All the essays offer superb analysis and rigorous doctrinal and logical polemic. At first, I thought it a pity that the earlier essays were not updated, with footnoted references to later repetitions of the follies addressed in them, or to nods in the direction of the illumination they urged. But the last two essays do indeed offer reflection and development on the themes picked up in the earlier essays, with the benefit of jurisprudence and further assessment accumulated in the intervening years, lending to the book the unity of composition of a Pink Floyd album in the Roger Waters years.

A central theme is the author’s persuasive thesis that the doctrine of wrongfulness simply cannot be, has not been, and should not be, captured as a matter of determining the ex post facto ‘objective reasonableness’ of the conduct of the defendant. The last essay contains entertaining engagement with familiar tropes of moral and ethical philosophy, in considering how the act utilitarianism of the orthodox view of wrongfulness struggles to accommodate intuitively attractive deontologically conceived moral truisms in the sphere of intentional conduct.

What particularly pleased me personally was the thorough and rigorous dare-to-refute-this-if-you-can dissection of the doctrinal errors apparently perpetrated by the Constitutional Court in Le Roux v Dey and in Lee. Both decisions bothered me, and both essays discussing them spoke beautifully to what it was that bothered me. In the former, I was happy to find my misgivings, about a joke being found to be an “illocutionary” truth proposition capable of being defamatory, enunciated in persuasive analysis. In the latter, I was grateful to have someone do the thinking and writing work of colouring in my sense that there had to be something seriously wrong with a treatment of the sine qua non test for factual causation that accorded decisive effect to the question whether the risk of harm was increased by the relevant activity.

It is good to have these essays, and to have them collected in one book. It is even better to read them. They provide more than theoretical amusement for the scholar. They contain even some practical guidance for the perplexed practitioner. The Cook’s tour before and after Administrateur Natal, for example, contains a very useful effort at crystallising rules – both towards and excluding liability – out of the jurisprudence surrounding wrongfulness for negligently caused pure economic loss. One’s judge might not agree with all the results. But it certainly cannot hurt one’s prospects at persuasion to try to grasp them.

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Notes
1 “The secondary role of the spirit, purport and object of the Bill of Rights in the common law’s development” [106ff].
2 “The German origins of a South African dogma about delict” [134ff].
3 Le Roux & Others v Dey (Freedom of Expression Institute and Restorative Justice Centre as Amici Curiae) 2011 (3) SA 274 (CC).
4 Lee v Minister of Correctional Services 2013 (2) SA 144 (CC).
5 “The Constitutional Court loses its (and our) sense of humour: Le Roux v Dey” [121ff].
6 “Causation and the Constitutional Court: Lee v Minister of Correctional Services” [216ff].