined a conduct as not only dangerous but also abnormally or unusually risky, a victim could secure relief by merely showing that the actions cause the damage without having to prove as well that the defendant acted unreasonably. The doctrine of strict liability actually has limited value to those who seek environmental protection, since relief in strict liability is on a one to one to one basis, is usually limited to monetary damage and involves the difficult problem of proving causation. The problems of proving causation and securing total relief were especially troublesome when there were multiple causes of a single harm. This situation is created by the fact that many forms of injury have causes other than pollution, and it is often difficult or impossible to establish which among several possible causes were responsible for the illness in a given individual. More importantly, the doctrine still involves basing as to the utility of the activity. Unlike negligence rules, the balance is not made by the fact finder in deciding whether the defendant acted unreasonably, but rather by

VI. CONCLUSION.

Regulatory offence's strict liability used in environmental protection is essentially meant to promote higher standards of respect for the need to preserve the environment and husband its resources, and to achieve administrative efficiency. The use of strict liability in regulatory offences has improved since the Saudi Sea Marine case (1978) in which defences of due diligence and reasonable mistake of facts were justified by the court.

In civil law, strict liability is applied through the doctrines of Ab-

87. Ibid.
88. Ibid.
89. Ibid.
90. Supra note 1 p. 32.
91. Supra note 2 p.
93. Ibid.
94. Ibid.
95. Supra note 103 p. 9.
96. Ibid.