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The knowledge element for accessories to strict liability and limited cognition offences: Revisiting *Tabe v The Queen* – Malcolm Barrett and Joachim Dietrich

Parallelism, as it applies to accessorial liability, mandates that the accessory's fault element be the same as that of the principal. By the second half of the 20th century, parallelism had been rejected and replaced by the requirement that the Crown must prove that the accessory had knowledge of the "essential matters" that renders the principal's conduct unlawful, even in circumstances where the principal's knowledge of the essential matters does not have to be proven. The High Court's decision of *Tabe*, however, has breathed life back into the parallelism principle by applying it in the context of Drugs Misuse Act 1986 (Qld). The effect of the decision is that an accessory to the possession of a dangerous drug can be convicted without proof that he/she knew that the principal possessed a thing that was or was likely to be a dangerous drug. This article analyses the demise of parallelism, and its subsequent reinvigoration and argues that it should have been left in the pages of legal history. 197

The Patel trials: Further evidence of the need to reform the Griffith Codes – Andrew Hemming

This article argues that the two trials of Dr Jayant Patel for criminal medical negligence under s 288 of the Criminal Code 1899 Act (Qld) highlight the inadequacies of the duty provisions in the Griffith Codes of Queensland and Western Australia. The difficulties with these duty provisions extend beyond causation and go to the heart of the construction of the Griffith Codes. The fundamental problem lies in the wording of s 23 of both the Queensland and the Western Australia Codes, the principal section dealing with criminal responsibility, which allows a prosecution for criminal negligence under two alternative routes with different standards of proof, and the importation of common law criminal negligence into the duty provisions in the absence of a specified fault element in the relevant Code sections. It is further contended that other criminal law jurisdictions in Australia, such as the Criminal Code 1995 (Cth), offer a better model for the prosecution of criminal negligence cases that flow from breach of a specified duty. The article has greatly benefitted from comments provided to the author by Justice HG Fryberg, who conducted the second Patel trial. 218

Fraud and consent in Australian rape law – Jonathan Crowe

This article examines the circumstances in which fraud will vitiate consent to sex for the purposes of Australian rape law. It begins by summarising the Australian common law position on fraud in rape law, before discussing the relevant legislative provisions and recent case law in the various Australian jurisdictions. It is argued that the common features of legal approaches to this issue in the Australian States and Territories raise potentially serious problems of vagueness and overbreadth. Three possible responses are

then examined. The article concludes that the most promising immediate response lies in a purposive judicial attitude to interpreting and applying the statutory framework, rather than further legislative reform or systematic reading down of the relevant provisions. 236

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