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UNIVERSITY OF BELGRADE

FACULTY OF LAW

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**SUBJECTIVE ELEMENT OF A CRIMINAL
OFFENCE IN ENGLISH LAW**

Doctoral Dissertation

Belgrade, 2015

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TITLE: SUBJECTIVE ELEMENT OF A CRIMINAL OFFENCE IN ENGLISH LAW

Summary:

The subject matter of a doctoral thesis titled „Subjective Element of a Criminal Offence in English Law” is the analysis of guilt and guilt-related legal institutes in English (Anglo-Saxon) criminal law. The main purpose of this research is to establish the manner in which one of most important criminal and legal concepts of the Anglo-Saxon law was formed and to which extent the Anglo-Saxon body of law differs from prevailing concepts in the countries influenced by the Greco – Roman – Germanic legal tradition.

Criminal Law in England, as well as the rules from other branches of law, evolved in the first place spontaneously from a long lasting process of judicial decision making, and is traditionally more inclined toward procedural rather than toward substantive law rules and institutes. The manner of conducting a criminal proceedings with significant presence of layman’s terms, and general orientation towards practical issues in an attempt to justly resolve a dispute without ample referral to complex theoretical constructs, stand behind the fact that the Anglo-Saxon system of criminal jurisprudence is at a lower level of dogmatic development than the European-Continental system of criminal jurisprudence.

The Anglo-Saxon concept of guilt is conceptually simplified and fits into the framework of traditional subjective and psychological learning. Despite the fact that guilt is considered a constitutive element of a general term of criminal offence, its structure is simplified (it is reduced only to the forms and degrees of guilt) and unlike the European-Continental understanding, it does not include the normative content (awareness of unlawfulness of the act).

The nature of the subject matter and target of the research were decisive in determining a methodological approach. The analysis of a subjective side of criminal offence in common law, through referential literature and corresponding legal sources, has dictated the necessity to use the methods of social sciences and primarily those of legal jurisprudence: dogmatic, normative, comparative, sociological and, to a certain extent, a historical legal method.

Research has revealed that despite the fact that Anglo-Saxon and European-Continental systems of criminal jurisprudence evidently differ on the matters of guilt that clearly reflects their different origins, the basics of practical preference in one and theoretical in the other legal system (which affected the forms of reasoning of law practitioners), then different and particular terminology, in effect, once some concrete solutions giving rise to the contrast are excluded, it can be concluded that with respect to the postulates and the basic principles, and in terms of a huge number of final solutions there is actually a great closeness and high degree of similarity between the *common law* and *civil law* systems.

Key words: common law – criminal offence – guilt – intent – recklessness – negligence – strict liability – defences.

Field of study: LAW

Specific field of study: CRIMINAL LAW

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(*intent*), (*recklessness*), (*knowledge*) (*negligence*).

mind.

guilty

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() (*strict liability*),

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(*vicarious liability*).

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16. 17.),

² P. R. Glazebrook /2001/: How Old Did You Think She Was?, *The Cambridge Law Journal*, 1, . 30.

³ . H. Brunner /1908/: *The Sources of English Law*, Boston, . 51. *Common law statute law* (),

” , (), *common law*

civil law, .

“ . . . /2008/: , , . 166.

common law- , (

common law).

(). *Common law*

common law

⁴ ” , () :“ (Lord Reid), . J. Sellers /1978/: Mens Rea and the Judicial Approach to „Bad Excuses“ in the Criminal Law, *The Modern Law Review*, 3, . 245. „ , :“ J. Hall /1960/: *General Principles of Criminal Law*, Indianapolis, . 171.

⁵ W. Wilson /2008/: *Criminal Law. Doctrine and Theory*, Harlow, . 13.

common law (.
).

common law .

e e -

⁶ A. Ashworth /2009/: *Principles of Criminal Law*, Oxford, . 8.

⁷ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: *Simester and Sullivan's Criminal Law. Theory and Doctrine*, Oxford and Portland, Oregon, . 46.

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1.

1. Common law

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je

¹²

¹³

⁹ common law
common law

(case law),

¹⁰ R. C. van Caenegem /1988/: *The Birth of the English Common Law*, Cambridge (etc.), . 88.

¹¹ /2008/: . 153.

¹²

. S. Frankowski /1986/: Mens Rea and Punishment in England: In Search of Interdependence of the Two Basic Components of Criminal Liability (A Historical Perspective), *University of Detroit Law Review*, 3, . 406.

¹³

. W. R. LaFave, A. W. Scott /1986/: *Criminal Law*, St. Paul, Minnesota, . 66.

() . J. Dressler /2001/: *Understanding Criminal Law*, New York (etc.), . 27.

. F. W. Hall /1951/: The Common Law: An Account Of Its Reception in the United States, *Vanderbilt Law Review*, 4, . 791-825.

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(*murder, manslaughter*)¹⁸

common law

¹⁴ . . . /2008/: . 175.

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“

(*to distinguish a precedent*),

. . 175-176. „

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“ E. A. Farnsworth /1973/:

. 53.

¹⁵ R. Card /2010/: *Card, Cross & Jones Criminal Law*, Oxford, . 13.

¹⁶ *Common law* 12. 14.

(*felonies*). 14.

misdemeanours.

. . 14.

common law

common law

. J. Dressler /2001/: . 28.

17

. G. P. Fletcher /2000/: *Rethinking Criminal Law*, Oxford (etc.), . 553.

18

. *Murder*

;

. *Manslaughter,*

common law

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: 1) (provocation), 2)
 (diminished responsibility) 3) (suicide pact).
 manslaughter, manslaughter
 mens rea (murder)
 N. Haralambous /2010/: *Criminal Law. Directions*, Oxford, . 86-135.
 /2008/: , . 48-56.), manslaughter
 () (manslaughter)
 () ; . . /2014/:
 (corporate manslaughter)
 , 4-6, . 275.).

¹⁹ D. Ormerod, K. Laird /2015/: *Smith and Hogan's Criminal Law*, Oxford, . 17.

(murder)
 (manslaughter)
 common law
 / R. Card /2010/: . 15.
²⁰ (Coke), (Hale), (Hawkins), (Blackstone), (East)
 . A. Ashworth, J. Horder /2013/: *Principles of Criminal Law*, Oxford, . 8-9.
²¹

. R. C. van Caenegem /1988/: . 86.

²² „ /2008/: . 181. “ . . .

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common law

common law

() *common*

23

/1991/:

2, . 59-67.

24

/2015/:

. 5.

25, (. . .), , . 54.

. J. Dressler /2001/: . 28-29.

common law

A. Ashworth /2009/: . 48.

26

Jones et al. [2006]

(*statute law*)

. D. Ormerod /2011/: *Smith and Hogan's Criminal Law*, Oxford, . 17.

common law

. R. M. Jackson /1937/: *Common Law Misdemeanors*, *The Cambridge Law Journal*, 2, . 193-201.

law

27

common law

common law

28

common law

()

2.

(statute law)

(statute),

27 . G. McBain /2009/: Abolishing Some Obsolete Common Law Crimes, *King's Law Journal*, 1, . 89-114.

28

(defences)

common law

2008.

). D. Ormerod

/2011/: . 17.

law

).³¹

).³²

29

Farnsworth /1973/: . 164.

30

Statutes 2012-2013, London-New York.

³¹ W. Wilson /2008/: . 18-19; R. Card /2010/: . 21.

³² D. Ormerod, K. Laird /2015/: . 18-19.

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³⁶ R. Card /2010/: . 22.

³⁷ D. Ormerod, K. Laird /2015/: . 20-21.

4.

(Human Rights Act)

1998.

40

common law

41

common law-

“

³⁸ N. Padfield /2012/: *Criminal Law*, Oxford, . 17.

³⁹ D. Ormerod, K. Laird /2015/: . 23.

40

1951. ,

. R. J. Terrill /2009/: *World Criminal Justice Systems. A Survey*, New

Providence, NJ, . 4.

41

. P. Roberts

/2007/: *Strict Liability and the Presumption of Innocence: An Exposé of Functionalist Assumptions*, in:

Appraising Strict Liability (ed. A. P. Simester), Oxford, . 155.

common law

. D. Ormerod /2011/: . 21.

()
(*declaration of incompatibility*)

2. —

()

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. A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/:

33-34.

⁴³ G. R. Sullivan /2007/: *Strict Liability for Criminal Offences in England and Wales Following Incorporation into English Law of the European Convention on Human Rights*, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 202-203.

(*Law Commission*)⁴⁵ ,
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, 1989. .
(*Draft Criminal Code for*

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. R. Card /2010/: . 35.
1965. .

18.
46

. 13.

47
”
“ G. de Búrca, S. Gardner /1990/: The Codification of the
Criminal Law, *Oxford Journal of Legal Studies*, 4, . 570.

48 M. Molan, D. Lanser, D. Bloy /2000/: *Bloy and Parry's Principles of Criminal Law*, London-Sydney, .
10-12.

49

50

51

49

(*Model Penal Code*)
1962. (American
Law Institute),

communis opinio doctorum

M. /1966/:
. 18, 56.

50

2008.

(*Law Com. No. 311, Tenth Programme of Law Reform*). A. P. Simester, J. R. Spencer,
G. R. Sullivan, G. J. Virgo /2010/: . 676.

⁵¹ A. Ashworth /2009/: . 47; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 46; R.
Card /2010/: . 36.

II.

(*common law*)

⁵² *common law*

stare decisis et non quieta movere,

⁵³

common law-⁵⁴

civil law common law

⁵⁵

⁵² . /2012 /: , :

, (. . .), , .174-175.

⁵³ H. Wallace, C. Roberson /2012/: *Principles of Criminal Law*, Boston (etc.), . 13.

⁵⁴ . . /2008/: . 182.

⁵⁵ , . 181.

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, ,
, ,
“

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(barristers),
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1990. (*Courts and Legal Services Act*)

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()

⁵⁶ . /1990/:
, 3-4, , . 595.

⁵⁷ . R. J. Terrill /2009/: . 46.

⁵⁸ . F. Cowie, A. Bradney, M.
Burton /2010/: *English Legal System in Context*, Oxford, . 184.

⁶²

13.

“ ”
“ ’
1363.

(*Quarter Sessions*)

1971.

⁶⁴

⁶⁵

1554.

prima facie

⁶⁶

⁶⁷

(*Clerk to the Justices*),

⁶² . . . /2008/: . 162.

), (. M. Davies, H. Croall, J. Tyrer /2005/: *Criminal Justice. An Introduction to the Criminal Justice System in England and Wales*, Harlow (etc.), . 237.

⁶³ P. S. James /1976/: *Introduction to English Law*, London, . 39-40.

⁶⁴ . . . /1990/: . 586.

⁶⁵

(John Marshall),

. E. A. Farnsworth /1973/: . 7.

⁶⁶ P. S. James /1976/: . 40.

⁶⁷ . . . /1990/: . 586.

68
 (District Judges)⁶⁹
 (2008. 140).⁷⁰
 71
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 73
 6
 (12)
 5.000
 74
 1957.

⁶⁸ G. Slapper, D. Kelly /2009-2010/: *The English Legal System*, London and New York, . 165.

⁶⁹ . Davies, H. Croall, J. Tyrer /2005/: . 236.

⁷⁰ F. Cownie, A. Bradney, M. Burton /2010/: . 66.

⁷¹ G. Hughes /1984/: English Criminal Justice: Is it Better than Ours?, *Arizona Law Review*, 3, . 539-540.

⁷²

⁷³

(/2011a/: , , . 112),
 ; . . . ”

⁷⁴ . . . /2009/: “ . . . /2008/: . 163.

- , . 129.

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76

(.),

(*Magistrates' Court Act* [1980]).

)⁷⁷

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79

⁷⁵ F. Cownie, A. Bradney, M. Burton /2010/: . 66.

⁷⁶ G. Slapper, D. Kelly /2009-2010/: . 164.

⁷⁷ . Davies, H. Croall, J. Tyrer /2005/: . 252.

⁷⁸ F. Cownie, A. Bradney, M. Burton /2010/: . 328.

⁷⁹

(4)⁸¹

⁸² , 9

⁸³

84

),⁸⁵

(

. Davies, H. Croall, J. Tyrer /2005/: . 253.

⁸⁰ R. Card /2010/: . 5.

⁸¹ G. Slapper, D. Kelly /2009-2010/: . 167.

⁸² F. Cownie, A. Bradney, M. Burton /2010/: . 329.

. G. Slapper, D. Kelly /2009-2010/: . 167.

⁸³

⁸⁴ F. Cownie, A. Bradney, M. Burton /2010/: . 330.

⁸⁵

/2010/: . 6.

. R. Card

2. (Crown Court)

⁸⁶

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⁹⁰

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“

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⁸⁶

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„indictment“ . „ (grand jury)

1933.

(G. Hughes /1984/: . 541.),

/1990/: . 587.

„indictment“

⁸⁷

(Chancery Division), (Family Division).

(Queen's Bench Division)

. Davies, H. Croall, J. Tyrer /2005/: . 45.

. P. S. James

/1976/: . 42.

⁸⁸

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⁸⁹ G. Hughes /1984/: . 540-541.

⁹⁰

/2008/:

: , , . 89-104.

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91 ，
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90
92 ，
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“ ”
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⁹¹ F. Cownie, A. Bradney, M. Burton /2010/: . 347-348.

⁹² . /2011 /: ， : ， (. .) ， . 77.
⁹³ ，

⁹⁴ . /2009/: . 132.
⁹⁵ ，

． F. Cownie, A. Bradney, M. Burton /2010/: . 364.

． K. J. Heller /2009/: The Cognitive Psychology of Mens Rea, *The Journal of Criminal Law & Criminology*, 2, . 317-380.

⁹⁶ ， ()

(*cross-examination*),
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⁹⁷

10 (*Juries Act [1974]*).

(*de novo*)

⁹⁸

3. (*Court of Appeal*)

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(*County Courts*).
of the Rolls,

– *Master*

⁹⁹

⁹⁷

⁹⁸ M. Jefferson /2009/: *Criminal Law*, Harlow (etc.), . 18.

⁹⁹ P. S. James /1976/: . 34.

1966. , *Court of Criminal Appeal.*

(),¹⁰⁰

(*Circuit Judge*) .¹⁰¹

(*Criminal Appeal Act*) 1968. , 1996. .

,

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.¹⁰²

: 1)

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“ .

.¹⁰⁴ ,

1996. ,

,

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(*Criminal Cases Review Commission*)¹⁰⁵

/ ,¹⁰⁶ ,

¹⁰⁰ G. Slapper, D. Kelly /2009-2010/: . 177.

¹⁰¹ R. Card /2010/: . 8.

¹⁰² P. S. James /1976/: . 35.

¹⁰³ . /1990/: . 592.

¹⁰⁴

¹⁰⁵ 1997. 14

. G. Slapper, D. Kelly /2009-2010/: . 186-187.

¹⁰⁶ R. Card /2010/: . 7-8.

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¹⁰⁸ R. J. Terrill /2009/: . 43.

¹⁰⁹ . . /2008/: . 175-176.

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¹¹² R. Card /2010/: . 8.

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/1977/:

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F. Ba i /1986/: *Krivi no pravo. Op i dio*, Zagreb, .141.

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¹¹⁶ . /2005/:

¹¹⁷ ” : : , , .98.

(*nullum crimen sine actione*).“ . /2009 /:
 , : .3. .(. . .) ,
 , .229.

¹¹⁸ . F. Ba i /1986/: .141.

¹¹⁹ C. R. Snyman /1979/: The Normative Concept of Mens Rea – A New Development in Germany, *International and Comparative Law Quarterly*, 2, .212.

¹²⁰ (, , , , -
) . . /2012a/: , , .66.

¹²¹ F. Ba i /1986/: .141.

¹²² . /2005/: .99.

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¹²⁴ . /2005/: , , 3-4, , . 18.

¹²⁵ . . /2005/: . 99.

¹²⁶ , . 100.

2.

(*actus reus*)

(*mens rea*)

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.¹²⁸

*actus non facit reum, nisi mens sit rea*¹²⁹ (
).¹³⁰

¹²⁷

. R. L. Christopher /2007/: Tripartite Structures of Criminal Law in Germany and other Civil Law Jurisdictions, *Cardozo Law Review*, 6, . 2675.

(*mens rea*).“ . /2012 /: (actus reus) . 54.

§ 30.

()

actus reus-a.

/2013 /: § 30

. 607-623.

¹²⁸ P. H. Karlen /1978/: Mens Rea: A New Analysis, *The University of Toledo Law Review*, 2, .193.

¹²⁹ J. W. C. Turner /1936/: The Mental Element in Crimes at Common Law, *The Cambridge Law Journal*,

1, . 31.

¹³⁰

(strict liability).

1) () (actus reus)

Actus reus (guilty act)

20.

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¹³¹ J. Dressler /2001/: . 81. ,

,
()

(;)

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mens rea

. P. H. Robinson /1993/: Should the Criminal Law Abandon the Actus Reus-Mens Rea Distinction?, in: *Action and Value in Criminal Law* (ed. S. Shute, J. Gardner, J. Horder), . 188-189; D. Ormerod /2011/: . 48.

¹³² E. Finch, S. Fafinski /2011/: *Criminal Law*, Harlow (etc.), . 17.

. W. Wilson /2008/: . 65. actus reus mens rea

([Lord Diplock] ,)

. N. Haralambous /2010/: . 19; R. Heaton, C. de Than /2011/: . 18. actus reus,

(),

. D. N. Husak /1991/: The Orthodox Model of the Criminal Offense, *Criminal Justice Ethics*, 1, . 20.

: *Actus facit reum.*

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, 8, , .376-384.

()

/1991/:

, 1-3, , .29-35.

134

([Oliver

Wendell Holmes])

. H. L. A. Hart /1965/: *The Morality of the*

Criminal Law. Two Lectures, Jerusalem, . 50.

¹³⁵ R. M. Perkins /1939a/: A Rationale of Mens Rea, *Harvard Law Review*, 6, . 905-908.

¹³⁶ /2006/:

, 9, , . 332.

¹³⁷ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 67; D. Ormerod /2011/: . 49.

(conduct crimes)

(result crimes).¹³⁸

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).¹³⁹

actus reus- ,

.¹⁴⁰

(

(mens rea)

(actus

reus).¹⁴¹

actus reus- –

(Glanville Williams). A. T. H. Smith /1978/: On Actus Reus and Mens Rea, *P. R.*

Glazebrook (ed.) Reshaping the Criminal Law: Essays in Honour of Glanville Williams, . 98.

¹³⁸ M. Molan, D. Lanser, D. Bloy /2000/: . 27.

. D. Ormerod, K. Laird /2015/:

. 53.

¹³⁹ N. Haralambous /2010/: . 20.

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,

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. R. Card

/2010/: . 51-55.

¹⁴¹ J. G. Murphy /1991/: Gorr on Actus Reus, *Criminal Justice Ethics*, 1, . 18.

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¹⁴² R. Heaton, C. de Than /2011/: . 21.
¹⁴³

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. D. Husak /1998/: Does Criminal Liability Require an Act, *Philosophy and the Criminal Law. Principle and Critique*, (ed. A. Duff), Cambridge (etc.), . 60-100.

¹⁴⁴ N. Haralambous /2010/: . 19.

. W. R. LaFave, A. W. Scott /1986/: . 196.

¹⁴⁵ H. L. A. Hart /1965/: . 7.

¹⁴⁶ R. M. Perkins /1939a/: . 912; C. Finkelstein /2002/: Involuntary Crimes, Voluntarily Committed, *Criminal Law Theory: Doctrines of the General Part*, (ed. S. Shute, A. P. Simester), . 143.

. D. Ormerod /2011/: . 57.

¹⁴⁷ J. Dressler /2001/: . 85.

¹⁴⁸ M. Gorr /1991/: The Actus Reus Requirement: A Qualified Defense, *Criminal Justice Ethics*, 1, . 15.

20.

. 213-214; . /1964/:

, 1, , . 3-18.

¹⁴⁹ . A. Ashworth /2009/: . 87-94.

(*omission*).¹⁵⁰

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Haralambous /2010/: . 21-31; R. Card /2010/: . 41-49; D. Ormerod, K. Laird /2015/: . 78-83.

¹⁵¹ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 80.

¹⁵² N. Haralambous /2010/: . 44.

¹⁵³ *common law*- , . A. P. Simester, J.

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¹⁵⁵ M. Molan, D. Lanser, D. Bloy /2000/: . 36; R. Heaton, C. de Than /2011/: . 30-31.

. D. Ormerod /2011/: . 82.

¹⁵⁶ R. Card /2010/: . 56.

¹⁵⁷ W. Wilson /2008/: . 98; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 84.

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Haralambous /2010/: . 34.

. N.

. A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 85.

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. N. Haralambous /2010/: . 38-43; D. Ormerod /2011/: . 85-99.

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¹⁶¹ . /2004/: , , 3-4, , .17.
¹⁶² , *mens rea*
/1966/: . 24.
¹⁶³ F. B. Sayre /1932/: *Mens Rea*, *Harvard Law Review*, 6, . 974.
¹⁶⁴ *mens rea* ()
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Jefferson /2009/: . 89.
¹⁶⁵ D. Ormerod /2011/: . 104; R. Card /2010/: . 76.

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¹⁶⁶ R. Heaton, C. de Than /2011/: . 49.

¹⁶⁷ (Institutes) 17. . G. P. Fletcher

/1971/: The Theory of Criminal Negligence: A Comparative Analysis, *University of Pennsylvania Law Review*, 3, . 411.

¹⁶⁸ , *mens rea*

mens rea

mens rea

. M. R. Gardner /1993/: The *Mens Rea* Enigma: Observations on the Role of Motive in the Criminal Law Past and Present, *Utah Law Review*, 3, . 664.

¹⁶⁹ E. J. Chesney /1939/: The Concept of Mens Rea in the Criminal Law, *Journal of Criminal Law and Criminology*, 5, . 629.

¹⁷⁰ F. B. Sayre /1932/: . 981.

. E. J. Chesney /1939/: . 630.

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¹⁷¹ M. R. Gardner /1993/: . 654.

¹⁷² S. Frankowski /1986/: . 421.

¹⁷³ F. B. Sayre /1932/: . 982-994.

¹⁷⁴

“ . /1965/:

, 3, . 305-306.

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¹⁷⁵ D. Ormerod, K. Laird /2015/: . 114. G [2003]

(
Sexual Offences Act [2003]). , . 114-115.

¹⁷⁶ H. Mannheim /1936/: Mens Rea in German and English Criminal Law-III, *Journal of Comparative Legislation and International Law*, 1, . 78.

¹⁷⁷

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¹⁷⁸ D. Ormerod /2011/: . 105.

¹⁷⁹ . R. Card /2010/: . 76; R. Heaton, C. de Than /2011/: . 50.

¹⁸⁰ F. B. Sayre /1932/: . 1026; G. O. W. Mueller /1955/: *Mens Rea and the Law Without It, West Virginia Law Review*, 1, . 40.

¹⁸¹

¹⁸² . R. A. Duff /1989/: *Intentions Legal and Philosophical, Oxford Journal of Legal Studies*, 1, . 76

¹⁸³

mens rea *recklessness* (

¹⁸⁴). T. Hörnle /2008/: *Social Expectations in the Criminal Law: The „Reasonable Person“ in a Comparative Perspective, New Criminal Law Review*, 1, . 5.

¹⁸³

()

¹⁸⁴ N. Haralambous /2010/: . 66.

G. H. Gordon /1975/: *Subjective and Objective Mens Rea, Criminal Law Quarterly*, 4, . 355.

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/1963 /: Negligent Behavior Should Be Excluded From Penal Liability, *Columbia Law Review*, 4, .
632-644.

¹⁸⁶ D. Ormerod /2011/: . 147.

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/2008/:
223-276.
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W. Chan, A. P. Simester /2011/: Four
Functions of Mens Rea, *Cambridge Law Journal*, 2, . 381-382.

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¹⁹⁰

/1966/: . 20.

¹⁹¹

. . . C. Snyder /1962/: *Criminal Responsibility*, *Duke Law Journal*, 2, . 204.

¹⁹²

/1966/: . 20.

¹⁹³

. C. Snyder /1962/: . 214.

¹⁹⁴

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(),

(

).

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absolute/strict/vicarious/corporate *liability*, *responsibility*.

responsibility. . R. A. Duff /2007a/: *Answering for Crime. Responsibility and*

Liability in the Criminal Law, Oxford, . 20.

¹⁹⁵

. C. Roxin /2006/: *Strafrecht. Allgemeiner Teil. Band I. Grundlagen. Der Aufbau der Verbrechenlehre*, München, . 852.

¹⁹⁶

/2008/: . 234.

()

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199 . /2004/: . 8.

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. . . /1999/: , , . 21-25.

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²⁰¹ (Keine Strafe ohne Schuld),
(Die Strafe darf das Maß der Schuld nicht übersteigen). J. Wessels, W. Beulke /2011/: *Strafrecht. Allgemeiner Teil. Die Straftat und ihr Aufbau*, Heidelberg, . 149.

²⁰² (capacity theories).

(choise theories).
(character theories). V. Tadros /2005/: *Criminal Responsibility*, Oxford, . 22; . Herring /2011/: *Criminal Law*, Oxford, . 7-8.

. 49, 51.

“ /2004/: . 15.

. V. Tadros /2005/: . 51.

²⁰³ H. Wallace, C. Roberson /2012/: . 4.

4.

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1967.

(Criminal Law Act).²⁰⁵

²⁰⁶ Felony

²⁰⁷ misdemeanour

20.

²⁰⁸

– offence (crime).²⁰⁹

²⁰⁴ common law-

(treason),
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²⁰⁵ R. Heaton, C. de Than /2011/: . 5.

²⁰⁶ (Verbrechen) (Vergehen).

(StGB, § 12).

²⁰⁷ Common law . 12.

13. (felonious homicide, arson, mayhem, rape, larceny, burglary, prison escape, sodomy).

(misdemeanours). S. Frankowski /1986/: . 408; J. Dressler /2001/: . 3. , 18.

. S. Frankowski

/1986/: . 428.

²⁰⁸ D. Ormerod, K. Laird /2015/: . 36.

²⁰⁹ felonies misdemeanours

(. W. R. LaFave, A. W. Scott /1986/: . 30-32; T. J. Gardner, T. M. Anderson /2009/: *Criminal Law*, Wadsworth, . 15.),

Wallace, C. Roberson /2012/: . 7. misdemeanours . H.

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. J. Dressler /2001/: . 3.

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/2009/:

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²¹¹ N. Haralambous /2010/: . 5.

²¹² *common law*

. D. Ormerod /2011/: . 33.

,
(*offences triable either way*).²¹³

²¹³ A. Ashworth /2010/: *Sentencing and Criminal Justice*, Cambridge (etc.), . 1-2; D. Ormerod /2011/: . 32-33.

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Bodenstein /1919/: Phases in the Development of Criminal Mens Rea, *The South African Law Journal*, 4, . 323.

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²¹⁶ R. Heaton, C. de Than /2011/: . 53.

²¹⁷ . R. Card /2010/: . 77.

. R. M. Perkins /1939a/: . 910; M. Jefferson /2009/: . 129. ,
intent intention,

. H. Wallace, C. Roberson /2012/: . 42.

²¹⁸ J. P. Bishop /1923/: *Criminal Law*, . 192-193, . : S. S. Nemerson /1975/: Criminal Liability without Fault: A Philosophical Perspective, *Columbia Law Review*, 8, . 1527.

²¹⁹ G. R. Sullivan /1992/: Intent, Subjective Recklessness and Culpability, *Oxford Journal of Legal Studies*, 3, . 380; R. Card /2010/: . 77. , ,
. F. B. Sayre /1932/: . 974.
. M. Molan, D. Lanser, D. Bloy /2000/: . 60-61.

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²²⁰ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 126.

²²¹ , . 126-127.

²²² D. Ormerod /2011/: . 106.

²²³ G. Coffey /2009/: Codifying the Meaning of „Intention“ in the Criminal Law, *The Journal of Criminal Law*, 5, . 394.

²²⁴ C. Elliott, F. Quinn /2010/: *Criminal Law*, Harlow (etc.), . 17. . . /2014/: , 9, , . 263-276.

²²⁵

... J. C. Smith /1978/: „Intent“: A Reply, *The Criminal Law Review*, . 21.

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1. (direct intent)

²²⁶ A. Ashworth /2009/: . 171; R. Card /2010/: . 78; R. Heaton, C. de Than /2011/: . 53.

²²⁷ *direct intent*

purpose. . W. R. LaFave, A. W. Scott /1986/: . 218.

: *purpose, knowledge, recklessness negligence*. J. Samaha /2011/: *Criminal Law*, Wadsworth, .
112. /1965/: Conceptions of Culpability in
Contemporary American Criminal Law, *Louisiana Law Review*, 1, . 28-55.

²²⁸ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 127.

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, , *recklessness*. . S. White /1989/: Offences of Basic and
Specific Intent, *The Criminal Law Review*, . 271-274; R. Card /2010/: . 90-91; R. Heaton, C. de Than
/2011/: . 64-65.

common law

, *general intent specific intent*. J. M. Scheb, J. M. Scheb II /2012/: *Criminal
Law*, Wadsworth, . 97. , (purpose),

(knowledge). . D. R. Young /1975/: Rethinking the
Specific-Gen ral Intent Doctrine in California Criminal Law, *California Law Review*, 5, . 1355-1357;
S. Broyles /2011/: *Criminal Law in the USA*, Kluwer, Netherlands, . 66-67.

²²⁹ *knowledge*.

. W. R. LaFave, A. W. Scott /1986/: . 218.

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²³⁰ J. H. Buzzard /1978/: „Intent“, *The Criminal Law Review*, . 6; W. R. LaFave, A. W. Scott /1986/: . 217; N. Haralambous /2010/: . 51.

²³¹ R. A. Duff /1980a/: Intention, Mens Rea and the Law Commission Report, *The Criminal Law Review*, . 149.

²³² A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 127.

²³³ . S. Parsons /2000/: Intention in Criminal Law: Why is it so Difficult to Find?, *Mountbatten Journal of Legal Studies*, 4, . 5; M. Jefferson /2009/: . 94.

²³⁴ . /2014/: . 172.

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²³⁵ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 129; D. Ormerod /2011/: . 111.

²³⁶ J. H. Buzzard /1978/: . 6-7; W. Wilson /2008/: . 123; R. Heaton, C. de Than /2011/: . 53.

²³⁷ R. A. Duff /1989/: . 85; R. Card /2010/: . 90.

²³⁸ R. A. Duff /1989/: . 88; A. P. Simester /1996/: Moral Certainty and the Boundaries of Intention, *Oxford Journal of Legal Studies*, 3, . 446.

²³⁹ (

) . M. Kremnitzer /1998/: On Premeditation, *Buffalo Criminal Law Review*, 2, . 627-660.

²⁴⁰

. A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 130.

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²⁴¹ D. Ormerod, K. Laird /2015/: . 117.

²⁴²

. G. Williams /1987/: *Oblique Intention*, *Cambridge Law Journal*, 3, . 417-438. (Bentham). M. Thornton /1992/: *Intention in Criminal Law*, *Canadian Journal of Law and Jurisprudence*, 2, . 181.

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²⁴³ I. Kugler /2004/: *The Definition of Oblique Intention*, *The Journal of Criminal Law*, 1, . 79.

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²⁴⁴ N. Haralambous /2010/: . 51.

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²⁴⁶ . G. Coffey /2009/: 397; R. Heaton, C. de Than /2011/: . 55-56; D. Ormerod, K. Laird /2015/: . 117.

. J. H. Buzzard /1978/: . 5-9.

Duff /1980b/: Intention, Recklessness, and Probable Consequences, *The Criminal Law Review*, . 404.

²⁴⁷ *mens rea* . G. Coffey /2009/: . 398.

²⁴⁸

. N. Lacey /1993/: A Clear Conception of

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Intention: Elusive or Illusory?, *The Modern Law Review*, 5, . 628; J. E. Stannard /1986/: Mens Rea in the Melting Pot, *Northern Ireland Legal Quarterly*, 1, . 65.

²⁴⁹ N. Haralambous /2010/: . 54-55.

²⁵⁰ G. Coffey /2009/: . 398.

. R. Heaton, C. de Than /2011/: . 56.

²⁵¹ N. Haralambous /2010/: . 55.

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²⁵² M. Jefferson /2009/: . 97; N. Haralambous /2010/: . 55-56.
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. M. Jefferson /2009/: . 100.

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²⁵⁴ N. Haralambous /2010/: . 56; R. Heaton, C. de Than /2011/: . 57.

²⁵⁵ G. Coffey /2009/: . 402.

²⁵⁶ W. Wilson /1999/: Doctrinal Rationality after *Woollin*, *The Modern Law Review*, 3, . 448.
Woollin (*Moloney*) ,

. S. Parsons /2000/: . 13.

²⁵⁷ N. Haralambous /2010/: . 57.

²⁵⁸

. D. Ormerod /2011/: . 108.

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²⁵⁹ M. Jefferson /2009/: . 103; N. Haralambous /2010/: . 58.

²⁶⁰ G. Coffey /2009/: . 403.

²⁶¹ R. Heaton, C. de Than /2011/: . 57.

. S. Parsons /2000/: . 14.

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. J. C. Smith /1990/:
J. Wessels, W. Beulke /2011/: . 74.

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. I. Kugler /2004/: . 80-83.

(6. 2.

. A. Khan /2002/: Intention in Criminal Law: Time to Change?,
Statute Law Review, 3, . 235-237.

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²⁶⁴ D. Ormerod /2011/: . 109-110.

²⁶⁵ M. Jefferson /2009/: . 104.

²⁶⁶ J. Horder /1995/: Intention in Criminal Law: A Rejoinder, *The Modern Law Review*, 5, . 678.

common law

. G. Taylor /2004 /: The Intention Debate in German Criminal Law, *Ratio Juris*, 3, . 374.

²⁶⁷ C. Fennell /1990/: Intention in Murder: Chaos, Confusion and Complexity, *Northern Ireland Legal Quarterly*, 4, . 337-338.

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²⁶⁸ G. Coffey /2009/: . 404.

²⁶⁹ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 136.

²⁷⁰ R. Heaton, C. de Than /2011/: . 59.

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²⁷¹ . A. P. Simester /1996/: . 447.

²⁷² . J. H. Buzzard /1978/: . 9; W. Wilson /2008/: . 126; M. Jefferson /2009/: . 94-95; A. Ashworth /2009/: . 173.

²⁷³ J. Wessels, W. Beulke /2011/: . 82-84; U. Kindhäuser /2011/: *Strafrecht. Allgemeiner Teil*, Baden-Baden, . 127.

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. C. Roxin /2010/:

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²⁷⁸

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G. P. Fletcher /2000/: . 454.

²⁷⁷ K. Campbell /1982/: Conditional Intention, *Legal Studies*, 1, . 77.

²⁷⁸ W. R. LaFave, A. W. Scott /1986/: . 222; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 139.

. 89.

. K. Campbell /1982/:
(§ 2.02[6]).

. W. R. LaFave, A. W. Scott /1986/: . 222-

223.

²⁷⁹ K. Campbell /1982/: . 78.

[1979])²⁸⁰ (*R v Walkington*
(*burglary*)

4.

²⁸¹

(*Absicht*),

²⁸⁰ L. Koffman /1980/: Conditional Intention to Steal, *The Criminal Law Review*, . 463-465.

²⁸¹ K. Campbell /1982/: . 79-81.

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.²⁸⁴

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²⁸² J. Horder /2003/: Crimes of Ulterior Intent, *Harm and Culpability*, (ed. A. P. Simester, A. T. H. Smith), Oxford, . 154.

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. D. Ormerod, K. Laird /2015/: . 149.

²⁸³ ; N. Padfield /2012/: . 51. *further intention.* . R. Card /2010/: . 89.

²⁸⁴ M. Wasik /1979/: Mens Rea, Motive, and the Problem of „Dishonesty“ in the Law of Theft, *The Criminal Law Review*, . 544.

),

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288

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285 . E. M. Chiu /2005/: The Challenge of Motive in the Criminal Law, *Buffalo Criminal Law Review*,
2, . 663.

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Disorder Act-om [1998])

(. *Crime and
Anti-Terrorism, Crime and Security Act* [2001].

(*theft*), *mens rea* *dishonesty*. R. Heaton, C. de Than /2011/: . 63-64.

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/2011/: . 54; M. Jefferson /2009/: . 91-92.

. S. Parsons /2000/: . 15; R. Heaton, C. de Than

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²⁸⁹ D. Ormerod /2011/: . 111-112.

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6.

²⁹¹

²⁹²

²⁹³

(test of failure).

²⁹⁰ J. Dressler /2001/: . 121; R. Heaton, C. de Than /2011/: . 64. /2011/:

2, . 122-141.

²⁹¹ J. Dressler /2001/: . 120.

²⁹² G. Coffey /2009/: . 395.

²⁹³ W. R. LaFave, A. W. Scott /1986/: . 238.

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²⁹⁴ R. A. Duff /1989/: . 77; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 128.

²⁹⁵ . A. W. Norrie /1989/: Oblique Intention and Legal Politics, *The Criminal Law Review*, . 796.

. A. P. Simester /1992/: Paradigm Intention, *Law and Philosophy*, 3, . 256-262.

²⁹⁶ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 139.

²⁹⁷ A. P. Simester /1996/: . 445.

1964.

. G. Coffey /2009/: . 408-412.

²⁹⁸ M. Molan, D. Lanser, D. Bloy /2000/: . 62.

²⁹⁹ N. Haralambous /2010/: . 53. *Hardy v. Motor Insurers' Bureau* [1964]

”

“ A. P. Simester /1996/: . 445.

Sandstrom v. Montana [1979].

300

1967. . (*Criminal Justice Act*) ()

(),
301

302

303

2006. ,

304

300 . . W. R. LaFave, A. W. Scott /1986/: . 225-226. ()

. G. H. Gordon /1975/: . 368.

³⁰¹ G. Williams /1978/: The Mental Element in Crime. The Law Commission's Report No. 89, *The Criminal Law Review*, . 589; N. Haralambous /2010/: . 53.

³⁰² G. Coffey /2009/: . 395.

³⁰³ N. Lacey /1993/: . 628; R. Heaton, C. de Than /2011/: . 60; R. Card /2010/: . 83. ,
Woollin (Lord Steyn) *intent*

176; D. Ormerod /2011/: . 114.

³⁰⁴ G. Coffey /2009/: . 404.

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7. ()³⁰⁶

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(*principle of coincidence*)

. *Mens rea*

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– *cogitationis*

poenam nemo patitur.³⁰⁹

³⁰⁵ N. Haralambous /2010/: . 59; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 132; D. Ormerod /2011/: . 116.

. R. Heaton, C. de Than /2011/: . 56.

³⁰⁶

³⁰⁷ A. Ashworth /2009/: . 157; N. Haralambous /2010/: . 67.

³⁰⁸ J. Dressler /2001/: . 198.

³⁰⁹

311

312

310

311

Card /2010/: . 108.

Kaitamaki [1985],

. F. Ba i /1986/: . 390.

Miller [1983]

(*duty principle*).

Haralambous /2010/: . 68.

312

(*actus reus-a*)

Santana-Bermudez [2003]. N.

/2011/: . 78.

. R. Heaton, C. de Than

. D. Ormerod /2011/: . 114-115.

()

recklessness. . G. R. Sullivan /1992/: . 381.

313

()

314

315

³¹³ A. Ashworth /2009/: . 159; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 170.

(*Dutch courage rule*). M. Jefferson /2009/: . 126.

314

(*Khandu* [1890])

(*murder*),

Shorty [1950]. D. Ormerod /2011/: . 139.

315

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Ashworth /2009/: . 158; N. Haralambous /2010/: . 68.

(*dolus generalis*) ,,

“

”

“ . /2012a/:

. 137.

(*the transaction principle*),

(

).

(*the causation principle*),

316

³¹⁶ D. Ormerod, K. Laird /2015/: . 155.

ratio decidendi

S v Masilela [1968].

(*manslaughter*)

Thabo Meli

. D. Ormerod /2011/: . 140-141.

8.,,

“(transferred malice/intent)

(*aberratio ictus*)

„ ()“(transferred malice/intent).³¹⁷

318

319

: „
transferred malice

321

³¹⁷ M. Jefferson /2009/: . 123; . Herring /2011/: . 75.

³¹⁸ M. Bohlander /2010a/: Problems of Transferred Malice in Multiple-actor Scenarios, *The Journal of Criminal Law*, 2, . 145.

³¹⁹ J. Dressler /2001/: . 123. (impersonal intent). P. Westen /2013/: The Significance of Transferred Intent, *Criminal Law and Philosophy*, 2, . 323.

³²⁰ W. L. Prosser /1967/: Transferred Intent, *Texas Law Review*, 4, . 650.

³²¹ G. Williams /1988/: The Unresolved Problem of Recklessness, *Legal Studies*, 1, . 78.

transferred malice/intent

*transferred fault.*³²³

[§ 2.03(2)(), § 2.03(3)()].³²⁴

(*Latimer*).³²⁵

mens rea

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326

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328

³²² A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 164.

³²³ R. Card /2010/: . 95; . A. Ashworth, J. Horder /2013/: . 189-190.

³²⁴

. A. M. Dillof /1998/: *Transferred Intent: An Inquiry into the Nature of Criminal Culpability*, *Buffalo Criminal Law Review*, 2, . 528-536.

³²⁵ N. Haralambous /2010/: . 69.

(*Sanders and Archer*)

16. . W. L.

Prosser /1967/: . 652; D. N. Husak /1996/: *Transferred Intent*, *Notre Dame Journal of Law, Ethics and Public Policy*, 1, . 65; A. M. Dillof /1998/: . 504; J. Dressler /2001/: . 122.

³²⁶ W. L. Prosser /1967/: . 653.

³²⁷

. P. Westen /2013/: . 322.

³²⁸ W. L. Prosser /1967/: . 653.

Saunders and Archer [1573]

330

³²⁹ N. Haralambous /2010/: . 70.

Attorney General's Reference (No. 3 of 1994) [1998].

³³⁰ . M. Jefferson /2009/: . 125; . M. Bohlander /2010a/: . 149.

(defence).³³¹

332

(32(2)).³³³

334

335

336

337

(Horder).

³³¹ W. L. Prosser /1967/: . 653.

. M.

Bohlander /2010a/: . 159.

³³² A. Ashworth /2009/: . 193.

³³³ R. Heaton, C. de Than /2011/: . 85.

³³⁴ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 165.

³³⁵

. P. Westen /2013/: . 322.

. M. Bohlander

/2010b/: Transferred Malice and Transferred Defenses: A Critique of the Traditional Doctrine and Arguments for a Change in Paradigm, *New Criminal Law Review*, 3, . 559-571.

³³⁶

. J. Dressler /2001/: . 123-124.

. A. M. Dillof /1998/: . 511.

D. N. Husak /1996/: . 69.

³³⁷

, *transferred malice*

, *felony murder*,

transferred malice. , . 71-72.

343

(recklessness)

344

2. Recklessness ()

mens rea

³⁴³ H. Mannheim /1935a/: Mens Rea in German and English Criminal Law, *Journal of Comparative Legislation and International Law*, 1, . 92-94.

344

. G. Taylor /2004 /: . 349-354.

351

352

()

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[

]

;

;

).³⁵³

354

:

recklessness

355

³⁵¹ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 147.

³⁵² . /2014/: . 110.

³⁵³ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 148.

³⁵⁴ , . 147.

³⁵⁵ N. Haralambous /2010/: . 60.

356

(*Cunningham recklessness*)

1981.

(*Caldwell recklessness*),

357

358

R v G and another [2003]

359

(*Criminal Damage Act- [1971]*),

Cunningham 360

³⁵⁶ M. Molan, D. Lanser, D. Bloy /2000/: . 76.

³⁵⁷ *reckless*
(*gross*)

³⁵⁸ . A. Ashworth /2009/: . 177-178.

McEwan, St. J. Robilliard /1981/: Recklessness: the House of Lords and the criminal law, *Legal Studies*, 3, . 267.

³⁵⁹ N. Haralambous /2010/: . 60.

³⁶⁰ *R v G and another* [2003]

(18.)

()

;

. D. Ormerod /2011/:

. 127.

. N. Haralambous /2010/: . 60.

Caldwell ³⁶¹

recklessness

362

363

364

365

()

³⁶¹ R. Heaton, C. de Than /2011/: . 65.

³⁶² E. Colvin /1982/: . 346.

. W. R. LaFave, A. W. Scott /1986/: . 233.

³⁶³ C. Crosby /2008/: *Recklessness-the Continuing Search for a Definition, The Journal of Criminal Law*, 4, . 330.

³⁶⁴ R. Card /2010/: . 93; D. Ormerod /2011/: . 118.

³⁶⁵ N. Haralambous /2010/: . 60.

366

367

368

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369

370

³⁶⁶ R. A. Duff /1980c/: . 282.

³⁶⁷ R. Heaton, C. de Than /2011/: . 66.

³⁶⁸

. A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 140; R. Heaton, C. de Than /2011/: . 66.

³⁶⁹ D. Ormerod /2011/: . 118.

³⁷⁰

. W. R. LaFave, A. W. Scott /1986/: . 233.

371

372

1. (Cunningham recklessness)

373

374

³⁷¹ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 140-141.

³⁷² D. Ormerod /2011/: . 118.

³⁷³ V. Tadros /2002/: Recklessness and the Duty to Take Care, *Criminal Law Theory: Doctrines of the General Part*, (ed. S. Shute, A. P. Simester), . 227; D. Ormerod /2011/: . 120.

()
³⁷⁴

actus reus-

(;

actus reus).

376

377

375

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378

()

(*oblique intent*).

379

maliciously

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381

reckless knowledge,

G. J. Virgo /2010/: . 145.

³⁷⁵ R. A. Duff /1980c/: . 289.

³⁷⁶

. G. Williams /1988/: . 76.

³⁷⁷ W. R. LaFave, A. W. Scott /1986/: . 239-240.

³⁷⁸ A. Ashworth /2009/: . 178.

³⁷⁹ . R. Card /2010/: . 92.

³⁸⁰ R. Heaton, C. de Than /2011/: . 67.

³⁸¹

. A. P. Simester, J. R. Spencer, G. R. Sullivan,

(
,
).

(*Cunningham* [1957]).

382

malice (

)

”

“383

Stephenson [1979].

(*arson*),

(

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(),

: 1)

2)

³⁸² , . 79.

³⁸³ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 141; D. Ormerod /2011/: . 120.

;

384

(*Anti-terrorism Crime and Security Act* [2001]

).

385

386

;

387

(

)

³⁸⁴ N. Haralambous /2010/: . 61.

³⁸⁵ D. Ormerod /2011/: . 120.

³⁸⁶ J. B. Brady /1980/: Recklessness, Negligence, Indifference, and Awareness, *The Modern Law Review*, 4, . 381; . McEwan, St. J. Robilliard /1981/: . 268; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 142. *Parker* [1977]

. Wasik, M. P. Thompson /1981/: „Turning a Blind Eye“ as Constituting Mens Rea, *Northern Ireland Legal Quarterly*, 4, . 336.

³⁸⁷ R. A. Duff /1980c/: . 283-284.

388

2.

(*Caldwell recklessness*)

389

*Caldwell Lawrence*³⁹⁰

391

392

Metropolitan

Police Commissioner v Caldwell [1982].³⁹³

³⁸⁸ G. P. Fletcher /2000/: . 443.

³⁸⁹

. R. A. Duff /1980c/: . 292.

. G. H. Gordon /1975/: . 372, 384.

³⁹⁰

Molan, D. Lanser, D. Bloy /2000/: . 78.

. McEwan, St. J. Robilliard /1981/: .

267; G. Williams /1981/: Recklessness Redefined, *Cambridge Law Journal*, 2, . 252.

³⁹¹ D. Ormerod /2011/: . 121.

³⁹²

(*Commonwealth v. Welansky* [1944])

. E. W. Hautamaki /1951/: The Element of Mens Rea in Recklessness and „Criminal Negligence“, *Duke Bar Journal*, 1, . 62.

³⁹³ *Caldwell* [1982]

(*arson*);

()
: 1) ()
, 2)
(*inadvertent recklessness*)
(*advertent recklessness*).³⁹⁴ a
(*advertent recklessness*)

:

.

Cunningham,

. *Caldwell*

,
(*reasonable person*).³⁹⁵

()

³⁹⁶

. O

Lawrence [1982]

. W. Wilson /2008/: . 141.

basic intent,

. N. Haralambous /2010/: . 62.

³⁹⁴ G. Williams /1981/: . 267; M. Jefferson /2009/: . 111.

³⁹⁵ N. Haralambous /2010/: . 62.

(Ingeborg Puppe). G. Taylor /2004 /: .

360-361.

³⁹⁶ A. Ashworth /2009/: . 181.

(Reid [1992])

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397

398

399

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400

³⁹⁷ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 143.

³⁹⁸ G. Williams /1988/: . 74.

³⁹⁹ . M. Jefferson /2009/: . 111.

400

St. J. Robilliard /1981/: . 286. . . . McEwan,

. G. Syrota /1982/: A Radical Change in the Law of Recklessness, *The Criminal Law Review*, . 107-108. ,

. R. A. Duff /1983/: *Caldwell and Lawrence: The Retreat from Subjectivism, Oxford Journal of Legal Studies*, 1, . 98.

Criminal Damage Act- [1971],

reckless

⁴⁰¹

, Caldwell

⁴⁰²

”

“

()

⁴⁰³

⁴⁰¹ L. H. Leigh /1993/: Recklessness After Reid, *The Modern Law Review*, 2, . 210; W. Wilson /2008/: . 139.

⁴⁰² R. Heaton, C. de Than /2011/: . 68-69.

⁴⁰³ , . 69.

(. ,)

404

405

Caldwell Lawrence.

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406

⁴⁰⁴ L. H. Leigh /1993/: . 213.

405

[2003]. 11 12

G

. R. Heaton, C. de Than /2011/: . 70.

⁴⁰⁶ C. Wells /1984/: The Mental Element in Crime, 1974-83: Lighthouse Some Good, *The Criminal Law Review*, . 661.

407

408

409

410

411

(Caldwell)

(Cunningham).

. D. Ormerod /2011/: . 122.

⁴⁰⁷ S. Field, M. Lynn /1992/: The Capacity for Recklessness, *Legal Studies*, 1, . 76; N. Haralambous /2010/: . 64; D. Ormerod /2011/: . 122.

⁴⁰⁸ J. B. Brady /1996/: Recklessness, *Law and Philosophy*, 2, . 185.

⁴⁰⁹ . A. Brudner /2008/: Subjective Fault for Crime: *A Reinterpretation*, *Legal Theory*, 1, . 3.

410

. M. Jefferson /2009/: . 114.

⁴¹¹ K. Amirthalingam /2004/: Caldwell Recklessness is Dead, Long Live Mens Rea's Fecklessness, *The Modern Law Review*, 3, . 492; N. Haralambous /2010/: . 65.

. R. Heaton, C. de Than /2011/: .

73.

(gross negligence)

(

)

. G.

Williams /1982/: Intention and Recklessness Again, *Legal Studies*, 2, . 197; D. W. Morkel /1982/: On the Distinction Between Recklessness and Conscious Negligence, *The American Journal of Comparative Law*, 2, . 327.

412

Than /2011/: . 71.
413

(Reid [1992]),

Caldwell

. L. H. Leigh /1993/: . 213.

413

412

(Lamb [1967])

. G. Williams /1981/: . 281; R. Heaton, C. de

414

4.

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415

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⁴¹⁴ N. Haralambous /2010/: . 65.

⁴¹⁵ R. Heaton, C. de Than /2011/: . 70.

416

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,

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418

, *Caldwell*

419

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Brady [2006];

⁴¹⁶ D. Ormerod /2011/: . 124.
⁴¹⁷

418

⁴¹⁹ N. Haralambous /2010/: . 63.

⁴²⁰ M. Jefferson /2009/: . 110.

⁴²¹ W. Wilson /2008/: . 144.

Caldwell,

. J. B. Brady /1996/: . 186.

422

423

424

⁴²² N. Haralambous /2010/: . 64.

Arizona [1987]

Tison v.

(felony-murder)

Brady /1996/: . 188-189.

⁴²³ A. R. White /1961/: Carelessness, Indifference and Recklessness, *The Modern Law Review*, 5, . 594.
(Gleichgültigkeit)

(Karl Engisch)

⁴²⁴ . D. Ormerod /2011/: . 125-126. . G. Taylor /2004 /: . 355-356.

wilfully, *mens rea* *wilful*,
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 19.
 (*Sheppard*
 [1981]).⁴²⁵
*constructive recklessness.*⁴²⁶
⁴²⁷

⁴²⁵ , . 127.

⁴²⁶ M. Jefferson /2009/: . 114.

⁴²⁷

. G. Taylor /2004b/: Concepts of Intention in German Criminal Law,
Oxford Journal of Legal Studies, 1, . 116-127.

. H. Wechsler /1962/: On Culpability and Crime: The Treatment of Mens Rea in the Model Penal Code, *Annals of the American Academy of Political and Social Science*, Vol. 339, . 30.
(advertent or conscious negligence)

„Recklessness is advertent negligence.“ D. W. Morkel /1982/: . 329.

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,
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3. (*knowledge*)

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(*result*
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. A. R. Duff /1980c/: . 282; J. B. Brady /1996/: 198.

431

432 , . 192.

433 W. Wilson /2008/: . 147.

. A. Ashworth /2009/: . 182.

reasonable grounds to suspect, recklessness.⁴³⁴

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435

436

⁴³⁴ D. Ormerod, K. Laird /2015/: . 142.
maliciously . *Dishonestly*

. R. Heaton, C. de Than /2011/: . 82.
⁴³⁵ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 149; D. Ormerod /2011/: . 129.
(*belief*)

(). R. Heaton, C. de Than /2011/: . 78.
Hall [1985];

. N. Haralambous /2010/: . 66.
⁴³⁶ R. Card /2010/: . 97.

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” “
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(*knowledge*) (intention) (

). ” “
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Warner [1969].

⁴³⁷ W. Wilson /2008/: . 148.

⁴³⁸ D. Ormerod /2011/: . 129.

” “ (“).
Proceeds of Crime Act [2002] ()

” *mens rea*

() () . 132-134.
⁴³⁹ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 149.

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(*wilful blindness*). *Wilful blindness*

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⁴⁴⁰ , . 161-163.

⁴⁴¹

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⁴⁴² R. Heaton, C. de Than /2011/: . 78.

⁴⁴³ J. Dressler /2001/: . 126.

19. . R. Card /2010/: .

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recklessness,

, *wilful blindness*

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blindness (18 (1)).⁴⁵⁰

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⁴⁴⁸ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 150.

⁴⁴⁹ D. Ormerod, K. Laird /2015/: . 145.

⁴⁵⁰

() ,
451

. R. Heaton, C. de Than /2011/: . 79.

(*handling stolen goods*)

. Wasik, M. P. Thompson /1981/: . 335.

?

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453

Sheppard [1981].

(wilfully)

Wilfulness

wilfulness

(Caldwell reckelssness),

Caldwell.

⁴⁵² D. Ormerod, K. Laird /2015/: . 145.

⁴⁵³

ambiguity, *Legal Studies*, 3, . 303-325.

. J. A. Andrews /1981/: Wilfulness, a lesson in

5. (negligence)

456

457

common law- 458

459

460

456

G. P. Fletcher /2002/: The Fault of Not Knowing, *Theoretical Inquiries in Law*, 2, . 267.

457 F. Ba i /1986/: . 276.

458 G. P. Fletcher /1971/: . 401-402.

459 J. B. Brady /1972/: Punishment for Negligence: A Reply to Professor Hall, *Buffalo Law Review*, 1, . 107-109; R. Card /2010/: . 106.

mens rea

D. Ormerod /2011/: . 147.

G. P. Fletcher /1971/: . 414.

460 A. Ashworth, J. Horder /2013/: . 181.

()
 ()⁴⁶¹
common law
⁴⁶²
 16. ⁴⁶³ ,
 ,
⁴⁶⁴ ,
⁴⁶⁵ ,
 ,
⁴⁶⁶ .

⁴⁶¹ A. Ashworth /2009/: . 185-186.
⁴⁶²

(*Criminal Damage Act* [1971])
 (*Criminal Law Revision Committee*)
 . G. Williams
 /1982/: . 189.
⁴⁶³ J. Horder /1997/: Gross Negligence and Criminal Culpability, *University of Toronto Law Journal*, 4,
 . 496. 19. *common law*
 . P. H. Karlen /1978/: . 205-206.
⁴⁶⁴
 (),
Sexual Offences Act [2003];
 . D. Ormerod, K. Laird /2015/: . 166.
⁴⁶⁵
 , 1996. 540
 23
 , *Sexual Offences Act* [2003]
 , ()
 . R. Card /2010/: . 101.
⁴⁶⁶ G. Williams /1982/: . 189; R. A. Duff /1980c/: . 289. ,
 . D. More /2003/: The Boundaries of
 Negligence, *Theoretical Inquiries in Law*, 1, . 339-365.

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).⁴⁶⁸

469

(Hall),

,

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,

)

,

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(

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470

,

[Arthur Kaufmann]).

/1985 /:

,

, 11-12,

,

1284-1285.

L. Alexander, K. K. Ferzan, S. J. Morse /2009/: *Crime and Culpability. A Theory of*

Criminal Law, Cambridge (etc.), . 70-71.

⁴⁶⁷ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 158.

⁴⁶⁸

,

. G. P. Fletcher /2002/: . 273.

⁴⁶⁹ J. Edwards /1954/: The Criminal Degrees of Knowledge, *The Modern Law Review*, 4, . 306; W. R.

LaFave, A. W. Scott /1986/: . 234; A. Ashworth /2009/: . 188; D. Ormerod /2011/: . 152.

. J. B. Brady /1972/: . 121.

⁴⁷⁰

/2010a/:

.4.

, (. .)

),

, :

. 32-38.

⁴⁷¹

. J. Hall /1963 /: . 634-643.

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(“ ” “ ”)

(conduct crime)

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474

475

⁴⁷² D. Ormerod /2011/: . 128.

. Kao

. J.
B. Brady /1980/: . 381; J. Dressler /2001/: . 133; W. Wilson /2008/: . 139; A. Ashworth /2009/: . 179.

⁴⁷³ R. Card /2010/: . 103-105.

⁴⁷⁴ W. R. LaFave, A. W. Scott /1986/: . 234; J. Dressler /2001/: . 128-129; C. Elliott, F. Quinn /2010/: . 25.

⁴⁷⁵ R. Heaton, C. de Than /2011/: . 74.

476

477

478

479

⁴⁷⁶ . G. P. Fletcher /1971/: . 409; W. Wilson /2008/: . 137; N. Haralambous /2010/: . 66.

. K. Huigens /1998/: Virtue and Criminal Negligence, *Buffalo Criminal Law Review*, 2, . 431-432.

⁴⁷⁷ . J. B. Brady /1972/: . 144.

() . 113-114; A. Ashworth /2009/: . 187.

W. Scott /1986/: . 236-237.

⁴⁷⁹ D. Ormerod /2011/: . 146.

. W. R. LaFave, A.

480

481

482

483

⁴⁸⁰ R. Card /2010/: . 102; D. Ormerod /2011/: . 128.

⁴⁸¹ . P. H. Karlen /1978/: . 223-224.

⁴⁸² A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 151.

⁴⁸³ , . 152.

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487

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484

(*reasonable person*).

J. Dressler /2001/: . 131.

485

/2008/: . 241. „

486

J. Dressler /2001/: . 132; P. Westen /2008/: Individualizing the Reasonable Person in Criminal Law, *Criminal Law and Philosophy*, 2, . 152-155.

487

T. Hörnle /2008/: . 8.

G. P. Fletcher /1971/: . 434.

” “ 489
(, ,)⁴⁹⁰

⁴⁸⁸ . A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 154.

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. R. Heaton, C. de Than /2011/: . 75.

⁴⁸⁹ . /2014/: . 180.

⁴⁹⁰

()

/2008/: . 243-249.

() . P. Westen /2008/: . 141.

... /2008/: . 241.

⁴⁹¹ . J. Dressler /2001/: . 132.

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2)

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, *Road Traffic Act* [1988]

“ ”

⁴⁹² A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 155.

(§ 2.02[])

; , . T.

Hörnle /2008/: . 24.

⁴⁹³

/2008/: . 234-235.

⁴⁹⁴ W. A. Seavey /1927/: Negligence – Subjective or Objective?, *Harvard Law Review*, 1, . 13.

T. Hörnle /2008/: . 10.

/1985 /: . 1291.

2)

⁴⁹⁵

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⁴⁹⁶

⁴⁹⁷

⁴⁹⁵ D. Ormerod /2011/: . 148.

(*Bannister* [2009]).

⁴⁹⁶ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 155.

⁴⁹⁷ D. Ormerod /2011/: . 148.

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Hudson [1966]

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. T.

Hörnle /2008/: . 26.

⁴⁹⁹ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 156.

⁵⁰⁰ D. Ormerod /2011/: . 149.

⁵⁰¹ . A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 157.

(Hart)

. D. Ormerod /2011/:

. 153.

⁵⁰² T. Hörnle /2008/: . 25.

2.

(*luxuria*)

(*negligentia*),⁵⁰⁴

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: (*ordinary negligence*)

() (*gross negligence*).⁵⁰⁶

⁵⁰³ D. Ormerod, K. Laird /2015/: . 168.
⁵⁰⁴

(),
/2014/: . 178-179.

. A. Ashworth /2009/: . 187.

. P. H. Karlen /1978/: . 223.

505

/2009/:

. 3. (), . 254-255.
/2009/: . 187-220.

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() . 510

(manslaughter).⁵¹¹

common law-⁵¹²

(Andrews v DPP [1937]),

⁵¹³ Adomako [1995].

()

⁵¹⁴

⁵¹⁰ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 152.

⁵¹¹ D. W. Morkel /1982/: . 326; N. Padfield /2012/: . 59.

⁵¹² 19. . J. Horder /1997/: . 496.

reckless . G. Syrota

/1983/: Mens Rea in Gross Negligence Manslaughter, *The Criminal Law Review*, . 776.

⁵¹³ R. Heaton, C. de Than /2011/: . 75.

⁵¹⁴ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 153.

V.

(STRICT LIABILITY, VICARIOUS LIABILITY)

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- ,
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nullum
crimen sine culpa.
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19. 518
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⁵¹⁵ . /2011/: , :

, (. . .), , .255.

⁵¹⁶ . /2014/: . 27-28.

⁵¹⁷ . . /2006/: . 321-336.

⁵¹⁸ W. Wilson /2008/: . 151.

⁵¹⁹ . . /1966/: . 24.

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,
,
(*actus reus*),
(*mens rea*)
521
. *strict liability*, .

522
,
(*vicarious liability*).

523
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520

(1798. .)

strict liability

– *constuctive manslaughter* –

strict liability offence

. G. R.

Sullivan /2007/: . 195-196.

521

Woolmington v. DPP [1935]

common law

. P. Roberts /2007/: . 167.

522

. A. Hopkins /1988/:

Mens Rea and the Right to Trial by Jury, *California Law Review*, 2, . 398.

523

1. *Strict liability* – ()

524

strict liability

()⁵²⁵

,
526

()

strict liability

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, *strict liability*

(*actus reus*)

(*mens*

rea).⁵²⁸

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actus reus,

,
529

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524

strict liability

(/1996/:
II, , . 93, . . . /1966/: . 80-82.)

(,)

⁵²⁵ D. N. Husak /1995/: Varieties of Strict Liability, *Canadian Journal of Law and Jurisprudence*, 2, . 190.

⁵²⁶ . A. Ashworth, J. Horder /2013/: . 160.

⁵²⁷ J. Dressler /2001/: . 143; S. P. Green /2007/: Six Senses of Strict Liability: A Plea for Formalism, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 2; D. Ormerod /2011/: . 155.

⁵²⁸ M. Jefferson /2009/: . 134; R. Card /2010/: . 139-141.

⁵²⁹ *actus reus* *strict liability*

, . K. W. Simons /1997/: When is Strict Criminal Liability Just?, *The Journal of Criminal Law and Criminology*, 4, . 1080; S. P. Green /2007/: . 4. *Strict liability*

, . A. C. Michaels /2007/: Imposing Constitutional Limits on Strict Liability: Lessons from the American Experience, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 221.

. *Mens rea*

actus reus-

. *Strict liability*

530

strict liability

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*constructive liability*⁵³²

(*murder*)

⁵³⁰ D. N. Husak /1995/: . 191.

⁵³¹ W. Wilson /2008/: . 152.

strict liability *felony murder* *statutory rape*. *Felony murder* ()

. R. G. Singer /1994/: *Strict Criminal Liability: Alabama State Courts Lead the Way into the Twenty-First Century*, *Alabama Law Review*, 1, . 50; ([*greater crime theory*] –

; . 68. . A. Ashworth /2008/: *A Change of Normative Position: Determining the Contours of Culpability in Criminal Law*, *New Criminal Law Review*, 2, . 232-256.). *statutory rape*; ()

, *strict liability* . J. Dressler /2001/: .

145; R. W. Thomas /2012/: *On Strict Liability Crimes: Preserving a Moral Framework for Criminal Intent in an Intent-Free Moral World*, *Michigan Law Review*, 4, . 650.

⁵³² *constructive crime*. . D. Ormerod /2011/: . 135.

mens rea

533

assault battery,

534

(assault occasioning actual bodily harm),

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⁵³³ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 196.
(manslaughter by an unlawful act).

mens rea

⁵³⁴ . . . /2013 /: Assault Battery:

), . 250-261.

⁵³⁵ N. Haralambous /2010/: . 149.

⁵³⁶ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 196.

M. Jefferson /2009/: . 155.

mens rea

(

Callow v Tillstone [1980]).

27. § 18.).

strict liability,

strict liability

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).⁵³⁷ .

Montana v. Egelhoff

(*purposely or knowingly*)

(*murder*).

(*involuntary*).

strict liability –

⁵³⁸ ,

()

⁵³⁹ .

⁵³⁷ D. N. Husak /1995/: . 210-213.

⁵³⁸ S. P. Green /2007/: . 5.

⁵³⁹ , . 14-15.

strict liability

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mens rea

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strict liability

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strict liability

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strict liability

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mens rea

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542 , . 6-7.

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(public welfare offences, regulatory offences)

543

strict liability,

544

strict liability –

(mala prohibita).

strict liability

⁵⁴³ , .8.

⁵⁴⁴ *Felony murder*

mens rea

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strict liability

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strict liability

(*legal/elemental strict liability*),

()

(*moral strict liability*).

strict liability

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, *strict liability*

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strict liability

⁵⁴⁵

, . 9. *Felony murder* *mala in se*
()

malum prohibitum

mens rea

, . 15-16.

⁵⁴⁶

(Husak).

strict liability

. D. N. Husak /1995/: . 190-191.

⁵⁴⁷ A. P. Simester /2007/: Is Strict Liability Always Wrong?, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 22-23; D. Husak /2007/: Strict Liability, Justice, and Proportionality, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 86-87.

strict liability

: *strict liability*

(.
).⁵⁴⁸

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” ” , .

strict liability.

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()

strict liability.

*strict liability offences,*⁵⁴⁹

, *strict liability*

⁵⁵⁰

(*offences*)⁵⁵¹

*strict liability.*⁵⁵²

⁵⁴⁸ . D. N. Husak /1995/: . 194.

⁵⁴⁹ . S. P. Green /2007/: . 13.

⁵⁵⁰ , . 10.

⁵⁵¹

strict liability

. A. Ashworth /2009/: . 166.

⁵⁵² M. Jefferson /2009/: . 134.

(public welfare offences),⁵⁵³

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common law.⁵⁵⁸

(Crown

Prosecution Service).⁵⁵⁹

strict liability,

19. - Woodrow [1846]

strict liability;

⁵⁵³ F. B. Sayre /1933/: Public Welfare Offenses, *Columbia Law Review*, 1, . 56.

554

regulatory offences (

). C. M. V. Clarkson, H. M. Keating, S. R. Cunningham /2010/: *Clarkson and Keating Criminal*

Law: Texts and Materials, London, . 213; K. Reid /2008/: Strict Liability: Some Principles for Parliament,

Statute Law Review, 29(3), . 174.

W. Mueller /1955/: . 44.

555

Road Traffic Act [1988];

Hughes [2013]. D. Ormerod, K. Laird /2015/: . 174.

556

. M. Jefferson /2009/: . 134.

557

Sayre /1933/: . 62.

⁵⁵⁸ D. Ormerod, K. Laird /2015/: . 175-176. common law

mens rea

. Strict liability

common law

mens rea

public decency),

(the various forms of criminal libel),

(outraging

(contempt of

court),

(public nuisance),

; 2005.

common law

Jefferson /2009/: . 140; R. Card /2010/: . 144-145.

⁵⁵⁹ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 175.

⁵⁶⁰ *strict liability*
mala in se, .

⁵⁶¹ ,

1. (absolute liability)

strict liability ,

. *Mens rea*

strict liability

(*absolute liability*)

⁵⁶² *strict liability*

mens rea

actus reus ,

(*defence*),

(

⁵⁶⁰ F. B. Sayre /1922/: . 58.
19.

Woodrow *strict liability*. ;

. R. G. Singer /1989/: The Resurgence of Mens Rea: III – The Rise and Fall of Strict Criminal Liability, *Boston College Law Review*, 2, . 340-345.

⁵⁶¹ J. Stanton-Ife /2007/: Strict Liability: Stigma and Regret, *Oxford Journal of Legal Studies*, 1, . 154.

⁵⁶² *strict liability*

absolute liability. . A.

Paisez /1998/: A closer Look at the Presumption of Innocence in our Constitution: What is an Accused Presumed to be Innocent of?, *South African Journal of Criminal Justice*, 3, . 416.

).⁵⁶³

.⁵⁶⁴

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Larsonneur [1933]

.⁵⁶⁶

“⁵⁶⁷

Winzar v Chief Constable of Kent [1983]

Licencing Act-om [1872]

.⁵⁶⁸

⁵⁶³ M. Allen /2005/: *Textbook on Criminal Law*, Oxford, . 99; R. A. Duff /2007a/: . 232-233; R. Card /2010/: . 141.

: 1) (*mens rea*), 2) *strict liability* 3) . M. Jefferson /2009/: . 136.

⁵⁶⁴ „ / *strict liability*“ (*pure strict liability*), *strict liability*, „ / *strict liability*“ (*impure strict liability*). K. W. Simons /1997/: . 1081; S. P. Green /2007/: . 3. ⁵⁶⁵ (*DPP v H* [1997])

. R. Card /2010/: . 140-141.

⁵⁶⁶ M. Jefferson /2009/: . 137.

⁵⁶⁷ R. Card /2010/: . 142.

⁵⁶⁸ *situational liability*, (*status offences*). M. Jefferson /2009/: . 138.

absolute liability, ()

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2. *strict liability*

strict liability,

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,) a *mens rea*
actus reus- , *strict liability*
(.
)⁵⁷⁰
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()⁵⁷¹

*strict liability,*⁵⁷²

, ().
, .
,
. S. P. Green /2007/: . 3.

. R. M. Perkins
/1983/: Criminal Liability Without Fault: A Disquieting Trend, *Iowa Law Review*, 5, . 1070.

⁵⁶⁹ W. Wilson /2008/: . 159.

⁵⁷⁰ . M. Jefferson /2009/: . 139.

⁵⁷¹ J. Horder /2007/: Whose Values Should Determine When Liability is Strict?, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 105; P. Roberts /2007/: . 153.

⁵⁷² *mens rea*
,
. S. P. Green /2007/: . 16.
strict liability,
Comprehensive Drug

Reform Act [1986] (), *strict liability*
(a. Any person who manufactures, distributes or dispenses ... any ... controlled dangerous substance classified in Schedules I or II ... is *strictly liable* for a death which results from the injection, inhalation or ingestion of that substance, and is guilty of a crime of the first degree). D. Husak /2007/: . 82. *New Jersey v. Rodrigez* [1994] (),

(intentionally), (recklessly), (knowingly)

Hallam [1957]

(Explosive Substances Act [1883])

(knowledge)

strict liability.

mens rea

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. 81-82.

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felony-murder

strict liability

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(,)

. 83-86.

⁵⁷³ D. Ormerod, K. Laird /2015/: . 183.

⁵⁷⁴ R. Card /2010/: . 146.

⁵⁷⁵ D. Husak /2007/: . 91.

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⁵⁷⁶

mens rea

(),

(*stare decisis et non*

quieta movere).⁵⁷⁷

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Warner

[1969]

,

Sweet v Parsley [1970]

,

S. P. Green /2007/: . 16.

strict liability . M. Wasik /1982/: Shifting the Burden of Strict Liability, *The Criminal Law Review*, . 570; R. G. Singer /1989/: . 375-377. (*Proudman defence*) ,

strict liability, ,

strict liability . G. L. Peiris /1983/: Strict liability in Commonwealth criminal law, *Legal Studies*, 2, . 131-132; K. J. Arenson /2012/: Rape in Victoria as a Crime of Absolute Liability: A Departure from Both Precedent and Progressivism, *The Journal of Criminal Law*, 5, . 408-410.

L. L. Levenson /1992-1993/: Good Faith Defenses: Reshaping Strict Liability Crimes, *Cornell Law Review*, 3, . 447. *strict liability* postojí . R. G. Singer /1994/: . 69-80.

⁵⁷⁶ J. Horder /2007/: . 106.

⁵⁷⁷ . A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 175-176.

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B v DPP [2000]

(
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Communications Act [2003],

⁵⁷⁸ W. Wilson /2008/: . 154; M. Allen /2005/: . 102.

⁵⁷⁹

strict liability,

strict liability

20.

strict liability. . D. K. Brown

/2012/: Criminal Law Reform and the Persistence of Strict Liability, *Duke Law Review*, 2, . 297-310, 331-333.

mens rea

. R. G. Singer /2000/: The Model Penal Code and Three Two (Possibly Only One) Ways Courts Avoid Mens Rea, *Buffalo Criminal Law Review*, 1, . 139-216.

⁵⁸⁰

182.

⁵⁸¹ . C. M. V. Clarkson, H. M. Keating, S. R. Cunningham /2010/: . 215-216; A. Ashworth /2009/:

. 167.

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(*intent*), (*recklessness*),⁵⁸³ (*knowledge*) (*belief*).
(*negligence*),

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” (*full subjective mens rea or strict liability*).⁵⁸⁵

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Gammon Ltd v A-G of Hong Kong

[1985]. *mens rea*

⁵⁸² R. Card /2010/: . 149.

⁵⁸³ *recklessness* (20.
General Requirement of Fault): (1) *Every offence requires a fault element of recklessness with respect to each of its elements other than fault elements, unless otherwise provided.* D. Ormerod /2011/: . 164.

recklessness

(§ 2.02[3]).

584

. W. R. LaFare, A. W. Scott /1986/: . 245.

⁵⁸⁵ . C. M. V. Clarkson, H. M. Keating, S. R. Cunningham /2010/: . 216; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 179.

strict liability

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(*mala in se*)

(*truly criminal*), *strict liability*

(*mala prohibita*),

(*quasi-criminal*),

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actus reus- 590

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mens rea

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Howells [1977]

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⁵⁸⁶ M. Jefferson /2009/: . 153; K. Reid /2008/: . 173-174.

⁵⁸⁷ F. B. Sayre /1933/: . 72.

⁵⁸⁸

strict liability. A. P. Simester, J.

R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 179; A. Brudner /1990/: Imprisonment and Strict Liability, *The University of Toronto Law Journal*, 4, . 742.

⁵⁸⁹ A. Ashworth /2009/: . 164.

⁵⁹⁰ R. Card /2010/: . 161.

⁵⁹¹ W. R. LaFave, A. W. Scott /1986/: . 244; M. Allen /2005/: . 107.

⁵⁹² C. M. V. Clarkson, H. M. Keating, S. R. Cunningham /2010/: . 219.

Borough Council v Shah [1999]

Harrow London

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strict liability offence

⁵⁹³ , *Hussain* [1981]

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Sexual Offences Act [2003]

strict liability,

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(*violations*)

(*crimes*).

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strict liability

. M. Jefferson /2009/: . 154.

⁵⁹³ *Dangerous Drugs Act* [1965]

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Champ [1981]

() *strict liability*

. M. Molan, D. Lanser, D. Bloy

/2000/: . 97.

⁵⁹⁴ R. A. Duff /2007a/: . 257.

⁵⁹⁵ . A. Ashworth /2009/: . 164.

strict liability offences

/1989/: . 380.

; A. C. Michaels /2007/: . 225; R. G. Singer

regulatory offences

. G. L. Peiris /1983/: . 124.

⁵⁹⁶ /1966/: . 81-82.

strict liability

offences, strict liability.⁵⁹⁷ strict liability prima facie

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(aware)
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(. knowingly)

strict liability
(§ 2.05). R. G. Singer /1989/: . 382.
(sexual assault) (§ 213.6[1]). . D. N.

Husak /1995/: . 206.

⁵⁹⁷ K. Reid /2008/: . 185; A. Ashworth /2009/: . 170.

⁵⁹⁸ D. Ormerod /2011/: . 165.

⁵⁹⁹ R. Card /2010/: . 154-155; W. Wilson /2008/: . 156. James & Son Ltd v Smee [1955]

strict liability offence, . M. Jefferson /2009/:
. 144.

⁶⁰⁰ „ ...“

⁶⁰¹ C. M. V. Clarkson, H. M. Keating, S. R. Cunningham /2010/: . 213.

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strict liability,

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[2003],

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*liability.*⁶⁰³

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(*non-negligence*),

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Misuse of Drugs Act [1971]

⁶⁰² R. Card /2010/: . 157.

⁶⁰³ . A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 185.

⁶⁰⁴ M. Jefferson /2009/: . 145.

⁶⁰⁵ W. Wilson /2008/: . 158-159.

⁶⁰⁶ *Strict liability*

– *actus reus*

1964.

⁶⁰⁷

strict liability

⁶⁰⁸

(),

(*defence*)

⁶⁰⁹

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⁶⁰⁶ *Food Safety Act* [1990]

. A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 185.

⁶⁰⁷ R. A. Duff /2007b/: *Strict Liability, Legal Presumptions and the Presumption of Innocence*, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 126.

⁶⁰⁸ . A. Ashworth /2009/: . 160.

⁶⁰⁹ . *halfway house approach* –

(
) *strict liability*. L. L.

Levenson /1992-1993/: . 438.

⁶¹⁰

(*defence*) .

Patterson v. New York [1977]

(*extreme emotional disturbance*).

611

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strict liability (

actus reus- mens rea-)

).⁶¹³

strict liability,

Salabiaku v France [1988]

R. M. Perkins /1983/: . 1068.

⁶¹¹ D. Ormerod /2011/: . 181.

. V. Tadros, S. Tierney /2004/: The Presumption of Innocence and the Human Rights Act, *The Modern Law Review*, 3, . 402.

. 402-403.

⁶¹²

strict liability. G. R.

Sullivan /2007/: . 201.

⁶¹³ , . 211-212.

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Barnfather v Islington Educational Authority [2003]

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*strict liability offences.*⁶¹⁷

G [2008]

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⁶¹⁴ M. Jefferson /2009/: . 135. . V. Tadros, S. Tierney /2004/: . 423.

. J. R. Spencer, A. Pedain /2007/: Approaches to Strict and Constructive Liability in Continental Criminal Law, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 269.

⁶¹⁵

. R. A. Duff /2007b/: . 133.

437.

⁶¹⁶

Tadros, S. Tierney /2004/: . 407.

⁶¹⁷ S. E. Salako /2006/: Strict Criminal Liability: A Violation of the Convention?, *The Journal of Criminal Law*, 6, . 537.

⁶¹⁸ R. Card /2010/: . 143-144. , *strict liability*

strict liability

strict liability

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common law *equity law*,⁶²⁰

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Strict liability

. P. Roberts /2007/: . 155-156.

strict liability

. A. Paisez /1998/: . 409-42; V. Tadros, S. Tierney /2004/: . 422-424.

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8. (

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2003.

strict liability; Education Act [1996]

. A. C. Michaels /2007/: . 232-235.

⁶²⁰ *Equity law*

common law-

(*Court of Chancery*)

common

law /2008/: . 156-158.

⁶²¹ A. C. Michaels /2007/: . 227.

strict liability

,⁶²²

strict liability

⁶²³

„mens rea,

“⁶²⁴

4. *Strict liability*

, *strict liability*

(*absolute liability*)

, *strict liability*

⁶²⁵

⁶²²

strict liability.

(*constitutional innocence*): *strict liability*

strict liability,

(*constitutional doubt*)

strict liability

offences,

strict liability

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M. Perkins /1983/: . 1070-1072.

/2014/: . 129-130.

⁶²³

strict liability

per se

. W. R. LaFave, A. W. Scott /1986/: . 246; R. W. Thomas /2012/: .

655.

⁶²⁴ A. C. Michaels /2007/: . 223.

⁶²⁵

strict liability

strict criminal responsibility,

strict liability

;
actus reus, ⁶²⁶, *due*
diligence,
, *common law*
(*dures*), (*self-defence*), (*necessity*)
strict liability.⁶²⁷
(*insanity*).⁶²⁸,
,
,
mens rea ⁶²⁹ *DPP v*

H [1997]

strict liability

, ⁶³⁰
,
strict liability offences,
⁶³¹

. R. A. Duff /2007a/: . 233.
⁶²⁶ M. Budd, A. Lynch /1978/: Voluntariness, Causation and Strict Liability, *The Criminal Law Review*, . 75; L. L. Levenson /1992-1993/: . 430-431.
⁶²⁷ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 186; D. Ormerod /2011/: . 177.
⁶²⁸ () (*defences*)
).
strict liability, *mens rea* .
C. M. V. Clarkson, H. M. Keating, S. R. Cunningham /2010/: . 222.
⁶²⁹ F. B. Sayre /1933/: . 83.
⁶³⁰ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 186.
⁶³¹ , . 187.

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strict liability

strict liability

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strict liability

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strict liability

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. R. A. Duff /2007a/: . 128.

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strict liability

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strict liability.⁶³⁵

offence

(*crime*).

(*quasi-criminal offences*).

(*not truly criminal in character*).⁶³⁶

strict liability

(*stigmatic crime*),

strict liability

633

Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 190.

634

strict liability

/2007/: . 93.

635 A. P. Simester /2007/: . 22.

636

, . 23-24.

. A. P. Simester, J. R.

. D. Husak

rule). (1996.) (year and a day)

common law

() ()⁶³⁷ (quasi-criminal regulations) strict liability⁶³⁸

mala in se.

malum prohibitum.⁶³⁹

– (administrative violations) – strict liability

⁶⁴⁰

⁶⁴¹

strict liability ;

⁶³⁷ , . 42.

⁶³⁸ , . 21.

⁶³⁹ R. M. Perkins /1983/: . 1074.

⁶⁴⁰ A. P. Simester /2007/: . 40-41.

⁶⁴¹ D. Ormerod /2011/: . 169. (contraventions)

strict liability offences. ()
,
) J. R. Spencer, A. Pedain /2007/: . 262.

642

strict liability (
mens rea
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2003.

strict liability.⁶⁴³

, *strict liability*

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strict liability

⁶⁴² . A. P. Simester /2007/: . 26.

⁶⁴³ J. R. Spencer, A. Pedain /2007/: . 274-275.

⁶⁴⁴

strict liability

? A. Hamdani /2007/: Mens Rea

and the Cost of Ignorance, *Virginia Law Review*, 2, . 417.

⁶⁴⁵ V. Tadros, S. Tierney /2004/: . 423.

646

strict liability

: *strict liability*

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strict liability

648

. *Strict liability*

strict liability

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⁶⁴⁶ A. Ashworth /2009/: . 162-163.

⁶⁴⁷ A. P. Simester /2007/: . 28.

⁶⁴⁸

strict liability,

strict liability,

. D. N. Husak /1995/: . 191.

⁶⁴⁹ A. Paisez /1998/: . 415.

⁶⁵⁰ A. P. Simester /2007/: . 21.

⁶⁵¹ L. L. Levenson /1992-1993/: . 427.

strict liability

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657

strict liability offences

Regulatory Enforcement and Sanctions Act [2008]

()

*strict liability.*⁶⁵⁸

⁶⁵² R. A. Wasserstrom /1960/: Strict Liability in the Criminal Law, *Stanford Law Review*, 4, . 735.
strict liability

offences,

A. P. Simester /2007/: . 30.

⁶⁵³ M. Jefferson /2009/: . 155.

⁶⁵⁴ A. Paisez /1998/: . 415-416.

⁶⁵⁵ . W. R. LaFare, A. W. Scott /1986/: . 248.

⁶⁵⁶ L. L. Levenson /1992-1993/: . 426.

⁶⁵⁷ R. A. Duff /2007a/: . 129.

⁶⁵⁸ K. Reid /2008/: . 188.

(,)

(. *Environment Agency, the Food Standards Agency*) ,

(. , , .)

659

actus reus-

(*no-negligence*

defence).⁶⁶⁰

strict liability. J. Horder /2007/: . 107.

⁶⁵⁹ . C. M. V. Clarkson, H. M. Keating, S. R. Cunningham /2010/: . 234-235.

⁶⁶⁰ A. P. Simester /2007/: . 31.

(*good faith defence*)

strict liability.

strict liability

. L. L. Levenson /1992-1993/:

405.

Kantor [1988]

(Traci Lords).

strict liability (

)

. 406-412.

. R. Singer, D. Husak /1999/: Of

Innocence and Innocents: The Supreme Court and Mens Rea Since Herbert Packer, *Buffalo Criminal Law Review*, 2, . 888-896.

1978. *strict*

offences

⁶⁶¹

mens rea.

- *strict liability,*

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mens rea

⁶⁶²

6. *Strict liability*

strict liability ()

⁶⁶³

⁶⁶¹ M. Jefferson /2009/: . 157; . G. L. Peiris /1983/: . 143-144; R. G. Singer /1989/: . 339.

⁶⁶² C. M. V. Clarkson, H. M. Keating, S. R. Cunningham /2010/: . 235.

⁶⁶³ . 43. 3.

. 571(2) 584.

. A. Di Amato /2013/: *Criminal Law in Italy*, Kluwer, Netherlands, . 83-84.

664

liability (contaventions)⁶⁶⁵ (strict liability).⁶⁶⁷

⁶⁶⁴ J. R. Spencer, A. Pedain /2007/: . 237.

⁶⁶⁵

common law

Hughes /1984/: . 507-614; S. Shute /1998/: With and Without Constitutional Restraints: A Comparison Between the Criminal Law of England and America, *Buffalo Criminal Law Review*, 2, . 329-348.

⁶⁶⁶

strict liability

⁶⁶⁷ J. R. Spencer, A. Pedain /2007/: . 275.

⁶⁶⁷

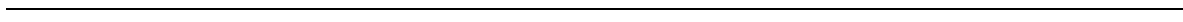
strict liability

common law

common law

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strict liability
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(). , .269-274.
668 ()
strict liability.
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669 , .242. (Vollrausch)
().
(reckless)
basic intent. , .244.

*nullum crimen sine culpa.*⁶⁷⁰

strict liability offences

strict liability

mens rea

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⁶⁷⁰ . /2014/: . 129.
⁶⁷¹

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- ” . . /2012 /:
, 1-2, , . 27-28.
(. , . 65/2013) (2.)
(.),

./2015/: , . 41.

(2.),

. 38-41.

. 672

dolus indirectus.⁶⁷³

versari in re illicita.⁶⁷⁴

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), *strict*

liability

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law

(*misdemeanours*)

. 675

⁶⁷² . . . /2008/:

⁶⁷³ . . . /2012 /: . 142.

⁶⁷⁴ . C. Roxin /2006/: . 337.
(Carpzow),

dolus indirectus- . H. Mannheim /1935b/: Mens Rea in German and English Criminal Law-II, *Journal of Comparative Legislation and International Law*, 4, . 236-238.

⁶⁷⁵ . F. B. Sayre /1932/: . 1003.

2. Vicarious liability –

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strict liability

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vicarious liability

vicarious liability

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vicarious liability

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strict liability)

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/2014/: . 27.

678

A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 263; D. Ormerod /2011/: . 273; J. Samaha /2011/: . 219.

679

/2013 /:

. 288-301.

1. Vicarious liability

Vicarious liability

()

Health and

Safety at Work Act [1974]

()

British Steel plc. [1995]

681

45. H. Wallace, C. Roberson /2012/:

680

(qui facit per alium facit per se)

F. B. Sayre /1930/: Criminal Responsibility for the Acts of Another, Harvard Law Review, 5, . 690-691.

681 D. Ormerod, K. Laird /2015/: . 310. Vicarious liability

18. .

. M.

strict

liability,

682

strict liability

683

common law

684

vicarious liability

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686

Jefferson /2009/: . 210; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 263; D. Ormerod /2011/: . 274-275. *vicarious liability* : H. J. Laski /1916/: The Basis of Vicarious Liability, *The Yale Law Journal*, 2, . 105-135; A. O. Sykes /1988/: The Boundaries of Vicarious Liability: An Economic Analysis of the Scope of Employment Rule and Related Legal Doctrines, *Harvard Law Review*, 3, . 563-609; G. T. Schwartz /1996/: The Hidden and Fundamental Issue of Employer Vicarious Liability, *Southern California Law Review*, 5, . 1739-1767; C. McIvor /2006/: The Use and Abuse of the Doctrine of Vicarious Liability, *Common Law World Review*, 4, . 268-296.

⁶⁸² W. R. LaFave, A. W. Scott /1986/: . 250.

⁶⁸³ D. Ormerod, K. Laird /2015/: . 311.

⁶⁸⁴ (*public nuisance, criminal libel, contempt of court*)

. D. Ormerod /2011/: . 275-276. *common law*

vicarious liability. A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 264.

685

686

Road Traffic Offenders Act [1988]

()

. D. Ormerod /2011/: . 276.

Transport Act [1982],

. M. Jefferson /2009/: . 211.

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687

vicarious liability.

688

2. *vicarious liability*

vicarious liability.

(*the*

delegation principle).

(*the attributed act principle*).⁶⁸⁹

⁶⁸⁷ D. Ormerod /2011/: . 276.

⁶⁸⁸

Environment Agency v Empress Cars [1999]

⁶⁸⁹ N. Haralambous /2010/: . 81.

) *The delegation principle*

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(*Allen v Whitehead* [1930])

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⁶⁹⁰ D. Ormerod /2011/: . 279.

⁶⁹¹ M. Molan, D. Lanser, D. Bloy /2000/: . 136.

⁶⁹² *vicarious liability*

M. Jefferson /2009/: . 217.

() 693

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vicarious liability.⁶⁹⁵

() *mens rea*
strict liability

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) *The attributet act principle*

strict liability

⁶⁹³ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 265.

⁶⁹⁴ D. Ormerod, K. Laird /2015/: . 314.

⁶⁹⁵ M. Jefferson /2009/: . 214; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 266.

⁶⁹⁶ D. Ormerod /2011/: . 279. R. Heaton, C. de Than /2011/: . 521.

⁶⁹⁷ M. Jefferson /2009/: . 215. A. Ashworth /2009/: . 149,

698

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700

, *vicarious liability*

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propria)

(delicta

⁶⁹⁸ N. Haralambous /2010/: . 81-82.

⁶⁹⁹ D. Ormerod /2011/: . 279. *Harrow London Borough Council v Shah and Shah* [1999]

16

. . 280.

⁷⁰⁰ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 271.

⁷⁰¹ . 268.

⁷⁰² M. Jefferson /2009/: . 212. ,

. A. P. Simester, J. R. Spencer,

G. R. Sullivan, G. J. Virgo /2010/: . 270.

strict liability,

703

strict liability

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vicarious

liability.

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(vicarious liability)

⁷⁰³ D. Ormerod /2011/: . 282.

mens rea (),
liability
strict liability.

common law
vicarious

vicarious liability. M. Jefferson /2009/: . 215; D. Ormerod /2011/: . 282-283; R. Heaton, C. de Than /2011/: . 522.

⁷⁰⁴ M. Jefferson /2009/: . 215-216.

⁷⁰⁵ , . 216.

⁷⁰⁶ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 271.

⁷⁰⁷.

⁷⁰⁷ D. Ormerod /2011/: . 283.

VI.

common law

16. 17.

709

710

708

711

⁷⁰⁸ T. J. Bernard /1984/: The Historical Development of Corporate Criminal Liability, *Criminology*, 1, 4-6.

⁷⁰⁹ V. S. Khanna /1996/: Corporate Criminal Liability: What Purpose Does It Serve?, *Harvard Law Review*, 7, 1479.

17. K. F. Brickey /1998/: Rethinking Corporate Liability Under the Model Penal Code, *Rutgers Law Journal*, 3, 593-594.

⁷¹⁰ /2010 /:

15.

⁷¹¹ C. Wells /2011/: Corporate Criminal Liability in England and Wales: Past, Present, and Future, *Corporate Criminal Liability. Emergence, Convergence, and Risk*, (ed. M. Pieth, R. Ivory), Dordrecht (etc.), 97.

1.

19.

(companies, corporations)

(strict liability).⁷¹²

713

714

712

due diligence

strict liability

. D. Ormerod, K. Laird /2015/: . 293.

713

(*Salomon v. Salomon*)

19. . M. Molan, D. Lanser, D. Bloy /2000/: . 138.

⁷¹⁴ E. Lederman /2001/: Models for Imposing Corporate Criminal Liability: From Adaptation and Imitation Toward Aggregation and the Search for Self-Identity, *Buffalo Criminal Law Review*, 1, . 642; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 272-273.

716

717

718

719

720

715

C. de Maglie /2005/: Models of Corporate Criminal Liability in Comparative Law, *Washington University Global Studies Law Review*, 3, . 548.

716

W. S. Laufer, A. Strudler /2000/: Corporate Intentionality, Desert, and Variants of Vicarious Liability, *American Criminal Law Review*, 4, . 1285.

/2012 /: . 28.

⁷¹⁷ K. F. Brickey /1982/: Corporate Criminal Accountability: A Brief History And an Observation, *Washington University Law Quarterly*, 2, . 396.

⁷¹⁸

A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 272.

⁷¹⁹

(vicarious liability),

strict liability

, . 273.

720

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respondeat superior
20. (1909.)

1. *mens rea*

strict liability

mens rea

. M. E. Beck, M. E. O'Brien /2000/: Corporate Criminal Liability, *American Criminal Law Review*, 2, . 262; H. L. Brown /1995/: Vicarious Criminal Liability of Corporations for the Acts of their Employees and Agents, *Loyola Law Review*, 2, . 280-281.

. C. de Maglie /2005/: . 560-561.

nulla poena sine culpa,

(*Ordnungswidrigkeiten*). M. Böse /2011/: Corporate Criminal Liability in Germany, *Corporate Criminal Liability. Emergence, Convergence, and Risk*, (ed. M. Pieth, R. Ivory), Dordrecht (etc.), . 229-231.

. C. de Maglie /2011/: *Societas Delinquere Potest?* The Italian Solution, *Corporate Criminal Liability. Emergence, Convergence, and Risk*, (ed. M. Pieth, R. Ivory), Dordrecht (etc.), . 256.

721

(*doctrine of identification*)

722

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724

⁷²¹ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 273-274.

7.

97/2008).

⁷²² , . 274.

723

. B. Coleman /1975/: Is Corporative Criminal Liability Really Necessary, *Southwestern Law Journal*, 4, . 911. [*§ 2.07(5)* *mens rea*

ratio legis-

, . 913-914.

724

) Ormerod /2011/: . 263. . 228.

. D. . M. Jefferson /2009/:

Maglie /2005/: . 547.

. C. de

, ()

⁷²⁵ , ,

⁷²⁶

vicarious liability, ,

⁷²⁷

) ()

alter ego

;

, M. E. Beck, M. E. O'Brien /2000/: .
268-269; K. Drew, K. A. Clark /2005/: Corporate Criminal Liability, *American Criminal Law Review*, 2,
. 282. „Ratio

/2014/: . 285.

⁷²⁵ D. Ormerod /2011/: . 258.

⁷²⁶

2010. . (*Bribery Act*)

, . 259.

⁷²⁷ M. Jefferson /2000/: Corporate Criminal Liability in the 1990s, *The Journal of Criminal Law*, 1, .
106.

(Denning LJ).

729

alter ego,

730

731

⁷²⁸ E. Lederman /2001/: . 655; . /2005/:
 246. C. Elliott, F. Quinn /2010/: . 309. . M.
 Jefferson /2009/: . 228.
⁷²⁹ R. Card /2010/: . 826.
⁷³⁰ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 274-275.
⁷³¹ A. Weissmann /2007/: A New Approach to Corporate Criminal Liability, *American Criminal Law Review*,
 4, . 1319; R. Card /2010/: . 831. . G. Stessens /1994/: Corporate Criminal
 Liability: A Comparative Perspective, *International and Comparative Law Quarterly*, 3, . 513.

. M. E. Beck, M. E. O'Brien /2000/: . 265.

mens rea

(*aggregation principle*).

733

A-G's Reference (No 2 of 1999) [2000].⁷³⁴

Coleman /1975/: . 910. . J. S. Hall /1998/:
Corporate Criminal Liability, *American Criminal Law Review*, 3, . 553.

732

(*Corporate Manslaughter and Corporate Homicide Act*) 2007.

/2011/: . 257. . D. Ormerod

Horder /2013/: . 153-154.

. A. Ashworth, J.

(). R. Card /2010/: . 834; A. P.
Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 281-283.

. M. Jefferson /2009/: . 223.

733

/2005/: . 245.

(*tort*). S. Parsons /2003/: The Doctrine of Identification, Causation and Corporate Liability for
Manslaughter, *The Journal of Criminal Law*, 1, . 76.

⁷³⁴ D. Ormerod /2011/: . 263-264; R. Heaton, C. de Than /2011/: . 526-527.

(*collective knowledge*)

. M. E. Beck, M. E. O'Brien /2000/: . 270.

/1994/: Corporate Criminality: Four Models of Fault, *Legal Studies*, 3, . 405. . J. Gobert

735

(*Lennards Carrying Co Ltd v. Asiatic Petroleum Ltd* [1915]).

(*DPP v. Kent and Sussex Contractors* [1962] 1 *ICR* 149).
Haulage Ltd [1944] 1 *ICR* 149.⁷³⁶

737

(*Tesco Supermarkets Ltd v. Natrass*) [1972] 1 *ICR* 149.

738

(*M. Jefferson* /2000/: 112; *E. Lederman* /2001/: 664).

⁷³⁵ G. R. Sullivan /1996/: The Attribution of Culpability to Limited Companies, *Cambridge Law Journal*, 3, 515-546.

⁷³⁶ G. R. Sullivan /1995/: Expressing Corporate Guilt, *Oxford Journal of Legal Studies*, 2, 282; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: 275; D. Ormerod /2011/: 260.

vicarious liability

R. Heaton, C. de Than /2011/: 523.

1917. (*Moussell Brothers v. London and Northwestern Railway*). T. J. Bernard /1984/: 9.

⁷³⁷

R. Heaton, C. de Than /2011/: 523.

⁷³⁸ J. Gobert /1994/: 400-401.

controlling officers.

D. Ormerod /2011/: 260.

D. Ormerod, K. Laird /2015/: 300.

Redfern [1993]

739

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(*vicarious liability*).⁷⁴¹

742

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744

⁷³⁹ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 275-276.

⁷⁴⁰ (). W. R. LaFave, A. W. Scott /1986/: . 256.

. M. E. Beck, M. E. O'Brien /2000/: . 266.

⁷⁴¹ W. R. LaFave, A. W. Scott /1986/: . 257; R. Heaton, C. de Than /2011/: . 525. *Vicarious liability*

strict liability

mens rea

. A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 276.

⁷⁴² J. Gobert /1994/: . 396.

⁷⁴³ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 276.

()

⁷⁴⁴ A. Ashworth /2009/: . 150; D. Ormerod /2011/: . 261.

()

. K. F. Brickey /1998/: . 601.

745

Meridian

[1995].⁷⁴⁶

747

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749

⁷⁴⁵ M. Molan, D. Lanser, D. Bloy /2000/: . 141.

(*Great Western Trains*) . S. Parsons /2003/:
. 69.

⁷⁴⁶ R. Heaton, C. de Than /2011/: . 526.

. Y. Z. Stern
/1987/: Corporate Criminal Personal Liability: Who is the Corporation?, *The Journal of Corporation Law*,
1, . 125-143.

⁷⁴⁷ C. M. V. Clarkson /1996/: Kicking Corporate Bodies and Damning Their Souls, *The Modern Law Review*,
4, . 565; R. Card /2010/: . 828-829.

⁷⁴⁸ D. Ormerod /2011/: . 262.

⁷⁴⁹ R. Heaton, C. de Than /2011/: . 523.

, ”

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750

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(*ultra vires*).⁷⁵¹

, *ultra vires*

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753

754

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755

/2010/:

), . 196.

750

. T. J. Bernard /1984/: . 3.

/2005/: . 244.

⁷⁵² D. Ormerod /2011/: . 258.

⁷⁵³ *Interpretation Act* [1978].

. V. S. Khanna /1996/: . 1488.

(*Sentencing*

Guidelines)

. C. de Maglie /2005/: . 552.

754

(violations)

“ . . . /1966/: . 78.

⁷⁵⁵ D. Ormerod /2011/: . 267.

756

757

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759

756

. 267.

. R.

Heaton, C. de Than /2011/: . 527.

. M. Jefferson /2009/: . 224.

⁷⁵⁷ W. R. LaFave, A. W. Scott /1986/: . 258.

(remedial order)

. D. Ormerod /2011/: . 267.

(probation)

. M. E. Beck, M. E. O'Brien /2000/: . 279.

⁷⁵⁸ R. Heaton, C. de Than /2011/: . 523.

. C. de

Maglie /2005/: . 552.

⁷⁵⁹ W. Wilson /2008/: . 167.

. M. Jefferson

/2009/: . 228.

. B. Coleman /1975/: . 914.

. V. S. Khanna /1996/: . 1497.

. J. C. Coffee Jr. /1981/:

„No Soul to Damn: No Body to Kick“: An Unscandalized Inquiry Into the Problem of Corporate Punishment, *Michigan Law Review*, 3, . 386-459.

. M. Jefferson /2001/: Corporate Criminal Liability: The Problem of Sanctions, *The Journal of Criminal Law*, 3, . 238-244.

()

761

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762

1994.

(*OLL Ltd.*)

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60.000

763

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(*corporate killing*).

⁷⁶⁰ R. Heaton, C. de Than /2011/: . 528. ()

118.)

(

[6,

1.].)

/2014/: . 286-287.

⁷⁶¹ T. J. Bernard /1984/: . 11.

⁷⁶² M. Jefferson /2000/: . 109.

⁷⁶³ , . 225. ,, 1985. ,

(*Film Recovery Systems* *Metallic Mining Systems*)

48.000

“ . /2014/: . 274.

⁷⁶⁴ C. M. V. Clarkson /1996/: . 569; S. Griffin /2006/: *Corporate Manslaughter: A Radical Reform?*, *The Journal of Criminal Law*, 2, . 151-152.

VII.

765

()

(defence)

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766

767

765

()

().

/2013 /:

. 98-104.

766

ne bis in idem

/2015/: . 64.

767

. P. H. Robinson /1982/: Criminal Law Defenses: A Systematic Analysis, *Columbia Law Review*, 2, . 203.

1.

(defences)

768

769

770

768

769

770

mens rea:
Sullivan, G. J. Virgo /2010/: . 661.

: *actus reus*-
. A. P. Simester, J. R. Spencer, G. R.

(insanity), (automatism), (self-defence) (provocation) (diminished responsibility),

(murder).⁷⁷²

773

reus mens rea), (actus

(failure of proof defences).⁷⁷⁴

defence

771

. T. J. Gardner, T. M. Anderson /2009/:

. 137; J. M. Scheb, J. M. Scheb II /2012/: . 416.

⁷⁷² N. Haralambous /2010/: . 269.

⁷⁷³

⁷⁷⁴ A. Ashworth /2009/: . 196; N. Haralambous /2010/: . 269; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 662; D. Ormerod, K. Laird /2015/: . 321.

defences).⁷⁷⁵

(justification)

(excuse).⁷⁷⁶

(substantive or true

),⁷⁷⁷

(),⁷⁷⁸

() .⁷⁷⁹

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,⁷⁸⁰

⁷⁷⁵ V. Tadros /2005/: . 103-104.

⁷⁷⁶ N. Padfield /2012/: . 100.

common law

. A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 665; D. Ormerod /2011/: . 284-285.

⁷⁷⁷

. 774.

: „

“

J. Dressler /1987/: Justifications and Excuses: A Brief Review of the Concepts and the Literature, *The Wayne Law Review*, 4, . 1161; E. Colvin /1990/: Exculpatory Defences in Criminal Law, *Oxford Journal of Legal Studies*, 3, . 387.

⁷⁷⁸ E. Colvin /1990/: . 381.

⁷⁷⁹ P. H. Robinson /1982/: . 213; G. P. Fletcher /2000/: . 577; J. Dressler /2001/: . 202-203; M. Baron /2005/: Justifications and Excuses, *Ohio State Journal of Criminal Law*, 2, . 395; N. Haralambous /2010/: . 301; D. Ormerod /2011/: . 285.

⁷⁸⁰

(Schuldausschliessungsgründe)

(Entschuldigungsgründe).

(

),⁷⁸¹

782

;

);⁷⁸³

(George Fletcher),

784

(),

)

(

). A. Eser /1976/: Justification and Excuse, *The American Journal of Comparative Law*, 4, . 636.

⁷⁸¹ D. Ormerod /2011/: . 285. . K. Greenawalt /1984/: The Perplexing Borders of Justification and Excuse, *Columbia Law Review*, 8, . 1897-1927.

. M. Jefferson /2009/: . 246.

⁷⁸² J. Dressler /1987/: . 1158.

⁷⁸³ . J. Dressler /2001/: . 216-219.

⁷⁸⁴ D. Ormerod /2011/: . 286.

2. (infancy)

785

786

787

788

785

infant

786

/2011 /:

. 242.

787

common law

. 275-276.

, . 85/2005).

. C. McDiarmid /2013/: An Age of Complexity:

Children and Criminal Responsibility in Law, *Youth Justice*, 2, . 147.

788

Eade /2001/: Legal Incapacity, Autonomy, and Children's Rights, *Newcastle Law Review*, 2, . 157.

1.

common law

⁷⁸⁹
(*doli incapax*)

⁷⁹⁰
14. ⁷⁹¹ , 20.

(*Children and Young Persons Act*) 1933.

1963.

⁷⁹² 1969.

⁷⁹³

A. Apler /2000/: Naughty or Bad? The Role of Expert Evidence in Rebuttal of the *doli incapax* Presumption, *Psychiatry, Psychology and Law*, 1, . 206.

⁷⁸⁹ A. Ashworth /2009/: . 138.

B. Goldson /2013/: „Unsafe, Unjust and Harmful to Wider Society“: Grounds for Raising the Minimum Age of Criminal Responsibility in England and Wales, *Youth Justice*, 2, . 118.

⁷⁹⁰ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 722.

common law. W. R. LaFave, A. W. Scott /1986/: . 398.

R. Arthur /2012/: Rethinking the Criminal Responsibility of Young People in England and Wales, *European Journal of Crime, Criminal Law and Criminal Justice*, 1, . 14.

V. D. Sharma /1974/: The Criminal Responsibility of Children in England, *Anglo-American Law Review*, 2, str. 159-162.

⁷⁹¹

17. ,

15.

. 160-161.

⁷⁹² D. Ormerod /2011/: . 340-341.

⁷⁹³ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 722.

(*T v UK* [2000])

1932.

2010.

)⁷⁹⁵

⁷⁹⁶

⁷⁹⁷

⁷⁹⁴ . D. Ormerod, K. Laird /2015/: . 385.

⁷⁹⁵ . G. Maher /2005/: Age and Criminal Responsibility, *Ohio State Journal of Criminal Law*, 2, . 496; R. Arthur /2012/: . 25-26; C. McDiarmid /2013/: . 145.

⁷⁹⁶ V. D. Sharma /1974/: . 168. ,

. L. Bradley /2003/:
The Age of Criminal Responsibility Revisited, *Deakin Law Review*, 1, str. 75.

⁷⁹⁷

. R. Arthur /2012/: . 13.

798 (nonage)⁷⁹⁹ (strict liability).⁸⁰⁰

801

802

(innocent agent)

803

(a young person) common law

(doli incapax).⁸⁰⁴

doli

incapax

⁷⁹⁸ R. Card /2010/: . 643; D. Ormerod /2011/: . 341.
⁷⁹⁹

. L. Eade /2001/: . 158.

⁸⁰⁰ M. Jefferson /2009/: . 249.

⁸⁰¹ N. Haralambous /2010/: . 270.

⁸⁰² G. Dingwall /1994/: Abolition of the Presumption of *Doli Incapax* for 10-14 Year-Olds, *Journal of Criminal Law*, 4, . 386; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 723; R. Heaton, C. de Than /2011/: . 227. *Children Act* [1989]

. M. Molan, D. Lanser, D. Bloy /2000/: . 258.

Crime and Disorder Act [1998]

2004.

. R. Card /2010/: . 645.

⁸⁰³ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 723.

⁸⁰⁴ C. Elliott, F. Quinn /2010/: . 323. *Common law*

1993. . R. Heaton, C. de Than /2011/: . 228.

(*seriously wrong*)⁸⁰⁵

806

807

(*doli capax*).⁸⁰⁸

809

810

C v DPP [1996]

811

⁸⁰⁵ D. Ormerod, K. Laird /2015/: . 385.

1860. . „ ,

12 16

16. 21.

“ . /2010/:

, , . 37.

⁸⁰⁶ R. Heaton, C. de Than /2011/: . 227.

⁸⁰⁷ T. Crofts /1998/: Rebutting the Presumption of Doli Incapax, *Journal of Criminal Law*, 2, . 185; A.

P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 723.

(. *Lubeck apple*). ,

. V. D. Sharma /1974/: . 164.

⁸⁰⁸ E. Delmage /2013/: The Minimum Age of Criminal Responsibility: A Medico-Legal Perspective, *Youth Justice*, 2, . 103.

: „

?“.

:

„ . “

(*manslaughter*)

doli incapax

. A.

Apler /2000/: . 207.

⁸⁰⁹ M. Jefferson /2009/: . 250.

⁸¹⁰ V. D. Sharma /1974/: . 168.

811

„ .“ G. Dingwall /1994/: . 386.

812

813

814

).⁸¹⁵

1999. (

30

. T. Crofts /1998/: . 190-192.

⁸¹² R. Arthur /2012/: . 15-16.

19. . V. D. Sharma

/1974/: . 167. *doli incapax*

(1892.),

. J. L. McLeod /1980/: Doli Incapax: The Forgotten Presumption in Juvenile

Court Trials, *Canadian Journal of Family Law*, 2, . 251-279.

2006.

()

. R. Arthur /2012/: . 26.

⁸¹³ *Crime and Disorder Act* [1998].

Jefferson /2009/: . 250.

. M.

Arthur /2012/: . 16-20.

⁸¹⁴ . B. Goldson /2013/: . 114.

. R.

⁸¹⁵

(*Roper v Simmons* [2005])

. R. Arthur /2012/: . 22.

816 ,

doli

incapax.⁸¹⁷

,
818 .

(*defence*)

819 .

2009. .

820 .

doli incapax ,

(.⁸²¹)

816

. . S. Lipscombe /2012/: The Age of Criminal Responsibility in England and Wales, *House of Commons*, . 4 – : <http://www.parliament.uk/business/publications/research/briefing-papers/SN03001/the-age-of-criminal-responsibility-in-england-and-wales>.

⁸¹⁷ D. Ormerod /2011/: . 342.

⁸¹⁸ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 723.

⁸¹⁹ *CPS v P* [2007]

. D. Ormerod /2011/: . 342.

820

doli incapax

. . A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 723.

;

;

. M. Jefferson /2009/: . 251.

⁸²¹ R. Arthur /2012/: . 29.

823

824

825

[*young person*],

(*youth court*)

826

822

. 108.

2009.

. B. Goldson /2013/: . 124.

⁸²³ C. McDiarmid /2013/: . 159.

⁸²⁴ V. D. Sharma /1974/: . 168.

. , . 179.

825

/2010/:

1, , . 195-210.

⁸²⁶ M. Molan, D. Lanser, D. Bloy /2000/: . 257; R. Card /2010/: . 645.

. L. Bradley /2003/: . 75.

. G. Urbas /2000/: *The Age of Criminal Responsibility, Australian Institute of Criminology, Trends & Issues in Crime and Criminal Justice*, . 1-6.

3. (insanity)

()

(-)⁸²⁸

(mens rea-e je mens sana)⁸²⁹

830

⁸²⁷ D. Ormerod /2011/: . 342-343.

⁸²⁸

/2007/:

(23.), :

. 1. , (. .), , . 151.

. S. Yeo /2008/: The Insanity Defence in the Criminal Laws of the Commonwealth of Nations, *Singapore Journal of Legal Studies*, 2, . 242. (31).

⁸²⁹ . J. Hall /1945/: Mental Disease and Criminal Responsibility, *Columbia Law Review*, 5, . 677-678.

⁸³⁰ H. Gross /1985/: Justice and the Insanity Defense, *Annals of the American Academy of Political and Social Science*, Vol. 477, . 96-103.

. N. Walker /1985/: The Insanity Defense Before 1800, *Annals of the American Academy of Political and Social Science*, Vol. 477, . 26.

. S. E. Sobeloff /1955/: Insanity and the Criminal Law: From McNaghten to Durham, and Beyond, *American Bar Association Journal*, 9, . 793; . . /2009 /: . 111. ,

o a

831

832

833

834

831 N. Walker /1985/: . 26.

J. Dressler /2001/: . 341.

832

(*Feindstrafrecht*),

833 /2011/:

, *Crimen*, 1,

. 91.

834 R. Heaton, C. de Than /2011/: . 229.

835

(.)

836 „

, , , ,

„837

838

839

1.

,

840

841

⁸³⁵ R. D. Mackay /1995/: *Mental Condition Defences in the Criminal Law*, Oxford, . 76.

⁸³⁶ F. B. Sayre /1932/: . 1004.

⁸³⁷ . /2014/: , , . 80.

⁸³⁸ , . 88-89.

⁸³⁹ R. J. Bonnie /1983/: The Moral Basis of the Insanity Defense, *American Bar Association Journal*, 2, . 194.

840 ()

16. . A. Loughnan /2012/: *Manifest Madness. Mental Incapacity in Criminal Law*, Oxford, .

104.

841 . . . /1966/: . 46-47.

842

20.

843

”

“

()⁸⁴⁴

(

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19.

(

)

(1957.)

(1965.)

845

⁸⁴²

. 1988.

, 1990.

. M. Jefferson /2009/: . 354.

. R. Heaton, C. de Than /2011/: . 228.

. N. Morris /1982/: The Criminal

Responsibility of the Mentally Ill, *Syracuse Law Review*, 2, . 505.

⁸⁴³ S. White /1985/: The Insanity Defense in England and Wales Since 1843, *Annals of the American Academy of Political and Social Science*, Vol. 477, . 46.

⁸⁴⁴ D. Ormerod, K. Laird /2015/: . 333.

⁸⁴⁵

. H. L. A. Hart

/1965/: . 17; S. White /1985/: . 46.

(diminished responsibility)

20.

846

(special verdict)⁸⁴⁷

“ (not guilty by reason of insanity)⁸⁴⁸

849

850

insanity

defence,

(),

851

852

⁸⁴⁶ S. White /1985/: . 46.

⁸⁴⁷ R. A. Hope /1986/: English Law and the Mentally Abnormal Offender, *Journal of Medical Ethics*, 1, . 5.

⁸⁴⁸ 1964. : (guilty but insane). S. White /1985/: . 45.

. C. Slobogin /2000/: An End to Insanity: Recasting the Role of Mental Disability in Criminal Cases, *Virginia Law Review*, 6, . 1208; . S. H. Gray /1972/: The Insanity Defense: Historical Development and Contemporary Relevance, *The American Criminal Law Review*, 3, . 562.

⁸⁴⁹ . M. Jefferson /2009/: . 355. 1991. (Criminal Procedure [Insanity and Unfitness to Plead] Act)

(Home Secretary)

. W. Wilson /2008/: . 205.

⁸⁵⁰ S. White /1985/: . 46-47.

⁸⁵¹ N. Padfield /2012/: . 80.

⁸⁵² insanity /2003/: : - , , . 253.

853

(*unfitness to plead*),

854

2.

(*unfitness to plead*)⁸⁵⁵

856

(*Mental Health Act* [1983])

⁸⁵³ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 701-702.

⁸⁵⁴ . D. Ormerod /2011/: . 287; . Herring /2011/: . 270.

⁸⁵⁵

(.). . M. Jefferson /2009/: . 350.
. J. Dressler /2001/: . 336.

Haralambous /2010/: . 271.

⁸⁵⁶ M. Jefferson /2009/: . 350, 353-354.

. R. Card /2010/: . 648; N.

857

858

(Criminal Procedure [Insanity] Act [1964])

()

(unfitness to plead).⁸⁵⁹

860

861

857

. D. Ormerod /2011/:

. 288.

⁸⁵⁸ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 702; D. Ormerod /2011/: . 287.

. J. Dressler /2001/: . 337.

859

(

),

). M. Jefferson /2009/:

350; D. Ormerod /2011/: . 289, 292.

860

. 289-290.
. J. Dressler /2001/: . 337.

861

862

19.

863

)⁸⁶⁴

865

866

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⁸⁶² A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 702.

⁸⁶³ M. Jefferson /2009/: . 350.

⁸⁶⁴

[2003]

: 1) , 2) , 3) , 4)

, 5)

6)

. D. Ormerod /2011/: . 288-289.

⁸⁶⁵ R. Card /2010/: . 648.

⁸⁶⁶ (Moyle [2009])

Sullivan, G. J. Virgo /2010/: . 703.

⁸⁶⁷

10

. A. P. Simester, J. R. Spencer, G. R.

. D. Ormerod /2011/: . 293.

70

().⁸⁶⁸

,⁸⁶⁹ 1991. . (*Criminal Procedure [Insanity and Unfitness to Plead] Act*)⁸⁷⁰

,
871

,
872

. R. Card

/2010/: . 647.

⁸⁶⁸

(, , .)

, . 650.

⁸⁶⁹ M. Molan, D. Lanser, D. Bloy /2000/: . 251; M. Jefferson /2009/: . 352.

()

. D. Ormerod /2011/: . 290.

⁸⁷⁰

. M.

Jefferson /2009/: . 352; R. Heaton, C. de Than /2011/: . 229.

⁸⁷¹ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 703-704.

. P. Fennell /1992/: *The Criminal Procedure (Insanity and Unfitness to Plead) Act 1991*, *The Modern Law Review*, 4, . 547.

⁸⁷²

. R. Card /2010/: . 650, 652.

(
).⁸⁷³

3. (defence of insanity)

19. ⁸⁷⁴ common law M'Naghten
⁸⁷⁵ (M'Naghten Rules)⁸⁷⁶
(Queen's Bench)
1843. ⁸⁷⁷

(Daniel M'Naghten)

⁸⁷³ A. Ashworth /2009/: . 140-141; D. Ormerod /2011/: . 292. 1991. (murder) – 2004. Grant [2002]
(5.). A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 704.
⁸⁷⁴ 1724. Arnold (III 14. [madness] ; J. Dressler /2001/: . 335). (not guilty)
“),
/1985/:
“ . 6, . 66-67; J. R. Hamilton /1986/: Insanity Legislation, *Journal of Medical Ethics*, 1, . 13; A. Loughnan /2012/: . 106.
⁸⁷⁵ J. Hall /1960/: . 480.
⁸⁷⁶ – McNaughton
M'Naghten, . A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 705.
J. Dressler /2001/: . 346.
⁸⁷⁷ . D. A. Stroud /1914/: *Mens Rea or Imputability Under the Law of England*, London, . 69-72.

(Sir Robert Peel)⁸⁷⁸
Edmund Drummond).⁸⁷⁹

(Sir

.⁸⁸⁰
: 1)
, 2)
, 3)
4))
)

.⁸⁸¹

.⁸⁸²

⁸⁷⁸ ; *bobbies*
. J. M. Scheb, J. M. Scheb II /2012/: . 405.

⁸⁷⁹ R. Moran /1985/: The Modern Foundation for the Insanity Defense: The Cases of James Hadfield (1800) and Daniel McNaughtan (1843), *Annals of the American Academy of Political and Social Science*, Vol. 477, . 40-41; M. Molan, D. Lanser, D. Bloy /2000/: . 252; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 704-705.

() . J. L. Moore /1965/:
M'Naghten is Dead – Or is It?, *Houston Law Review*, 1, . 63; . . /2007/: ,
, . 37.

⁸⁸⁰ ,
, . D. Ormerod /2011/: . 294.
common law

,
M'Naghten , , . S. Yeo /2008/: . 241.

⁸⁸¹ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 705.
, . D. Ormerod /2011/: . 295.

⁸⁸² *DPP v. H* [1997]
strict liability (; . M. Molan, D. Lanser, D. Bloy /2000/:
. 256).

,
mens rea ()
-
mens rea . D. Ormerod /2011/: . 306).

, . A. P. Simester, J. R. Spencer, G.
R. Sullivan, G. J. Virgo /2010/: . 711.

884

885
 ,
 2004. . (*Domestic Violence, Crime and Victims Act*)
 (,
).⁸⁸⁶

883

883
 ,
 . M. Jefferson /2009/: . 355; R. Heaton, C. de Than /2011/: . 235-236.
 (*Mental Health Act* [1983])
 . S. White /1985/: . 44.
 . S. White /1991/: *Insanity Defences and Magistrates' Courts, The Criminal Law Review*, . 501-509.

⁸⁸⁴ D. Ormerod, K. Laird /2015/: . 333.

885
 18. 19.
 III. (James Hadfield,
)
 (,)

; . J. L. Moore /1965/: . 63).

(*The Criminal Lunatics Act* [1800])

. R. Moran /1985/: . 32-37;

R. D. Mackay /1995/: . 93-94.

⁸⁸⁶ A. Ashworth /2009/: . 142; R. Card /2010/: . 664-665.

(*Broadmoor*)

. R. Card /2010/: . 665. 19.

. R. Moran /1985/: . 32.

) (disease of the mind)

(

)
().⁸⁸⁷

888

889

M'Naghten

890

().⁸⁹¹

892

887

. H. D. Crotty /1924/: The History of Insanity as a Defence to Crime in English Criminal Law, *California Law Review*, 2, . 105.

888 . D. Ormerod /2011/: . 296.

H. L. A. Hart /1965/: . 9; J. Dressler /2001/: . 336.

889 . . /2007/: . 1.

890 A. Ashworth /2009/: . 143.

891 . D. Ormerod /2011/: . 295.

892 W. R. LaFave, A. W. Scott /1986/: . 313.

(),⁸⁹³

894

(,).⁸⁹⁵

(*Sullivan* [1984]

M'Naghten).⁸⁹⁶

” “

” “ .⁸⁹⁷ *Quick* [1973]

893

. M. Jefferson /2009/: . 358.

894

disease of the mind
disease

. S. Yeo

/2008/: . 245.

M'Naghten . W. R. LaFave, A. W. Scott /1986/: . 312-313.

⁸⁹⁵ D. Ormerod, K. Laird /2015/: . 336.

(*non-insane automatism*)

actus reus. I. Mackay /1992/: The Sleepwalker is Not Insane, *The Modern Law Review*, 5, . 714-720.

⁸⁹⁶ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 706-707.

. A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo

/2010/: . 707.

⁸⁹⁷ R. Card /2010/: . 657; R. Heaton, C. de Than /2011/: . 232.

(*sane automatism*).

(
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(disease of the mind)

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(psychological blow).⁹⁰²

() . D. Ormerod /2011/:

. 296.

⁸⁹⁸ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 707-708.

⁸⁹⁹ D. Ormerod /2011/: . 297.

⁹⁰⁰ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 708.

⁹⁰¹ , . 708-709.

⁹⁰² . D. Ormerod /2011/: . 300.

906

Clarke [1972]

907

908

(nature and quality)

909

910

).⁹¹¹

⁹⁰⁶ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 706.

⁹⁰⁷

⁹⁰⁸

M'Naghten

⁹⁰⁹ A. Ashworth /2009/: . 143.

16.

20

J. L. Moore /1965/: . 62.

⁹¹⁰ /2007/: . 97.

⁹¹¹ W. R. LaFave, A. W. Scott /1986/: . 314; M. Jefferson /2009/: . 360; R. Card /2010/: . 659; A. Loughnan /2012/: . 120.

912

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915

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(right-wrong test)

⁹¹² D. Ormerod /2011/: . 301. . M. Jefferson /2009/: . 360.

⁹¹³ S. Yeo /2008/: . 249.

⁹¹⁴ M. Jefferson /2009/: . 361.
. C. Slobogin /2000/: . 1212.

⁹¹⁵ R. Heaton, C. de Than /2011/: . 234.

⁹¹⁶

M'Naghten

Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 709-710.

⁹¹⁷ . 709.

mens rea

Ormerod /2011/: . 301.

919

920

921

right-wrong

922

923

⁹¹⁸ S. Yeo /2008/: . 250.

⁹¹⁹ R. F. Becker /2003/: The Evolution of Insanity Standards, *Journal of Police and Criminal Psychology*, 2, . 42.

⁹²⁰ M. Jefferson /2009/: . 361; R. Heaton, C. de Than /2011/: . 234; A. Ashworth, J. Horder /2013/: . 143. *M'Naghten*

. S. E. Sobeloff /1955/: . 793; W.

Wilson /2008/: . 208.

⁹²¹ *Johnson* [2007].

Sutcliffe [1981]

()

. A. P. Simester, J. R.

Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 710.

⁹²² M. Jefferson /2009/: . 361.

⁹²³ . N. Morris /1953/: „Wrong“ in the M'Naughten Rules, *The Modern Law Review*, 4, . 438; A. Ashworth /2009/: . 143-144.

(*moral right-and-wrong*

standard). . W. R. LaFave, A. W. Scott /1986/: . 315; J. Dressler /2001/: . 347.

. S. Yeo /2008/: . 251.

924

925

926

927

4.

928

⁹²⁴ D. Ormerod /2011/: . 301-302.

⁹²⁵ . R. Card /2010/: . 660-661.

100-101.

⁹²⁶

/1985 /:

, 1, , . 79-80.

⁹²⁷ Law Commission: Criminal Liability: Insanity and Automatism, A Discussion Paper-Summary for non-specialists. : http://www.lawcom.gov.uk/wp-content/uploads/2015/06/insanity_discussion_summary.pdf.

⁹²⁸ R. Heaton, C. de Than /2011/: . 236.

(), .

law , *common* 929

, , , ,

(*knowledge*) (intent)

, 930 , ,

Jefferson /2009/: . 364.
R. Heaton, C. de Than /2011/: . 236. 1980.
() ()
(John Hinckley) ()

; C. Slobogin /2000/: . 1203;
; T. J. Gardner, T. M. Anderson /2009/: . 84.).

R. D. Mackay /1995/: . 112; J. Dressler /2001/: . 340-341, 344.
⁹²⁹ A. Ashworth /2009/: . 142; D. Ormerod /2011/: . 305.

Lambert [2001]

(*Criminal Procedure [Insanity and Unfitness to Plead] Act*)

. A. P. Simester, J. R. Spencer, G. R.

Sullivan, G. J. Virgo /2010/: . 705.

⁹³⁰ M. Jefferson /2009/: . 364.

931

932

5. *M'Naghten*

M'Naghten

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M'Naghten

936

⁹³¹ D. Ormerod, K. Laird /2015/: . 346.

⁹³²

⁹³³

Sullivan [1983]

D. Lanser, D. Bloy /2000/: . 253. . 35. 36. . M. Molan,

. D. Ormerod /2011/: . 308-309.

⁹³⁴

. M. Hathaway /2009/: The Moral Significance of the Insanity Defence, *The Journal of Criminal Law*, 4, . 310.

. J. Hall /1960/: . 480.

⁹³⁵ M. L. Ryan /1955/: Criminal Law: Reexamination of Tests for Criminal Responsibility, *Michigan Law Review*, 7, . 966.

⁹³⁶ J. L. Moore /1965/: . 70.

938

939

940

937

A. P. Simester, J. R. Spencer, G. R. Sullivan,
 G. J. Virgo /2010/: . 712. ,
 . H. D. Crotty /1924/: . 119.
 19. (James Fitzjames Stephen) (*History of the Criminal Law of
 England*)

E. R. Keedy /1952/: Irresistible Impulse as a Defense in the Criminal Law, *University of Pennsylvania Law
 Review*, 7, . 962.

⁹³⁸ . . . /1964/:

, 2, , . 242.

⁹³⁹ S. E. Sobeloff /1955/: . 794. „

, , ;

⁹⁴⁰ W. R. LaFave, A. W. Scott /1986/: . 317; M. Jefferson /2009/: . 363; A. P. Simester, J. R. Spencer,
 G. R. Sullivan, G. J. Virgo /2010/: . 712.

M'Naghten

).

(

)

M'Naghten

; . C. Slobogin /2000/: . 1214.). ,

(

”

(*irresistible impulse*)

,⁹⁴¹ (.

).⁹⁴²

.⁹⁴³

M'Naghten

.⁹⁴⁴

.⁹⁴⁵

/1966/: . 50.

(*Durham test*) 1954.

Alternatives, *American Bar Association Journal*,
Wallace, C. Roberson /2012/: . 86-89. (

J. Hall /1963b/: The M'Naghten Rules and Proposed
10, . 960-961; J. Dressler /2001/: . 343-352; H.
product test,

. 244.)

19. . C. Slobogin /2000/: . 1213.

⁹⁴¹ . W. Wilson /2008/: . 210.

⁹⁴² J. Hall /1960/: . 516-517.

⁹⁴³ D. Ormerod /2011/: . 307.

⁹⁴⁴

S. White /1985/: . 47.

. D. Ormerod /2011/: . 304.

⁹⁴⁵

common law

19.

20.

[*Insanity and Unfitness to Plead*] Act)

(*Criminal Procedure*

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⁹⁴⁶

()

⁹⁴⁷

⁹⁴⁸

,

,

.

,

.

,

1967. . S. White /1985/: . 48-49.

⁹⁴⁶ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 713.

⁹⁴⁷ , . 713-714.

. J. Hall /1960/: . 477.

⁹⁴⁸

,

,

,

. S. J. Morse /1985/: Excusing the Crazy: The Insanity Defense Reconsidered, *Southern California Law Review*, 3, . 800.

949

950

mens rea

951

952

953

⁹⁴⁹ R. J. Bonnie /1983/: . 195.

⁹⁵⁰ J. B. Brady /1971/: Abolish the Insanity Defense? – No!, *Houston Law Review*, 4, . 629.

⁹⁵¹ . A. D. Brooks /1985/: The Merits of Abolishing the Insanity Defense, *Annals of the American Academy of Political and Social Science*, Vol. 477, . 126.

⁹⁵² 1982. , 1967. .

M'Naghten ,

G. Geis, R. F. Meier /1985/: . 73-76.

. S. J. Morse /1985/: . 804-805. ,

() () . H. Howard /2003/: Reform of the Insanity Defence: Theoretical Issues, *The Journal of Criminal Law*, 1, . 60.

⁹⁵³ W. R. LaFave, A. W. Scott /1986/: . 310.

() . C. Slobogin /2000/: . 1199-1247.

(*guilty but mentally ill*)⁹⁵⁴ –

).955

M'Naghten .⁹⁵⁶ (2013. .)

insanity

a lack of capacity defence.

⁹⁵⁷

⁹⁵⁴

). . N. Morris /1982/: . 510.
1975. .

. R. D. Mackay /1995/:

. 118.

⁹⁵⁵ H. T. Miller /1985-1986/: Recent Changes in Criminal Law: The Federal Insanity Defense, *Louisiana Law Review*, 2, . 347; J. Dressler /2001/: . 356-360.

⁹⁵⁶ R. D. Mackay /1995/: . 123; M. Hathaway /2009/: . 312.

⁹⁵⁷ Law Commission: Criminal Liability: Insanity and Automatism, A Discussion Paper-Summary for non-specialists. : http://www.lawcom.gov.uk/wp-content/uploads/2015/06/insanity_discussion_summary.pdf.

(
– *not criminally responsible by reason of a recognised medical condition*)

6. *(diminished responsibility)*

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)
,
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,
(,)

958 . ()
,
(murder).⁹⁵⁹
1957. . (*The Homicide Act*)⁹⁶⁰

961
962

958

(*guilty but partially responsible*). S. J. Morse /2003/: Diminished Rationality, Diminished Responsibility, *Ohio State Journal of Criminal Law*, 1, . 290-308.

959

. D. Ormerod /2011/: . 527.

. M. Jefferson /2009/: . 367; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 715.

Card /2010/: . 269.

(*infanticide*),

. R. D. Mackay /1995/: . 207.

(*partial responsibility defense*)

. J. Dressler /2001/: . 366-370. ,

. S. J. Morse /2003/: . 290-294.

960

. R. Heaton, C. de

Than /2011/: . 186.

⁹⁶¹ D. Ormerod /2011/: . 527.

19.

. R. F. Sparks /1964/: „Diminished Responsibility“ in Theory and Practice, *The Modern Law Review*, 1, . 9.

. D. Ormerod /2011/: . 527.

962

– *mens rea* ,

. P. Arenella /1977/: The Diminished

963

964

965

966

967

968

969

Capacity and Diminished Responsibility Defenses: Two Children of a Doomed Marriage, *Columbia Law Review*, 6, . 827-865.

. S. J. Morse /1984/:
 Undiminished Confusion in Diminished Capacity, *The Journal of Criminal Law & Criminology*, 1, . 6.
 963

Loughnan /2012/: . 226.
 964

⁹⁶⁵ A. Ashworth /2009/: . 266.
⁹⁶⁶ D. Ormerod /2011/: . 527.
⁹⁶⁷ S. Dell /1982/: Diminished Responsibility Reconsidered, *The Criminal Law Review*, . 809.
 (56.). M. Molan, D. Lanser, D.

Bloy /2000/: . 222-223.
 968

. R. D. Mackay /1995/: . 181.

⁹⁶⁹ D. Ormerod, K. Laird /2015/: . 605.

W. Wilson /2008/: . 361.

970

2009. (Coroners and Justice Act)

971

()

(;)

972

“ (recognised medical condition).”

973

970

j

. D. Ormerod

/2011/: . 527-528.

971 , . 527.

972 S. J. Morse /1984/: . 22.

973 D. Ormerod /2011/: . 528-529.

974

975

976

974

Byrne [1960]

. R. D. Mackay /1995/: . 185.

⁹⁷⁵ D. Ormerod, K. Laird /2015/: . 608.

⁹⁷⁶

R v. Fenton [1975]. . F. Boland /1996/: Intoxication and Criminal Liability, *Journal of Criminal Law*, . 100-101.

. R. Card /2010/: . 275-276.

Dowds [2012].

. A. Ashworth, J. Horder /2013/: . 271-272.

1.

(Morgan [1976])⁹⁸³

mens rea

rea

984

mens

985

(

⁹⁸² . /2012 /: , : . 2. , (. .) , . 266.

2009/: When Should a Mistake of Fact Excuse?, *Texas Tech Law Review*, 2, . 359-382.

⁹⁸³ . S. P. Garvey
“ M. Molan, D. Lanser, D. Bloy /2000/: . 273.

Morgan . *common*
law ,
(*reasonable*). ,
2003.

M. Jefferson /2009/: . 301.
⁹⁸⁴ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 672.

⁹⁸⁵ R. Heaton, C. de Than /2011/: . 262.

),⁹⁸⁶

987

988

989

990

()

986

W. R. LaFave, A. W. Scott /1986/: . 406.

⁹⁸⁷ P. C. Manson /1959/: . 69; D. Ormerod /2011/: . 330.

⁹⁸⁸ E. R. Keedy /1908/: . 86.

⁹⁸⁹ D. Ormerod /2011/: . 331.

. E. R. Keedy /1908/: . 86.

990

(Tatbildirrtum),

§ 5.

. H. Fuchs /2002/: *Österreichisches Strafrecht. Allgemeiner Teil I*, Springer-Wien-New York, . 109.

§ 8.

2.

991

992

993

⁹⁹¹ . . . /2014/: . 187.

⁹⁹² . . . /2012 /: . 269.

“ . . . /2006/:
 . . . 431.

⁹⁹³ J. Dressler /2001/: . 155.

. R. Singer /1987/: The Resurgence of Mens Rea: II-Honest But Unreasonable Mistake of Fact in Self Defense, *Boston College Law Review*, 3, . 502-503. 20.

. D. Holley /1998/: The Influence of the Model Penal Code's Culpability Provisions on State Legislatures: A Study of Lost Opportunities, Including Abolishing the Mistake of Fact Doctrine, *Southwestern University Law Review*, 2, . 247.

(*ignorantia facti*)

13. (. E. R. Keedy /1908/: . 78.

. O. E. Woodruff /1959/: Mistake of Fact as a Defense, *Dickinson Law Review*, 4, . 320, 327.

994

995

(the mental is fundamental).⁹⁹⁶

);⁹⁹⁷

994

goods).

(handling stolen

(Criminal Attempts Act [1981])

A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 671.

995

D. Ormerod /2011/: . 335.

A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/:

671.

⁹⁹⁶ L. W. Myers /1965/: Reasonable Mistake of Age: A Needed Defense to Statutory Rape, *Michigan Law Review*, 1, . 109.

⁹⁹⁷

E. R. Keedy /1908/: . 84.

A. Ashworth /2009/: . 215.

O. E. Woodruff /1959/: . 320.

D. Holley /1998/: . 233.

(. § 16. 2. , § 19. 1. , § 17.

2. , § 28. 2.

(2.04[2]). R. G. Singer /2000/: . 190.

common law

().¹⁰⁰⁰

(*bigamy*).

Morgan

19.

(*Tolson* [1889]).¹⁰⁰¹

()

mala prohibita.¹⁰⁰²

()

()

998

. E. R. Keedy /1908/: . 84.

⁹⁹⁹ D. Ormerod /2011/: . 331.

. E. R. Keedy /1908/: . 82.

18.

”

. R. Singer /1987/: . 461.

)
and Mistake in Criminal Law, *Indiana Law Journal*, 1, . 4.

¹⁰⁰⁰

. O. E. Woodruff /1959/: . 323.

¹⁰⁰¹

. M. Molan, D. Lanser, D. Bloy /2000/: . 274.
[1844])

(*Mash*

. J. Hall /1957/: . 30.

¹⁰⁰² D. Ormerod /2011/: . 332.

1003

strict liability

1004

19. 1005

strict liability offence,

13

1006

3.

1007

¹⁰⁰³ . McEwan, St. J. Robilliard /1981/: . 285; M. Jefferson /2009/: . 301.
(*gross negligence manslaughter*)

. D. Ormerod /2011/: . 331-332.

¹⁰⁰⁴ J. Hall /1957/: . 11; M. Jefferson /2009/: . 296; R. Card /2010/: . 129.

statutory rape

(). R. Cavallaro /1996/: A Big Mistake: Eroding the Defense of Mistake of Fact About Consent in Rape, *The Journal of Criminal Law & Criminology*, 3, . 816.

common law-a

. L. W. Myers /1965/: . 107, 109.

¹⁰⁰⁵ R. Singer /1987/: . 469.

¹⁰⁰⁶ D. Ormerod, K. Laird /2015/: . 376.

¹⁰⁰⁷

()

¹⁰⁰⁸

¹⁰⁰⁹

“ 1010 ”

Morgan

(

),

¹⁰¹¹

(),

¹⁰⁰⁸ D. A. Stroud /1914/: . 32; R. Heaton, C. de Than /2011/: . 267.
¹⁰⁰⁹

K. Kühl /2008/: . 413-414.
¹⁰¹⁰

17.

bona fide . J. Hall /1957/: . 4-6.

¹⁰¹¹ D. Ormerod /2011/: . 333.

1017

1018

1019

1020

1021

1022

1017

G. Arzt /1976/: Ignorance or Mistake of Law, *The American Journal of Comparative Law*, 4, 663-664.

1018 F. Ba i /1986/: 301.

1019 (direct) (collateral)

E. R. Keedy /1908/: 90; P. Brett /1965/: Mistake of Law as a Criminal Defence, *Melbourne University Law Review*, 2, 186.

1020

/1985 /: 73.

/2008 /:

2, 161-179.

1021

646.

1022 /2008/: 2, (), 231.

1.

Common law

1023

1024

1025

: ignorantio juris non excusat, ignorantia facti

excusat.¹⁰²⁶

()

1027

1023

¹⁰²⁴ J. M. Scheb, J. M. Scheb II /2012/: . 413.

() ()
“ . /1933/:

, 1-2, , . 5.

¹⁰²⁵ W. R. LaFave, A. W. Scott /1986/: . 406.

¹⁰²⁶ O. E. Woodruff /1959/: . 319.

/1908/: . 77.

ignorantia legis non excusat

. S. L. Davies /1998/: The Jurisprudence of Willfulness: An Evolving Theory of Excusable Ignorance, *Duke Law Review*, 3, . 350.

. P. K. Ryu, H. Silving /1957/: Error Juris: A Comparative Study, *The University of Chicago Law Review*, 3, . 425.

¹⁰²⁷ P. Matthews /1983/: Ignorance of the Law is no Excuse?, *Legal Studies*, 2, . 174.

13. ¹⁰²⁸

mens rea ¹⁰²⁹

(*Bailey* [1800])

¹⁰³⁰

(,)
).¹⁰³¹

(
(*Arrowsmith* [1974])

¹⁰²⁸ R. E. Kohler /1936/: . 114; J. Dressler /2001/: . 165.

¹⁰²⁹ R. Heaton, C. de Than /2011/: . 269.

/2014/: . 191.

¹⁰³⁰ L. Hall, S. J. Seligman /1941/: Mistake of Law and Mens Rea, *The University of Chicago Law Review*, 4, . 657; D. Ormerod /2011/: . 141-142.

. M. Jefferson /2009/: . 292.

common law

. R. Heaton, C. de Than /2011/: . 269.

¹⁰³¹ R. E. Kohler /1936/: . 116; P. Brett /1965/: . 188; R. Card /2010/: . 110; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 680.

Jefferson /2009/: . 294.

G. Williams /1989/: The Draft Code and Reliance Upon Official Statements, *Legal Studies*, 2, . 184.

. J. Dressler /2001/: . 169-176.

(Bowsher [1973])

1032

1033

1034

1035

common law

(*mala*

in se).

. G. Arzt /1976/: . 671-672.

¹⁰³² A. Ashworth /2000/: Testing Fidelity to Legal Values: Official Involvement and Criminal Justice, *The Modern Law Review*, 5, . 636.

¹⁰³³ M. Jefferson /2009/: . 294. . D. N. Husak /1994/: Ignorance of Law and Duties of Citizenship, *Legal Studies*, 1, . 106.

¹⁰³⁴

. A. Ashworth

/2000/: . 639-640.

¹⁰³⁵

common law-

1036

(mala prohibita),

1037

1038

1039

1040

¹⁰³⁶ J. Dressler /2001/: . 166.
¹⁰³⁷

¹⁰³⁸ D. Ormerod /2011/: . 142.
¹⁰³⁹

Silving /1957/: . 421.

¹⁰⁴⁰ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 680.

. P. Brett /1965/: . 196.

. P. K. Ryu, H.

1041

1042

1043

1044

common law

1045 (

).¹⁰⁴⁶

¹⁰⁴¹ D. Ormerod /2011/: . 142-143.

¹⁰⁴² . A. Ashworth /2009/: . 220.

¹⁰⁴³ . R. A. Cass /1976/: Ignorance of the Law: A Maxim Reexamined, *William and Mary Law Review*, 4, . 684.

¹⁰⁴⁴ M. Jefferson /2009/: . 295.

¹⁰⁴⁵

. A. F. Brooke II /1992/: When Ignorance of the Law Became an Excuse: *Lambert & Its Progeny*, *American Journal of Criminal Law*, 2, . 279-293.

. M. L. Travers /1995/: Mistake of Law in Mala Prohibita Crimes, *The University of Chicago Law Review*, 3, . 1301-1331.

. 105.

¹⁰⁴⁶ A. T. H. Smith /1985/: Error and Mistake of Law in Anglo-American Criminal Law, *Anglo-American Law Review*, 1, . 3.

. D. N. Housak /1994/:

1047

1048

1049

(Statutory Instruments Act [1946])

¹⁰⁴⁷ E. R. Keedy /1908/: . 89; J. Dressler /2001/: . 173.
. D. Ormerod /2011/: . 338.

in dubio pro reo

¹⁰⁴⁸ . 143. *Smith* [1974].

. R. Heaton, C. de Than

/2011/: . 268.

¹⁰⁴⁹ D. Ormerod, K. Laird /2015/: . 383.

1968. . (*Theft Act*),

()

()

. A. P. Simester, J. R. Spencer, G. R.

Sullivan, G. J. Virgo /2010/: . 681.

(*Reichsgericht*)

(*Vorsatztheorie*)

(*Schuldtheorie*)

G. Arzt /1976/: . 647-655; . /2008 /:

, :

. 2. , (. . .),

, . 184-187.

6. (intoxication)

(actiones liberae in causa).

(§ 323

).¹⁰⁵¹

¹⁰⁵⁰ R. Card /2010/: . 113.

Dressler /2001/: . 177.

¹⁰⁵¹

(*drunkenness*),

Jefferson /2009/: . 304.

1607. .

1828. ,

. J.

. M.

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1053

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(*a drunken mens rea is still mens rea*).¹⁰⁵⁷

common law

1058

¹⁰⁵² J. Dressler /2001/: . 319.
¹⁰⁵³

. M. Jefferson /2009/: . 304.

¹⁰⁵⁴ R. D. Mackay /1995/: . 148.

. S. A. Anderegg /1988/: The Voluntary Intoxication Defense in Iowa, *Iowa Law Review*, 4, . 937; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 686; R. Card /2010/: . 679.

¹⁰⁵⁵ W. Wilson /2008/: . 223; D. Ormerod /2011/: . 311.

¹⁰⁵⁶ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 686.

¹⁰⁵⁷ D. Ormerod, K. Laird /2015/: . 353.

¹⁰⁵⁸ () ,
;
. F. B. Sayre /1932/: . 1013.

1059

(*Beard* [1920])

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(*capacity type*).¹⁰⁶¹

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(*ordinary type*)¹⁰⁶²

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,

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¹⁰⁵⁹ J. Dressler /2001/: . 319.

¹⁰⁶⁰ D. Ormerod /2011/: . 312.

¹⁰⁶¹ (*capacity standard*)

. M. J. Boettcher

/1987/: Voluntary Intoxication: A Defense to Specific Intent Crimes, *University of Detroit Law Review*, 1, . 34.

¹⁰⁶²

Cooley standard.

¹⁰⁶³ S. A. Andereg /1988/: . 938-939.

1064

M'Naghten

1065

1066

1067

(involuntary) (voluntary) 1068

: *basic and specific intent crimes.*

¹⁰⁶⁴ R. Card /2010/: . 684-685.

¹⁰⁶⁵ R. D. Mackay /1990/: The Taint of Intoxication, *International Journal of Law and Psychiatry*, Vol. 13, . 40. . L. Buttles /1980/: Involuntary Intoxication Is a Defense in Texas, *St. Mary's Law Journal*, 1, . 234. , . W. Wilson /2008/: . 232. *M'Naghten* . W. R. LaFave, A. W. Scott /1986/: . 395; M. Jefferson /2009/: . 307. *Robinson v. California* [1962]

. L. S. Tao /1969/: Alcoholism as a Defense to Crime, *Notre Dame Lawyer*, 1, . 69; H. Fingarette /1975/: Addiction and Criminal Responsibility, *The Yale Law Journal*, 3, . 413.

¹⁰⁶⁶ *Davis* [1881]. R. Card /2010/: . 697.

¹⁰⁶⁷ W. Wilson /2008/: . 231.

¹⁰⁶⁸ E. Finch, S. Fafinski /2011/: . 253.

. A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 687.

. L. P. Tiffany /1990/: Pathological Intoxication and The Model Penal Code, *Nebraska Law Review*, 4, . 764.

1069

2. (involuntary intoxication)

1070

1071

1072

1073

(R v. Kingston

[1994])

1074

1075

¹⁰⁶⁹ M. Jefferson /2009/: . 308.

¹⁰⁷⁰ R. Card /2010/: . 700.

¹⁰⁷¹

D. Ormerod /2011/: . 313.

¹⁰⁷²

2009.

. A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo

/2010/: . 696-697.

¹⁰⁷³ M. Jefferson /2009/: . 306; A. Loughnan /2012/: . 192.

¹⁰⁷⁴ R. D. Mackay /1995/: . 152.

¹⁰⁷⁵ . L. M. Clements /1995/: After R v Kingston: Is There Scope For A New Defence of Voluntary Intoxication?, *Journal of Criminal Law*, . 305-309.

1076
 1077
 1078
 1079
 1080
 (*actus reus*)
 (*mens rea*).¹⁰⁸¹

1082

. J. E. Stannard /1982/: The Demise of Drunkenness, *Legal Studies*, 3, . 292.

¹⁰⁷⁶ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 696.
¹⁰⁷⁷

. D. Ormerod /2011/: . 313.

¹⁰⁷⁸ M. Jefferson /2009/: . 307.

¹⁰⁷⁹ W. Wilson /2008/: . 224. ,

. L. Buttles /1980/: . 236.

¹⁰⁸⁰ J. Tolmie /2001/: Alcoholism and Criminal Liability, *The Modern Law Review*, 5, . 696. . M. Jefferson /2009/: . 305. ,

(. R. Card /2010/: . 701.

¹⁰⁸¹ R. Smith, L. Clements /1995/: Involuntary Intoxication, the Treshold of Inhibition and the Instigation of Crime, *Northern Ireland Legal Quarterly*, 2, . 211.

¹⁰⁸² D. Ormerod /2011/: . 314.

3. (voluntary intoxication)

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1085
1086
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1088
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mens rea
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¹⁰⁸³ J. Dressler /2001/: . 320.

¹⁰⁸⁴ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 687.

¹⁰⁸⁵ M. Keiter /1997/: Just Say No Excuse: The Rise and Fall of the Intoxication Defense, *The Journal of Criminal Law & Criminology*, 2, . 484.

¹⁰⁸⁶ J. Hall /1960/: . 428.

¹⁰⁸⁷ R. U. Singh /1933/: History of the Defence of Drunkenness in English Criminal Law, *The Law Quarterly Review*, 4, . 528-530.

¹⁰⁸⁸ J. Hall /1944/: Intoxication and Criminal Responsibility, *Harvard Law Review*, 7, . 1046.

¹⁰⁸⁹ . M. Keiter /1997/: . 496.

¹⁰⁹⁰ J. Dressler /2001/: . 323.

431. . J. Hall /1960/: .

common law
: *specific intent* *basic intent crimes*.

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1092

mens rea
specific intent crime.

(*a drunken intention is nevertheless an intention*).¹⁰⁹³

basic intent crime.¹⁰⁹⁴

¹⁰⁹¹ S. A. Anderegg /1988/: . 937; S. Dimock /2011/: What are Intoxicated Offenders Responsible for? The „Intoxication Defense“ Re-examined, *Criminal Law and Philosophy*, 1, . 2.

¹⁰⁹² S. S. Nemerson /1998/: Alcoholism, Intoxication, and the Criminal Law, *Cardozo Law Review*, 3, . 423.

. M. Wasik /1986/: Codification: Mental Disorder and Intoxication Under the Draft Criminal Code, *Journal of Criminal Law*, 4, . 401. 26(2)

. G. Williams /1988/: . 85.

¹⁰⁹³ D. Ormerod /2011/: . 314.

¹⁰⁹⁴

/2001/: . 323.

general intent. J. Dressler

. W. Wilson /2008/: . 228.

specific intent basic intent

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specific intent

mens rea

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mens rea

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basic intent specific intent.

¹⁰⁹⁹ D. Ormerod, K. Laird /2015/: . 357.

¹¹⁰⁰ D. Ormerod /2011/: . 315.

¹¹⁰¹ D. Ormerod, K. Laird /2015/: . 359.

1102
specific intent
(ulterior intent)
1103
specific intent
specific intent (
1104
basic intent specific intent
mens rea (
specific intent , (
basic intent).¹¹⁰⁵ ,
specific intent ,
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specific intent,
basic intent.
Heard [2007],
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1103 A. R. Ward /1986/: Making Some Sense of Self-Induced Intoxication, *The Cambridge Law Journal*, 2, . 247-248.
1104 D. Ormerod /2011/: . 317.
1105 R. Card /2010/: . 690.
1106 A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 689; D. Ormerod /2011/: . 317-318.
1107 D. Ormerod /2011/: . 318-320.
actus reus- ,
specific intent crimes.

(manslaughter), (rape),
 (assault), (reckless criminal
 damage), (false imprisonment) basic intent
 (murder), (theft), (robbery),
 (burglary with intent to steal),
 (intentional criminal damage) specific intent

4.

?
) Basic intent offences. Majewski

Majewski

Jaggard v. Dickinson [1981].

A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 689.

¹¹⁰⁸ R. D. Mackay /1995/: . 150.

¹¹⁰⁹ M. Jefferson /2009/: . 321.

mens rea

basic intent

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Majewski

basic intent

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) *Specific intent offences.*

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¹¹¹⁰ R. Card /2010/: . 696.

¹¹¹¹ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 692.

¹¹¹² , . 693.

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common law

*specific intent.*¹¹¹⁴

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5.

(Dutch courage)

courage)

(. *Dutch*

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¹¹¹³ G. Dingwall /2007/: Intoxicated Mistakes about the Need for Self-Defence, *Modern Law Review*, 1, . 127-138; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 694.

¹¹¹⁴ W. R. LaFave, A. W. Scott /1986/: . 393; W. Wilson /2008/: . 230; D. Ormerod /2011/: . 324.

¹¹¹⁵ R. Card /2010/: . 686.

¹¹¹⁶ M. J. Boettcher /1987/: . 61.

M'Naghten

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mens rea actus reus

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Majewski

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Majewski

¹¹¹⁷ D. Ormerod /2011/: . 325. . M. Jefferson /2009/: . 306.

¹¹¹⁸ . A. Ashworth /2009/: . 197.

¹¹¹⁹

(.).

? D. Ormerod /2011/: . 326.

¹¹²⁰

rea, actus reus

, *basic intent crime*. S. Dimock /2011/: . 6.

mens

1121

1122

specific intent basic intent crimes,

1123

Majewski

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*specific intent basic intent crimes*¹¹²⁷

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basic intent specific intent crimes

mens rea

M. Jefferson /2009/: . 322.

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D. Ormerod /2011/: . 326.

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Q. Haque, I. Cumming /2003/: Intoxication and Legal Defences, *Advances in Psychiatric Treatment*, Vol. 9, . 144.

¹¹²⁴ S. Gardner /1994/: The Importance of Majewski, *Oxford Journal of Legal Studies*, 2, . 279.

¹¹²⁵ D. Ormerod /2011/: . 326.

¹¹²⁶ R. Card /2010/: . 704. Law Commission /2009/: *Intoxication and Criminal Liability* – : https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228983/7526.pdf Law Commission Intoxication.

1127

J. Dressler /2001/: . 332-333.

(*purpose, knowledge*);

(*recklessness*) (*negligence*)

J. B.

Brady /1980/: . 385; K. Huigens /1998/: . 435.

¹¹²⁸ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 699.

Jefferson /2009/: . 322-323.

1129

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7. (*duress*)

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¹¹²⁹ D. Ormerod /2011/: . 327.

¹¹³⁰ M. Jefferson /2009/: . 324.

¹¹³¹ . . /2013/:

2, , .1.

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Common law

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/2010/: . 311.

¹¹³³ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 725.

¹¹³⁴ M. Wasik /1977/: Duress and Criminal Responsibility, *The Criminal Law Review*, . 453.

¹¹³⁵ M. Molan, D. Lanser, D. Bloy /2000/: . 276.

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¹¹³⁷

¹¹³⁸

¹¹³⁹

(*automatism*),

¹¹⁴⁰

actus reus-

¹¹³⁶

2005. *Hasan*. A. P. Simester, J. R.

Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 725.

¹¹³⁷ J. Dressler /1989/: Exegesis of the Law of Duress: Justifying the Excuse and Searching for its Proper Limits, *Southern California Law Review*, 5, . 1349-1350.

. M. D. Bayles /1987/: Reconceptualizing Necessity and Duress, *The Wayne Law Review*, 4, . 1208.

¹¹³⁸ . P. Westen, J. Mangiafico /2003/: The Criminal Defense of Duress: A Justification, Not an Excuse – And Why It Matters, *Buffalo Criminal Law Review*, 2, . 833-950. . K.

Huigens /2004/: Duress Is Not a Justification, *Ohio State Journal of Criminal Law*, 1, . 303-314.

¹¹³⁹ N. Haralambous /2010/: . 311; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 726.

¹¹⁴⁰ M. Jefferson /2009/: . 256.

). . D. Ormerod /2011/: . 344.

(. W. R. LaFare, A. W. Scott /1986/: . 433.

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actus reus

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mens rea

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. S. Borins /1982/: The Defence of Duress, *Criminal Law Quarterly*, 2, . 191-

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¹¹⁴² M. Wasik /1977/: . 454; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 736; D. Ormerod /2011/: . 344.

/2014/: . 198.

1143

mens rea

. M. Wasik /1977/: . 454-455.

1144 . /2009 /: . 104.

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. M. Wasik

/1977/: . 462.

¹¹⁴⁶ W. R. LaFave, A. W. Scott /1986/: . 439; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 737.

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(duress by threats).

(duress of circumstances).¹¹⁴⁹

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(duress by threats)

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¹¹⁴⁷ L. Newman, L. Weitzer /1957/: Duress, Free Will and the Criminal Law, *Southern California Law Review*, 3, . 313.

¹¹⁴⁸ W. R. LaFave, A. W. Scott /1986/: . 440; J. Dressler /2001/: . 299; R. Card /2010/: . 744.

¹¹⁴⁹ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 726.
“ (marital coercion).”

. D. A. Stroud /1914/: . 264; W. R. LaFave, A. W. Scott /1986/: . 440.

. A. Ashworth /2009/: . 215; M. Jefferson /2009/: . 273-274;
R. Card /2010/: . 742-744. 2014. . D. Ormerod, K. Laird /2015/: . 425.

¹¹⁵⁰ C. Elliott, F. Quinn /2010/: . 358.

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¹¹⁵¹ N. Haralambous /2010/: . 316.

¹¹⁵² R. Card /2010/: . 727.

¹¹⁵³ . J. Dressler /2001/: . 298.

¹¹⁵⁴ P. Alldridge /1986/: Developing the Defence of Duress, *The Criminal Law Review*, . 435.

¹¹⁵⁵ A. Ashworth /2009/: . 207-208.

. J. Ll. J. Edwards /1951/: Compulsion, Coercion and Criminal Responsibility, *The Modern Law Review*, 3, . 304.

¹¹⁵⁶ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 733-734; R. Heaton, C. de Than /2011/: . 295.

¹¹⁵⁷ D. Ormerod /2011/: . 348.

¹¹⁵⁸ H. Wallace, C. Roberson /2012/: . 103.

¹¹⁵⁹

. L. Newman, L. Weitzer /1957/: . 334.

Dressler /2001/: . 315.

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(perjury).

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¹¹⁶⁰ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 727.

. D. Ormerod /2011/: . 347.

¹¹⁶¹ D. Ormerod, K. Laird /2015/: . 392.

¹¹⁶² D. Ormerod /2011/: . 352.

. M. Jefferson /2009/: . 255.

¹¹⁶³ N. Haralambous /2010/: . 315.

¹¹⁶⁴ A. Ashworth /2009/: . 208.

¹¹⁶⁵ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 727.

¹¹⁶⁶ *Abdul-Hussain* [1999]

(immediate)

(imminent)

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(sober person of reasonable firmness),¹¹⁷¹

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. 728.

¹¹⁶⁷ M. Jefferson /2009/: . 261; C. Elliott, F. Quinn /2010/: . 359.

¹¹⁶⁸ W. H. Hitchler /1917/: Duress as a Defense in Criminal Cases, *Virginia Law Review*, 7, . 541; R. Heaton, C. de Than /2011/: . 288.

¹¹⁶⁹ S. Borins /1982/: . 196.

¹¹⁷⁰ R. Card /2010/: . 733.

. D. Ormerod /2011/:

. 354.

. M. Jefferson /2009/:

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¹¹⁷¹

. D. Ormerod /2011/: . 352.

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(

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(*Howe* [1987]),¹¹⁷⁶

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¹¹⁷² W. R. LaFare, A. W. Scott /1986/: . 439.

¹¹⁷³ M. Jefferson /2009/: . 267.

¹¹⁷⁴ N. Haralambous /2010/: . 317-318; A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 731; D. Ormerod /2011/: . 351.

¹¹⁷⁵ W. H. Hitchler /1917/: . 524.

¹¹⁷⁶ (*treason*). A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 730; D. Ormerod /2011/: . 345.

. J. Dressler /1989/: . 1342.

strict liability . R. Card /2010/: . 736.

¹¹⁷⁷ N. Haralambous /2010/: . 311.

. I. Dennis /1987/: Developments in Duress, *Journal of Criminal Law*, 4, . 463; J. Dressler /2001/: . 305; W. Wilson /2008/: . 245. . A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 730; D. Ormerod /2011/: . 345.

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1205; J. Dressler /2001/: . 306.

¹¹⁸⁰ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 730-731.

¹¹⁸¹ . J. Dressler /2001/: . 315.

1182

. D. Ormerod /2011/: . 345.

. 45(4). I. Dennis /1987/: . 478.

. J. Dressler /2001/: .

R. v. Dudley and Stephens

. M. D. Bayles /1987/: .

3. Duress of circumstances –

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Conway Willer 1989.

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(necessity).

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(43.).

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Pommell [1995]

. R. Card /2010/: . 750.

¹¹⁸⁵ M. Jefferson /2009/: . 282; R. Heaton, C. de Than /2011/: . 301.

¹¹⁸⁶ S. Gardner /1991/: Necessity's Newest Inventions, *Oxford Journal of Legal Studies*, 1, . 125-126;

D. Ormerod /2011/: . 343.

¹¹⁸⁷ A. P. Simester, J. R. Spencer, G. R. Sullivan, G. J. Virgo /2010/: . 734; R. Card /2010/: . 745.

1188

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A. Reed /1997/: The Need For a New Anglo-American Approach To Duress, *Journal of Criminal Law*, 2, . 221.

(). M. Jefferson /2009/: . 288-289.
¹¹⁸⁹ R. Heaton, C. de Than /2011/: . 302.

W. Chan, A. P. Simester /2005/: Duress, Necessity: How Many Defences?, *The King's College Law Journal*, 1, . 121.
duress of circumstances,
C. M. V. Clarkson /2004/: Necessary Action: A New Defence, *Criminal Law Review*, . 81.

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common law *civil law* ()

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common law

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(plea bargaining),

/2015/: .71-72.

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“
nulla poena sine culpa
(*strict liability*) *common law*
()

(*oblique intent, recklessness, knowledge*),
(*negligence*),
(*direct intent*).

civil law

illicita)

(*versari in re*

(),

dolus indirectus.¹¹⁹¹

¹¹⁹¹ . /2014/: . 205.

(defences)

culpability, liability responsibility,

(strict liability, vicarious liability)

(murder, manslaughter).

common law civil law

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. *common law* , ,
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- :
- /1964/:
- , 2, , . 241-245.
- /1965/: Conceptions of Culpability in Contemporary American Criminal Law, *Louisiana Law Review*, 1, . 28-55.
 - /1966/: , , 85
- ALEXANDER Larry** /2000/: Insufficient Concern: A Unified Conception of Criminal Culpability, *California Law Review*, . 931-954.
- ALEXANDER Larry, FERZAN Kessler Kimberly, MORSE J. Stephen** /2009/: *Crime and Culpability. A Theory of Criminal Law*, Cambridge (etc.), 358 .
- ALLDRIDGE Peter** /1986/: Developing the Defence of Duress, *The Criminal Law Review*, . 433-440.
- ALLEN Michael** /2005/: *Textbook on Criminal Law*, Oxford, 499 .
- Di Astolfo** /2013/: *Criminal Law in Italy*, Kluwer, Netherlands, 238 .
- AMIRTHALINGAM Kumaralingam** /2004/: Caldwell Recklessness is Dead, Long Live Mens Rea's Fecklessness, *The Modern Law Review*, 3, . 491-500.
- ANDEREGG A. Scott** /1988/: The Voluntary Intoxication Defense in Iowa, *Iowa Law Review*, 4, . 935-959.
- ANDREWS A. J.** /1981/: Wilfulness, a lesson in ambiguity, *Legal Studies*, 3, . 303-325.
- APLER Alex** /2000/: Naughty or Bad? The Role of Expert Evidence in Rebuttal of the *doli incapax* Presumption, *Psychiatry, Psychology and Law*, 1, . 206-211.
- RENELLA Peter** /1977/: The Diminished Capacity and Diminished Responsibility Defenses: Two Children of a Doomed Marriage, *Columbia Law Review*, 6, . 827-865.
- ARENSON J. Kenneth** /2012/: Rape in Victoria as a Crime of Absolute Liability: A Departure from Both Precedent and Progressivism, *The Journal of Criminal Law*, 5, . 399-420.
- ARTHUR Raymond** /2012/: Rethinking the Criminal Responsibility of Young People in England and Wales, *European Journal of Crime, Criminal Law and Criminal Justice*, 1, . 13-29.
- ARZT Gunter** /1976/: Ignorance or Mistake of Law, *The American Journal of Comparative Law*, 4, . 646-679.
- ASHWORTH Andrew** /2000/: Testing Fidelity to Legal Values: Official Involvement and Criminal Justice, *The Modern Law Review*, 5, . 633-659.

- /2008/: A Change of Normative Position: Determining the Contours of Culpability in Criminal Law, *New Criminal Law Review*, 2, . 232-256.
- /2009/: *Principles of Criminal Law*, Oxford, 510 .
- /2010/: *Sentencing and Criminal Justice*, Cambridge (etc.), 468 .

ASHWORTH Andrew, HORDER Jeremy /2013/: *Principles of Criminal Law*, Oxford, 511 .

/1977/: , 1, , . 41-63.

- /1991/: - , 1-3, , . 29-35.

BA I Franjo /1986/: *Krivi no pravo. Op i dio*, Zagreb, 596 .

/2009/: - , 208 .

BAKER M. Brenda /1987/: Mens Rea, Negligence and Criminal Law Reform, *Law and Philosophy*, 1, . 53-88.

BARON Marcia /2005/: Justifications and Excuses, *Ohio State Journal of Criminal Law*, 2, . 387-406.

/1965/: , 3, , . 305-330.

BAYLES D. Michael /1987/: Reconceptualizing Necessity and Duress, *The Wayne Law Review*, 4, . 1191-1220.

BECK E. Matthew, O'BRIEN E. Matthew /2000/: Corporate Criminal Liability, *American Criminal Law Review*, 2, . 261-289.

BECKER F. Ronald /2003/: The Evolution of Insanity Standards, *Journal of Police and Criminal Psychology*, 2, . 41-45.

BERNARD J. Thomas /1984/: The Historical Development of Corporate Criminal Liability, *Criminology*, 1, . 3-18.

BODENSTEIN J. D. H. /1919/: Phases in the Development of Criminal Mens Rea, *The South African Law Journal*, 4, . 323-349.

BOETTCHER J. Matthew /1987/: Voluntary Intoxication: A Defense to Specific Intent Crimes, *University of Detroit Law Review*, 1, . 33-71.

BOHLANDER Michael /2010a/: Problems of Transferred Malice in Multiple-actor Scenarios, *The Journal of Criminal Law*, 2, . 145-162.

- /2010b/: Transferred Malice and Transferred Defenses: A Critique of the Traditional Doctrine and Arguments for a Change in Paradigm, *New Criminal Law Review*, 3, . 555-624.

- BOLAND Faye** /1996/: Intoxication and Criminal Liability, *Journal of Criminal Law*, . 100-107.
- BONNIE J. Richard** /1983/: The Moral Basis of the Insanity Defense, *American Bar Association Journal*, 2, . 194-197.
- BORINS Stephen** /1982/: The Defence of Duress, *Criminal Law Quarterly*, 2, . 191-211.
- BÖSE Martin** /2011/: Corporate Criminal Liability in Germany, *Corporate Criminal Liability. Emergence, Convergence, and Risk*, (ed. M. Pieth, R. Ivory), Dordrecht (etc.), . 227-254.
- BRADLEY Lisa** /2003/: The Age of Criminal Responsibility Revisited, *Deakin Law Review*, 1, . 73-90.
- BRADY B. James** /1971/: Abolish the Insanity Defense? – No!, *Houston Law Review*, 4, . 629-656.
- /1972/: Punishment for Negligence: A Reply to Professor Hall, *Buffalo Law Review*, 1, . 107-122.
 - /1980/: Recklessness, Negligence, Indifference, and Awareness, *The Modern Law Review*, 4, . 381-399.
 - /1996/: Recklessness, *Law and Philosophy*, 2, . 183-200.
- BRETT Peter** /1965/: Mistake of Law as a Criminal Defence, *Melbourne University Law Review*, 2, . 179-204.
- BRICKEY F. Kathleen** /1982/: Corporate Criminal Accountability: A Brief History And an Observation, *Washington University Law Quarterly*, 2, . 393-423.
- /1998/: Rethinking Corporate Liability Under the Model Penal Code, *Rutgers Law Journal*, 3, . 593-634.
- BROOKE F. Allan II** /1992/: When Ignorance of the Law Became an Exuse: *Lambert & Its Progeny*, *American Journal of Criminal Law*, 2, . 279-293.
- BROOKS D. Alexander** /1985/: The Merits of Abolishing the Insanity Defense, *Annals of the American Academy of Political and Social Science*, Vol. 477, . 125-136.
- BROWN K. Darryl** /2012/: Criminal Law Reform and the Persistence of Strict Liability, *Duke Law Review*, 2, . 285-338.
- BROWN H. Lowell** /1995/: Vicarious Criminal Liability of Corporations for the Acts of their Employees and Agends, *Loyola Law Review*, 2, . 279-328.
- BROYLES Scott** /2011/: *Criminal Law in the USA*, Kluwer, Netherlands, . 165.
- BRUDNER Alan** /1990/: Imprisonment and Strict Liability, *The University of Toronto Law Journal*, 4, . 738-774.
- /2008/: Subjective Fault for Crime: *A Reinterpretation*, *Legal Theory*, 1, . 1-38.
- BRUNNER Heinrich** /1908/: *The Sources of English Law*, Boston, 52 .

BUDD Malcolm, LYNCH Adrian /1978/: Voluntariness, Causation and Strict Liability, *The Criminal Law Review*, . 74-81.

BÚRCA de Gráinne, GARDNER Simon /1990/: The Codification of the Criminal Law, *Oxford Journal of Legal Studies*, 4, . 559-571.

BUTTLES Lewis /1980/: Involuntary Intoxication Is a Defense in Texas, *St. Mary's Law Journal*, 1, . 232-244.

BUZZARD J. H. /1978/: „Intent“, *The Criminal Law Review*, . 5-13.

CAENEGEM van C. R. /1988/: *The Birth of the English Common Law*, Cambridge (etc.), 160 .

CAMPBELL Kenneth /1982/: Conditional Intention, *Legal Studies*, 1, . 77-97.

CARD Richard /2010/: *Card, Cross & Jones Criminal Law*, Oxford, 869 .

CASS A. Ronald /1976/: Ignorance of the Law: A Maxim Reexamined, *William and Mary Law Review*, 4, . 671-699.

CAVALLARO Rosanna /1996/: A Big Mistake: Eroding the Defense of Mistake of Fact About Consent in Rape, *The Journal of Criminal Law & Criminology*, 3, . 815-860.

/2005/:
- , :
, . 235-251.

- /2006/:
, 9, . 321-336.

CHAN Winnie, SIMESTER P. A. /2005/: Duress, Necessity: How Many Defences?, *The King's College Law Journal*, 1, . 121-132.

- /2011/: Four Functions of Mens Rea, *Cambridge Law Journal*, 2, . 381-396.

CHESNEY J. Eugene /1939/: The Concept of Mens Rea in the Criminal Law, *Journal of Criminal Law and Criminology*, 5, . 627-644.

CHIU M. Elaine /2005/: The Challenge of Motive in the Criminal Law, *Buffalo Criminal Law Review*, 2, . 653-729.

CHRISTOPHER L. Russell /2007/: Tripartite Structures of Criminal Law in Germany and other Civil Law Jurisdictions, *Cardozo Law Review*, 6, . 2675-2695.

CLARKSON C. M. V. /1996/: Kicking Corporate Bodies and Damning Their Souls, *The Modern Law Review*, 4, . 557-572.

- /2004/: Necessary Action: A New Defence, *Criminal Law Review*, . 81-95.

CLARKSON C. M. V, KEATING H. M, CUNNINGHAM S. R /2010/: *Clarkson and Keating Criminal Law: Texts and Materials*, London, 858 .

CLEMENTS M. L. /1995/: After R v Kingston: Is There Scope For A New Defence of Voluntary Intoxication?, *Journal of Criminal Law*, . 305-309.

COFFEE C. John Jr. /1981/: „No Soul to Damn: No Body to Kick“: An Unscandalized Inquiry Into the Problem of Corporate Punishment, *Michigan Law Review*, 3, . 386-459.

COFFEY Gerard /2009/: Codifying the Meaning of „Intention“ in the Criminal Law, *The Journal of Criminal Law*, 5, . 394-413.

COLEMAN Bruce /1975/: Is Corporative Criminal Liability Really Necessary, *Southwestern Law Journal*, 4, . 908-927.

COLVIN Eric /1982/: Recklessness and Criminal Negligence, *The University of Toronto Law Journal*, 4, . 345-373.

- /1990/: Exculpatory Defences in Criminal Law, *Oxford Journal of Legal Studies*, 3, . 381-407.

COWNIE Fiona, BRADNEY Anthony, BURTON Mandy /2010/: *English Legal System in Context*, Oxford, 421 .

CROFTS Thomas /1998/: Rebutting the Presumption of Doli Incapax, *Journal of Criminal Law*, 2, . 185-193.

CROSBY Cath /2008/: *Recklessness-the Continuing Search for a Definition*, *The Journal of Criminal Law*, 4, . 313-334.

CROTTY D. Homer /1924/: The History of Insanity as a Defence to Crime in English Criminal Law, *California Law Review*, 2, . 105-123.

/2008/: , , 207 .

DAVIES L. Sharon /1998/: The Jurisprudence of Willfulness: An Evolving Theory of Excusable Ignorance, *Duke Law Review*, 3, . 341-427.

DAVIES Malcolm, CROALL Hazel, TYRER Jane /2005/: *Criminal Justice. An Introduction to the Criminal Justice System in England and Wales*, Harlow (etc.), 477 .

/2007/:

(23.), :

.1 , (. .), , . 149-171.

- /2008a/:

, :

, , . 75-95.

- /2008 /:

, 2, , . 161-179.

- /2008 /:

, :
. 2. , (. .

), , . 171-190.

- /2009 /: , : . 3. (. .) , . 223-243.
- /2009 /: , , 189 .
- DELL Susanne** /1982/: Diminished Responsibility Reconsidered, *The Criminal Law Review*, . 809-818.
- DELMAGE Enys** /2013/: The Minimum Age of Criminal Responsibility: A Medico-Legal Perspective, *Youth Justice*, 2, . 102-110.
- DENNIS Ian** /1987/: Developments in Duress, *Journal of Criminal Law*, 4, . 463-480.
- DILLOF M. Anthony** /1998/: Transferred Intent: An Inquiry into the Nature of Criminal Culpability, *Buffalo Criminal Law Review*, 2, . 501-536.
- DIMOCK Susan** /2011/: What are Intoxicated Offenders Responsible for? The „Intoxication Defense“ Re-examined, *Criminal Law and Philosophy*, 1, . 1-20.
- DINGWALL Gavin** /1994/: Abolition of the Presumption of *Doli Incapax* for 10-14 Year-Olds, *Journal of Criminal Law*, 4, . 385-387.
- /2007/: Intoxicated Mistakes about the Need for Self-Defence, *Modern Law Review*, 1, . 127-138.
- /2007/: , , 216 .
- /2010/: , , 117 .
- /2014/: , , 166 .
- /2011/: , *Crimen*, 1, , . 88-98.
- DRESSLER Joshua** /1987/: Justifications and Excuses: A Brief Review of the Concepts and the Literature, *The Wayne Law Review*, 4, . 1155-1175.
- /1989/: Exegesis of the Law of Duress: Justifying the Excuse and Searching for its Proper Limits, *Southern California Law Review*, 5, . 1331-1386.
- /2001/: *Understanding Criminal Law*, New York (etc.), 598 .
- DREW Kendel, CLARK A. Kyle** /2005/: Corporate Criminal Liability, *American Criminal Law Review*, 2, . 277-303.
- DUFF A. R.** /1980a/: Intention, Mens Rea and the Law Commission Report, *The Criminal Law Review*, . 147-160.
- /1980b/: Intention, Recklessness, and Probable Consequences, *The Criminal Law Review*, . 404-412.
- /1980c/: Recklessness, *The Criminal Law Review*, . 282-292.
- /1983/: *Caldwell and Lawrence*: The Retreat from Subjectivism, *Oxford Journal of Legal Studies*, 1, . 77-98.

- /1989/: Intentions Legal and Philosophical, *Oxford Journal of Legal Studies*, 1, . 76-94.
- /2007a/: *Answering for Crime. Responsibility and Liability in the Criminal Law*, Oxford, 322 .
- /2007b/: Strict Liability, Legal Presumptions and the Presumption of Innocence, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 125-149.
- /2008/: , : . 2. , (. .), , . 231-240.
- /2009/: , , , 163 .
- /2011/: , : , (. .), , . 255-268.
- /2012 /: , : , (. .), , . 174-183.
- /2012 /: , : . 2. , (. .), , . 266-288.
- /2013 /: § 30 , : , 12. , , . 607-623.
- /2013 /: Assault Battery: , : , (. . , .), , . 250-261.
- 2014/: , , 9, , . 263-276.
- /2015/: , : . 5. , (. .), , . 255-271.

EADE Lauren /2001/: Legal Incapacity, Autonomy, and Children's Rights, *Newcastle Law Review*, 2, . 157-168.

EDWARDS J. /1954/: The Criminal Degrees of Knowledge, *The Modern Law Review*, 4, . 294-314.

EDWARDS J. LI. J. /1951/: Compulsion, Coercion and Criminal Responsibility, *The Modern Law Review*, 3, . 297-313.

ELLIOTT Catherine, QUINN Frances /2010/: *Criminal Law*, Harlow (etc.), 435 .

ESER Albin /1976/: Justification and Excuse, *The American Journal of Comparative Law*, 4, . 621-637.

FARNSWORTH E. Allan /1973/: , , , 183 .

- FENNELL Caroline** /1990/: Intention in Murder: Chaos, Confusion and Complexity, *Northern Ireland Legal Quarterly*, 4, . 325-338.
- FENNELL Phil** /1992/: The Criminal Procedure (Insanity and Unfitness to Plead) Act 1991, *The Modern Law Review*, 4, . 547-555.
- FIELD Stewart, LYNN Mervyn** /1992/: The Capacity for Recklessness, *Legal Studies*, 1, . 74-91.
- FINCH Emily, FAFINSKI Stefan** /2011/: *Criminal Law*, Harlow (etc.), 303 .
- FINGARETTE Herbert** /1975/: Addiction and Criminal Responsibility, *The Yale Law Journal*, 3, . 413-444.
- FINKELSTEIN Claire** /2002/: Involuntary Crimes, Voluntarily Committed, *Criminal Law Theory: Doctrines of the General Part*, (ed. S. Shute, A. P. Simester), . 143-169.
- FLETCHER P. George** /1971/: The Theory of Criminal Negligence: A Comparative Analysis, *University of Pennsylvania Law Review*, 3, . 401-438.
- /2000/: *Rethinking Criminal Law*, Oxford (etc.), 898 .
 - /2002/: The Fault of Not Knowing, *Theoretical Inquiries in Law*, 2, . 265-282.
- FRANKOWSKI Stanislaw** /1986/: Mens Rea and Punishment in England: In Search of Interdependence of the Two Basic Components of Criminal Liability (A Historical Perspective), *University of Detroit Law Review*, 3, . 393-450.
- FUCHS Helmut** /2002/: *Österreichisches Strafrecht. Allgemeiner Teil I*, Springer-Wien-New York, 355 .
- GARDNER R. Martin** /1993/: The *Mens Rea* Enigma: Observations on the Role of Motive in the Criminal Law Past and Present, *Utah Law Review*, 3, . 635-750.
- GARDNER Simon** /1991/: Necessity's Newest Inventions, *Oxford Journal of Legal Studies*, 1, . 125-135.
- /1994/: The Importance of Majewski, *Oxford Journal of Legal Studies*, 2, . 279-289.
- GARDNER J. Thomas, ANDERSON M. Terry** /2009/: *Criminal Law*, Wadsworth, 477 .
- GARVEY P. Stephen** /2009/: When Should a Mistake of Fact Excuse?, *Texas Tech Law Review*, 2, . 359-382.
- GEIS Gilbert, MEIER F. Robert** /1985/: Abolition of the Insanity Plea in Idaho: A Case Study, *Annals of the American Academy of Political and Social Science*, Vol. 477, . 72-83.
- GLAZEBROOK R. P.** /2001/: How Old Did You Think She Was?, *The Cambridge Law Journal*, 1, . 26-30.
- GOBERT James** /1994/: Corporate Criminality: Four Models of Fault, *Legal Studies*, 3, . 393-410.

- GOLDSOHN Barry** /2013/: „Unsafe, Unjust and Harmful to Wider Society“: Grounds for Raising the Minimum Age of Criminal Responsibility in England and Wales, *Youth Justice*, 2, . 111-130.
- GORDON H. Gerald** /1975/: Subjective and Objective Mens Rea, *Criminal Law Quarterly*, 4, . 355-390.
- GORR Michael** /1991/: The Actus Reus Requirement: A Qualified Defense, *Criminal Justice Ethics*, 1, . 11-17.
- GRAY H. Sheila** /1972/: The Insanity Defense: Historical Development and Contemporary Relevance, *The American Criminal Law Review*, 3, . 559-585.
- GREEN P. Stuart** /2007/: Six Senses of Strict Liability: A Plea for Formalism, in: *Appraising Strict Liability* (ed. A.P. Simester), Oxford, . 1-20.
- GREENAWALT Kent** /1984/: The Perplexing Borders of Justification and Excuse, *Columbia Law Review*, 8, . 1897-1927.
- GRIFFIN Stephen** /2006/: Corporate Manslaughter: A Radical Reform?, *The Journal of Criminal Law*, 2, . 151-166.
- GROSS Hyman** /1985/: Justice and the Insanity Defense, *Annals of the American Academy of Political and Social Science*, Vol. 477, . 96-103.
- HALL W. Ford** /1951/: The Common Law: An Account Of Its Reception in the United States, *Vanderbilt Law Review*, 4, . 791-825.
- HALL Jerome** /1944/: Intoxication and Criminal Responsibility, *Harvard Law Review*, 7, . 1045-1084.
- /1945/: Mental Disease and Criminal Responsibility, *Columbia Law Review*, 5, . 677-718.
 - /1957/: Ignorance and Mistake in Criminal Law, *Indiana Law Journal*, 1, . 1-44.
 - /1960/: *General Principles of Criminal Law*, Indianapolis, 618 .
 - /1963 /: Negligent Behavior Should Be Excluded From Penal Liability, *Columbia Law Review*, 4, . 632-644.
 - /1963b/: The M'Naghten Rules and Proposed Alternatives, *American Bar Association Journal*, 10, . 960-964.
- HALL S. Joseph** /1998/: Corporate Criminal Liability, *American Criminal Law Review*, 3, . 549-560.
- HALL Livingston, SELIGMAN J. Selig** /1941/: Mistake of Law and Mens Rea, *The University of Chicago Law Review*, 4, . 641-683.
- HAMDANI Assaf** /2007/: Mens Rea and the Cost of Ignorance, *Virginia Law Review*, 2, . 415-457.
- HAMILTON R. John** /1986/: Insanity Legislation, *Journal of Medical Ethics*, 1, . 13-17.

- HAQUE Quazi, CUMMING Ian** /2003/: Intoxication and Legal Defences, *Advances in Psychiatric Treatment*, Vol. 9, . 144-151.
- HARALAMBOUS Nicola** /2011/: *Criminal Law. Directions*, Oxford, 390 .
- HART A. L. H.** /1965/: *The Morality of the Criminal Law. Two Lectures*, Jerusalem, 54 .
- HATHAWAY Mark** /2009/: The Moral Significance of the Insanity Defence, *The Journal of Criminal Law*, 4, . 310-317.
- HAUTAMAKI W. Edward** /1951/: The Element of Mens Rea in Recklessness and „Criminal Negligence“, *Duke Bar Journal*, 1, . 55-69.
- HEATON Russell, THAN de Claire** /2011/: *Criminal Law*, Oxford, 606 .
- HELLER Jon Kevin** /2009/: The Cognitive Psychology of Mens Rea, *The Journal of Criminal Law & Criminology*, 2, . 317-380.
- HERRING Jonathan** /2011/: *Criminal Law*, Oxford, 365 .
- /2013/: *Criminal Law Statutes 2012-2013*, London-New York, 251 .
- HITCHLER Harrison Walter** /1917/: Duress as a Defense in Criminal Cases, *Virginia Law Review*, 7, . 519-545.
- HOLLEY Danye** /1998/: The Influence of the Model Penal Code's Culpability Provisions on State Legislatures: A Study of Lost Opportunities, Including Abolishing the Mistake of Fact Doctrine, *Southwestern University Law Review*, 2, . 229-263.
- HOPE R. A.** /1986/: English Law and the Mentally Abnormal Offender, *Journal of Medical Ethics*, 1, . 5-7.
- HOPKINS Ann** /1988/: Mens Rea and the Right to Trial by Jury, *California Law Review*, 2, . 391-420.
- HORDER Jeremy** /1995/: Intention in Criminal Law: A Rejoinder, *The Modern Law Review*, 5, . 678-691.
- /1997/: Gross Negligence and Criminal Culpability, *University of Toronto Law Journal*, 4, . 495-521.
- /2003/: Crimes of Ulterior Intent, *Harm and Culpability*, (ed. A. P. Simester, A. T. H. Smith), Oxford, . 153-172.
- /2007/: Whose Values Should Determine When Liability is Strict?, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 105-124.
- HÖRNLE Tatjana** /2008/: Social Expectations in the Criminal Law: The „Reasonable Person“ in a Comparative Perspective, *New Criminal Law Review*, 1, . 1-32.
- /1985/:
 “ .6, , . 61-87.”
- HOWARD Helen** /2003/: Reform of the Insanity Defence: Theoretical Issues, *The Journal of Criminal Law*, 1, . 51-67.

HUGHES Graham /1984/: English Criminal Justice: Is it Better than Ours?, *Arizona Law Review*, 3, . 507-614.

HUIGENS Kyron /1998/: Virtue and Criminal Negligence, *Buffalo Criminal Law Review*, 2, . 431-458.

- /2004/: Duress Is Not a Justification, *Ohio State Journal of Criminal Law*, 1, . 303-314.

HUSAK N. Douglas /1991/: The Orthodox Model of the Criminal Offense, *Criminal Justice Ethics*, 1, . 20-23.

- /1994/: Ignorance of Law and Duties of Citizenship, *Legal Studies*, 1, . 105-115.

- /1995/: Varieties of Strict Liability, *Canadian Journal of Law and Jurisprudence*, 2, . 189-225.

- /1996/: Transferred Intent, *Notre Dame Journal of Law, Ethics and Public Policy*, 1, . 65-97.

- /1998/: Does Criminal Liability Require an Act, *Philosophy and the Criminal Law. Principle and Critique*, (ed. A. Duff), Cambridge (etc.), . 60-100.

- /2007/: Strict Liability, Justice, and Proportionality, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 81-103.

- /2008/: , : , . 89-104.

- /2010/: : . 4. (.), , . 196-206.

JACKSON M. R. /1937/: Common Law Misdemeanors, *The Cambridge Law Journal*, 2, . 193-201.

JAMES S. Phillip /1976/: *Introduction to English Law*, London, 498 .

/1999/: , , 104 .

JEFFERSON Michael /2000/: Corporate Criminal Liability in the 1990s, *The Journal of Criminal Law*, 1, . 106-122.

- /2001/: Corporate Criminal Liability: The Problem of Sanctions, *The Journal of Criminal Law*, 3, . 235-261.

- /2009/: *Criminal law*, Harlow (etc.), 711 .

/2006/: , , 844 .

/2009/:

, , 363 .

KARLEN H. Peter /1978/: Mens Rea: A New Analysis, *The University of Toledo Law Review*, 2, . 191-256.

KEEDY R. Edwin /1908/: Ignorance and Mistake in the Criminal Law, *Harvard Law Review*, 2, . 75-96.

- /1952/: Irresistible Impulse as a Defense in the Criminal Law, *University of Pennsylvania Law Review*, 7, . 956-993.

KEITER Mitchell /1997/: Just Say No Excuse: The Rise and Fall of the Intoxication Defense, *The Journal of Criminal Law & Criminology*, 2, . 482-520.

KHAN Arfan /2002/: Intention in Criminal Law: Time to Change?, *Statute Law Review*, 3, . 235-239.

KHANNA S. V. /1996/: Corporate Criminal Liability: What Purpose Does It Serve?, *Harvard Law Review*, 7, . 1477-1534.

KINDHÄUSER Urs /2011/: *Strafrecht. Allgemeiner Teil*, Baden-Baden, 436 .

KOFFMAN Laurence /1980/: Conditional Intention to Steal, *The Criminal Law Review*, . 463-468.

KOHLER E. Richard /1936/: Ignorance or Mistake of Law as a Defense in Criminal Cases, *Dickinson Law Review*, 2, . 113-122.

/2008/: , , 391 .

/2008/: , , 371 .

KREMNITZER Mordechai /1998/: On Premeditation, *Buffalo Criminal Law Review*, 2, . 627-660.

KUGLER Itzhak /2004/: The Definition of Oblique Intention, *The Journal of Criminal Law*, 1, str. 79-83.

KÜHL Kristian /2008/: *Strafrecht. Allgemeiner Teil*, München, 813 .

LACEY Nicola /1993/: A Clear Conception of Intention: Elusive or Illusory?, *The Modern Law Review*, 5, . 621-642.

LAFAVE R. Wayne, SCOTT W. Austin /1986/: *Criminal Law*, St. Paul, Minnesota, 918 .

LASKI J. Harold /1916/: The Basis of Vicarious Liability, *The Yale Law Journal*, 2, . 105-135.

LAUFER S. William, STRUDLER Alan /2000/: Corporate Intentionality, Desert, and Variants of Vicarious Liability, *American Criminal Law Review*, 4, . 1285-1312.

LEDERMAN Eli /2001/: Models for Imposing Corporate Criminal Liability: From Adaptation and Imitation Toward Aggregation and the Search for Self-Identity, *Buffalo Criminal Law Review*, 1, . 641-708.

LEIGH H. L. /1993/: Recklessness After Reid, *The Modern Law Review*, 2, . 208-218.

LEVENSON L. Laurie /1992-1993/: Good Faith Defenses: Reshaping Strict Liability Crimes, *Cornell Law Review*, 3, . 401-469.

LIPSCOMBE Sally /2012/: The Age of Criminal Responsibility in England and Wales, *House of Commons*, . 1-7.

LOUGHNAN Arlie /2012/: *Manifest Madness. Mental Incapacity in Criminal Law*, Oxford, 282 .

CKAY Irene /1992/: The Sleepwalker is Not Insane, *The Modern Law Review*, 5, . 714-720.

CKAY D. Ronald /1990/: The Taint of Intoxication, *International Journal of Law and Psychiatry*, Vol. 13, . 37-48.

- /1995/: *Mental Condition Defences in the Criminal Law*, Oxford, 252 .

MAGLIE de Cristina /2005/: Models of Corporate Criminal Liability in Comparative Law, *Washington University Global Studies Law Review*, 3, . 547-566.

- /2011/: *Societas Delinquere Potest? The Italian Solution, Corporate Criminal Liability. Emergence, Convergence, and Risk*, (ed. M. Pieth, R. Ivory), Dordrecht (etc.), . 255-270.

MAHER Gerry /2005/: Age and Criminal Responsibility, *Ohio State Journal of Criminal Law*, 2, . 493-512.

/1933/:

, 1-2, , . 2-14.

MANNHEIM Hermann /1935a/: Mens Rea in German and English Criminal Law, *Journal of Comparative Legislation and International Law*, 1, . 82-101.

- /1935b/: Mens Rea in German and English Criminal Law-II, *Journal of Comparative Legislation and International Law*, 4, . 236-250.

- /1936/: Mens Rea in German and English Criminal Law-III, *Journal of Comparative Legislation and International Law*, 1, . 78-93.

MANSON C. Peter /1959/: Mistake as a Defense, *Military Law Review*, . 63-81.

MATTHEWS Paul /1983/: Ignorance of the Law is no Excuse?, *Legal Studies*, 2, . 174-192.

McBAIN Graham /2009/: Abolishing Some Obsolete Common Law Crimes, *King's Law Journal*, 1, . 89-114.

McDIARMID Claire /2013/: An Age of Complexity: Children and Criminal Responsibility in Law, *Youth Justice*, 2, . 145-160.

McEWAN Jenny, ROBILLIARD St. John /1981/: Recklessness: the House of Lords and the criminal law, *Legal Studies*, 3, . 267-286.

McIVOR Claire /2006/: The Use and Abuse of the Doctrine of Vicarious Liability, *Common Law World Review*, 4, . 268-296.

McLEOD L. Jill /1980/: Doli Incapax: The Forgotten Presumption in Juvenile Court Trials, *Canadian Journal of Family Law*, 2, str. 251-279.

MICHAELS A. C. /2007/: Imposing Constitutional Limits on Strict Liability: Lessons from the American Experience, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 219-236.

MILLER T. Henry /1985-1986/: Recent Changes in Criminal Law: The Federal Insanity Defense, *Louisiana Law Review*, 2, . 337-360.

MOLAN Mike, LANSER Denis, BLOY Duncan /2000/: *Bloy and Parry's Principles of Criminal Law*, London-Sydney, 452 .

MOORE L. John /1965/: M'Naghten is Dead – Or is It?, *Houston Law Review*, 1, . 58-83.

MORAN Richard /1985/: The Modern Foundation for the Insanity Defense: The Cases of James Hadfield (1800) and Daniel McNaughtan (1843), *Annals of the American Academy of Political and Social Science*, Vol. 477, . 31-42.

MORE Daniel /2003/: The Boundaries of Negligence, *Theoretical Inquiries in Law*, 1, . 339-365.

MORKEL W. Dan /1982/: On the Distinction Between Recklessness and Conscious Negligence, *The American Journal of Comparative Law*, 2, . 325-333.

RRIS Norval /1953/: „Wrong“ in the M'Naughten Rules, *The Modern Law Review*, 4, . 435-440.

- /1982/: The Criminal Responsibility of the Mentally Ill, *Syracuse Law Review*, 2, . 477-531.

MORSE J. Stephen /1984/: Undiminished Confusion in Diminished Capacity, *The Journal of Criminal Law & Criminology*, 1, . 1-55.

- /1985/: Excusing the Crazy: The Insanity Defense Reconsidered, *Southern California Law Review*, 3, . 777-836.

- /2003/: Diminished Rationality, Diminished Responsibility, *Ohio State Journal of Criminal Law*, 1, . 289-308.

/1990/:

, 3-4, . 583-600.

UELLER O. W. Gerhard /1955/: Mens Rea and the Law Without It, *West Virginia Law Review*, 1, . 34-68.

MURPHY G. Jeffrie /1991/: Gorr on Actus Reus, *Criminal Justice Ethics*, 1, . 18-19.

MYERS W. Larry /1965/: Reasonable Mistake of Age: A Needed Defense to Statutory Rape, *Michigan Law Review*, 1, . 105-136.

NEMERSON S. Steven /1975/: Criminal Liability without Fault: A Philosophical Perspective, *Columbia Law Review*, 8, . 1517-1577.

-
- “ ” , 1, , . 195-210.
- REED Alan** /1997/: The Need For a New Anglo-American Approach To Duress, *Journal of Criminal Law*, 2, . 209-224.
- REID Kiron** /2008/: Strict Liability: Some Principles for Parliament, *Statute Law Review*, 29(3), . 173-194.
- ROBERTS Paul** /2007/: Strict Liability and the Presumption of Innocence: An Exposé of Functionalist Assumptions, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, str. 151-194.
- ROBINSON H. Paul** /1982/: Criminal Law Defenses: A Systematic Analysis, *Columbia Law Review*, 2, . 199-291.
- /1993/: Should the Criminal Law Abandon the Actus Reus-Mens Rea Distinction?, in: *Action and Value in Criminal Law* (ed. S. Shute, J. Gardner, J. Horder), . 187-211.
- ROXIN Claus** /2006/: *Strafrecht. Allgemeiner Teil. Band I. Grundlagen. Der Aufbau der Verbrechenslehre*, München, 1136 .
- /2010/: , : , *Crimen*, 1, , . 5-17.
- RYAN Lee Mary** /1955/: Criminal Law: Reexamination of Tests for Criminal Responsibility, *Michigan Law Review*, 7, . 963-972.
- RYU K. Paul, SILVING Helen** /1957/: Error Juris: A Comparative Study, *The University of Chicago Law Review*, 3, . 421-471.
- SALAKO E. Solomon** /2006/: Strict Criminal Liability: A Violation of the Convention?, *The Journal of Criminal Law*, 6, . 531-549.
- SAMAHA Joel** /2011/: *Criminal Law*, Wadsworth, 489 .
- SAYRE Bowes Francis** /1930/: Criminal Responsibility for the Acts of Another, *Harvard Law Review*, 5, . 689-723.
- /1932/: Mens Rea, *Harvard Law Review*, 6, . 974-1026.
 - /1933/: Public Welfare Offenses, *Columbia Law Review*, 1, . 55-88.
- SCHEB M. John, SCHEB M. John II** /2012/: *Criminal Law*, Wadsworth, 506 .
- SCHWARTZ T. Gary** /1996/: The Hidden and Fundamental Issue of Employer Vicarious Liability, *Southern California Law Review*, 5, . 1739-1767.
- SEAVEY A. Warren** /1927/: Negligence – Subjective or Objective?, *Harvard Law Review*, 1, . 1-28.
- SELLERS John** /1978/: Mens Rea and the Judicial Approach to „Bad Excuses“ in the Criminal Law, *The Modern Law Review*, 3, . 245-265.

SHARMA D. Vishnu /1974/: The Criminal Responsibility of Children in England, *Anglo-American Law Review*, 2, str. 157-183.

SHUTE Stephen /1998/: With and Without Constitutional Restraints: A Comparison Between the Criminal Law of England and America, *Buffalo Criminal Law Review*, 2, . 329-348.

SIMESTER P. Andrew /1992/: Paradigm Intention, *Law and Philosophy*, 3, . 235-263.

- /1996/: Moral Certainty and the Boundaries of Intention, *Oxford Journal of Legal Studies*, 3, . 445-469.
- /2007/: Is Strict Liability Always Wrong?, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 21-50.

SIMESTER A. P, SPENCER J. R, SULLIVAN G. R, VIRGO G. J /2010/: *Simester and Sullivan's Criminal Law. Theory and Doctrine*, Oxford, 868 .

SIMONS W. Kenneth /1997/: When is Strict Criminal Liability Just?, *The Journal of Criminal Law and Criminology*, 4, . 1075-1137.

/1964/:

, 1, , . 3-18.

SINGER G. Richard /1987/: The Resurgence of Mens Rea: II-Honest But Unreasonable Mistake of Fact in Self Defense, *Boston College Law Review*, 3, . 459-519.

- /1989/: The Resurgence of Mens Rea: III – The Rise and Fall of Strict Criminal Liability, *Boston College Law Review*, 2, . 337-408.
- /1994/: Strict Criminal Liability: Alabama State Courts Lead the Way into the Twenty-First Century, *Alabama Law Review*, 1, . 47-80.
- /2000/: The Model Penal Code and Three Two (Possibly Only One) Ways Courts Avoid Mens Rea, *Buffalo Criminal Law Review*, 1, . 139-216.

SINGER G. Richard, HUSAK Douglas /1999/: Of Innocence and Innocents: The Supreme Court and Mens Rea Since Herbert Packer, *Buffalo Criminal Law Review*, 2, . 859-943.

SINGH U. R. /1933/: History of the Defence of Drunkenness in English Criminal Law, *The Law Quarterly Review*, 4, . 528-546.

SLAPPER Gary, KELLY David /2009-2010/: *The English Legal System*, London and New York, 660 .

SLOBOGIN Christopher /2000/: An End to Insanity: Recasting the Role of Mental Disability in Criminal Cases, *Virginia Law Review*, 6, . 1199-1247.

SMITH H. T. A. /1978/: On Actus Reus and Mens Rea, *P. R. Glazebrook (ed) Reshaping the Criminal Law: Essays in Honour of Glanville Williams*, . 95-107.

- /1985/: Error and Mistake of Law in Anglo-American Criminal Law, *Anglo-American Law Review*, 1, . 3-32.

SMITH J. C. /1978/: „Intent“: A Reply, *The Criminal Law Review*, . 14-21.

- /1990/: Note on „Intention“, *The Criminal Law Review*, . 85-91.
- SMITH Raymond, CLEMENTS Linda** /1995/: Involuntary Intoxication, the Treshold of Inhibition and the Instigation of Crime, *Northern Ireland Legal Quarterly*, 2, . 210-224.
- SNYDER C. Orvill** /1962/: Criminal Responsibility, *Duke Law Journal*, 2, . 204-218.
- SNYMAN R. C.** /1979/: The Normative Concept of Mens Rea – A New Development in Germany, *International and Comparative Law Quarterly*, 2, . 211-220.
- SOBELOFF E. Simon** /1955/: Insanity and the Criminal Law: From McNaghten to Durham, and Beyond, *American Bar Association Journal*, 9, . 793-796, 877-879.
- SPARKS F. Richard** /1964/: „Diminished Responsibility“ in Theory and Practice, *The Modern Law Review*, 1, . 9-34.
- SPENCER J. R, PEDAIN A.** /2007/: Approaches to Strict and Constructive Liability in Continental Criminal Law, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 237-283.
- STANNARD E. John** /1982/: The Demise of Drunkenness, *Legal Studies*, 3, . 291-301.
- /1986/: Mens Rea in the Melting Pot, *Northern Ireland Legal Quarterly*, 1, . 61-74.
- STANTON-IFE John** /2007/: Strict Liability: Stigma and Regret, *Oxford Journal of Legal Studies*, 1, . 151-173.
- STERN Z. Yedidia** 1987/: Corporate Criminal Personal Liability: Who is the Corporation?, *The Journal of Corporation Law*, 1, . 125-143.
- STESSENS Guy** /1994/: Corporate Criminal Liability: A Comparative Perspective, *International and Comparative Law Quarterly*, 3, . 493-520.
- /2004/: , , 3-4, , .5-17.
- /2005/: , , 3-4, , .5-25.
- /2010a/: , : . 4. , (. . .), , . 32-38.
- /2010 /: , , .13-25.
- /2012 /: , , 1099 .
- /2012 /: , , 162 .
- /2012 /: , , 1-2, , . 23-38.

- /2013/: , : , , , 2, , .1-16.
- /2014/: , ,423 .
- STROUD A. Douglas** /1914/: *Mens Rea or Imputability Under the Law of England*, London, 352 .
- SULLIVAN G. R.** /1992/: Intent, Subjective Recklessness and Culpability, *Oxford Journal of Legal Studies*, 3, . 380-391.
- /1995/: Expressing Corporate Guilt, *Oxford Journal of Legal Studies*, 2, . 281-293.
- /1996/: The Attribution of Culpability to Limited Companies, *Cambridge Law Journal*, 3, . 515-546.
- /2007/: Strict Liability for Criminal Offences in England and Wales Following Incorporation into English Law of the European Convention on Human Rights, in: *Appraising Strict Liability* (ed. A. P. Simester), Oxford, . 195-218.
- SYKES O. Alan** /1988/: The Boundaries of Vicarious Liability: An Economic Analysis of the Scope of Employment Rule and Related Legal Doctrines, *Harvard Law Review*, 3, . 563-609.
- SYROTA George** /1982/: A Radical Change in the Law of Recklessness, *The Criminal Law Review*, . 97-106.
- /1983/: Mens Rea in Gross Negligence Manslaughter, *The Criminal Law Review*, . 776-786.
- /2011 /: , ,428 .
- /2011 /: , : , (. .), , . 54-125.
- /2015/: - .5. , (. .), , . 47-74.
- TADROS Victor** /2002/: Recklessness and the Duty to Take Care, *Criminal Law Theory: Doctrines of the General Part*, (ed. S. Shute, A. P. Simester), . 227-258.
- /2005/: *Criminal Responsibility*, Oxford, 383 .
- TADROS Victor, TIERNEY Stephen** /2004/: The Presumption of Innocence and the Human Rights Act, *The Modern Law Review*, 3, . 402-434.
- TAO S. L.** /1969/: Alcoholism as a Defense to Crime, *Notre Dame Lawyer*, 1, . 68-88.
- TAYLOR Greg** /2004 /: The Intention Debate in German Criminal Law, *Ratio Juris*, 3, . 346-380.

- /2004b/: Concepts of Intention in German Criminal Law, *Oxford Journal of Legal Studies*, 1, . 99-127.
- TERRILL J. Richard** /2009/: *World Criminal Justice Systems. A Survey*, New Providence, 809 .
- THOMAS W. Robert** /2012/: On Strict Liability Crimes: Preserving a Moral Framework for Criminal Intent in an Intent-Free Moral World, *Michigan Law Review*, 4, . 647-675.
- THORNTON Mark** /1992/: Intention in Criminal Law, *Canadian Journal of Law and Jurisprudence*, 2, . 177-194.
- TIFFANY P. Lawrence** /1990/: Pathological Intoxication and The Model Penal Code, *Nebraska Law Review*, 4, . 763-790.
- TOLMIE Julia** /2001/: Alcoholism and Criminal Liability, *The Modern Law Review*, 5, . 688-709.
- TRAVERS L. Michael** /1995/: Mistake of Law in Mala Prohibita Crimes, *The University of Chicago Law Review*, 3, . 1301-1331.
- TURNER C. W. J.** /1936/: The Mental Element in Crimes at Common Law, *The Cambridge Law Journal*, 1, . 31-66.

- URBAS Gregor** /2000/: The Age of Criminal Responsibility, *Australian Institute of Criminology, Trends & Issues in Crime and Criminal Justice*, . 1-6.

- , /1996/: II, , 219 .
- /1991/: , 2, , . 59-67.
- /2003/: : - , , 1011 .
- /2005/: -
- : , , . 97-111.
- /2008/: , 3-4, , . 223-276.
- /2009/: , : . 3. . (. .) , , . 244-256.
- /2011/: , 2, , . 122-141.
- /2013 /: , , 451 .

- /2013 /: , 2, . 93-105.
- /2014/: (corporate manslaughter) , 4-6, . 273-287.
- /2015/: , , 218 .

WALLACE Harvey, ROBERSON Cliff /2012/: *Principles of Criminal Law*, Boston (etc.), 328 .

WALKER Nigel /1985/: The Insanity Defense Before 1800, *Annals of the American Academy of Political and Social Science*, Vol. 477, . 25-30.

WARD R. Alan /1986/: Making Some Sense of Self-Induced Intoxication, *The Cambridge Law Journal*, 2, . 247-261.

WASIK Martin /1977/: Duress and Criminal Responsibility, *The Criminal Law Review*, . 453-464.

- /1979/: Mens Rea, Motive, and the Problem of „Dishonesty“ in the Law of Theft, *The Criminal Law Review*, . 543-557.
- /1982/: Shifting the Burden of Strict Liability, *The Criminal Law Review*, . 567-574.
- /1986/: Codification: Mental Disorder and Intoxication Under the Draft Criminal Code, *Journal of Criminal Law*, 4, . 393-404.

WASIK M, THOMPSON P. M. /1981/: „Turning a Blind Eye“ as Constituting Mens Rea, *Northern Ireland Legal Quarterly*, 4, . 328-342.

WASSERSTROM A. Richard /1960/: Strict Liability in the Criminal Law, *Stanford Law Review*, 4, . 731-745.

WECHSLER Herbert /1962/: On Culpability and Crime: The Treatment of Mens Rea in the Model Penal Code, *Annals of the American Academy of Political and Social Science*, Vol. 339, . 24-41.

WEISSMANN Andrew /2007/: A New Approach to Corporate Criminal Liability, *American Criminal Law Review*, 4, . 1319-1342.

WELLS Celia /1984/: The Mental Element in Crime, 1974-83: Lighthouse Some Good, *The Criminal Law Review*, . 652-662.

- /2011/: Corporate Criminal Liability in England and Wales: Past, Present, and Future, *Corporate Criminal Liability. Emergence, Convergence, and Risk*, (ed. M. Pieth, R. Ivory), Dordrecht (etc.), . 91-112.

WESSELS Johannes, BEULKE Werner /2011/: *Strafrecht. Allgemeiner Teil. Die Straftat und ihr Aufbau*, Heidelberg, 398 .

WESTEN Peter /2008/: Individualizing the Reasonable Person in Criminal Law, *Criminal Law and Philosophy*, 2, . 137-162.

- /2013/: The Significance of Transferred Intent, *Criminal Law and Philosophy*, 2, . 321-350.

WESTEN Peter, MANGIAFICO James /2003/: The Criminal Defense of Duress: A Justification, Not an Exuse – And Why It Matters, *Buffalo Criminal Law Review*, 2, . 833-950.

WHITE R. Alan /1961/: Carelessness, Indifference and Recklessness, *The Modern Law Review*, 5, . 592-595.

WHITE Stephen /1985/: The Insanity Defense in England and Wales Since 1843, *Annals of the American Academy of Political and Social Science*, Vol. 477, . 43-57.

- /1989/: Offences of Basic and Specific Intent, *The Criminal Law Review*, . 271-274.

- /1991/: Insanity Defences and Magistrates' Courts, *The Criminal Law Review*, . 501-509.

WILLIAMS Glanville /1978/: The Mental Element in Crime. The Law Commission's Report No. 89, *The Criminal Law Review*, . 588-592.

- /1981/: Recklessness Redefined, *Cambridge Law Journal*, 2, . 252-283.

- /1982/: Intention and Recklessness Again, *Legal Studies*, 2, . 189-197.

- /1987/: Oblique Intent, *Cambridge Law Journal*, 3, . 417-438.

- /1988/: The Unresolved Problem of Recklessness, *Legal Studies*, 1, . 74-91.

- /1989/: The Draft Code and Reliance Upon Official Statements, *Legal Studies*, 2, . 177-188.

WILSON William /1999/: Doctrinal Rationality after *Woollin*, *The Modern Law Review*, 3, . 448-463.

- /2008/: *Criminal Law. Doctrine and Theory*, Harlow, 614 .

WOODRUFF E. Owen /1959/: Mistake of Fact as a Defense, *Dickinson Law Review*, 4, . 319-333.

YEO Stanley /2008/: The Insanity Defence in the Criminal Laws of the Commonwealth of Nations, *Singapore Journal of Legal Studies*, 2, . 241-263.

YOUNG R. Douglas /1975/: Rethinking the Specific-Gen eral Intent Doctrine in California Criminal Law, *California Law Review*, 5, . 1352-1378.

/1909/: („ „) , 8, , . 376-384.

13. 1980. ,
” “ ”
“ 1999/2000.
, 2004. , 9,25.
2007. ,
2009. .
- 2005. .
3. ,
2013. .
2011. . 2008-
,
2008/2009.
,
,
. 2013. *Crimen.*
.

Прилог 1.

Изјава о ауторству

Потписани-а Иван Ђокић

Изјављујем

да је докторска дисертација под насловом

„Субјективни елемент кривичног дела у енглеском праву“

- резултат сопственог истраживачког рада,
- да предложена дисертација у целини ни у деловима није била предложена за добијање било које дипломе према студијским програмима других високошколских установа,
- да су резултати коректно наведени и
- да нисам кршио/ла ауторска права и користио интелектуалну својину других лица.

Потпис докторанда

У Београду, 26. октобра 2015. године



Прилог 2.

Изјава о истоветности штампане и електронске верзије докторског рада

Име и презиме аутора Иван Ђокић

Број индекса _____

Студијски програм Кривичноправна научна област – кривично право

Наслов рада „Субјективни елемент кривичног дела у енглеском праву“

Ментор проф. др Зоран Стојановић

Потписани/а Иван Ђокић

Изјављујем да је штампана верзија мог докторског рада истоветна електронској верзији коју сам предао/ла за објављивање на порталу **Дигиталног репозиторијума Универзитета у Београду**.

Дозвољавам да се објаве моји лични подаци везани за добијање академског звања доктора наука, као што су име и презиме, година и место рођења и датум одбране рада.

Ови лични подаци могу се објавити на мрежним страницама дигиталне библиотеке, у електронском каталогу и у публикацијама Универзитета у Београду.

Потпис докторанда

У Београду, 26. октобра 2015. године



Прилог 3.

Изјава о коришћењу

Овлашћујем Универзитетску библиотеку „Светозар Марковић“ да у Дигитални репозиторијум Универзитета у Београду унесе моју докторску дисертацију под насловом:

„Субјективни елемент кривичног дела у енглеском праву“

која је моје ауторско дело.

Дисертацију са свим прилозима предао/ла сам у електронском формату погодном за трајно архивирање.

Моју докторску дисертацију похрањену у Дигитални репозиторијум Универзитета у Београду могу да користе сви који поштују одредбе садржане у одабраном типу лиценце Креативне заједнице (Creative Commons) за коју сам се одлучио/ла.

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3. Ауторство – некомерцијално – без прераде

4. Ауторство – некомерцијално – делити под истим условима

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(Молимо да заокружите само једну од шест понуђених лиценци, кратак опис лиценци дат је на полеђини листа).

У Београду, 26. октобра 2015. године

Потпис докторанда

