

The expressions 'the same offence', 'substantially the same offence', 'in effect the same offence' or 'practically the same', have not done much to lessen the difficulty in applying the tests to identify the legal common denominators of 'same offence'. Friedland in Double Jeopardy (Oxford 1969) says at p. 108:

*'The trouble with this approach is that it is vague and hazy and conceals the thought processes of the court. Such an inexact test must depend upon the individual impressions of the Judges and can give little guidance for future decisions. A more serious consequence is the fact that a decision in one case that two offences are "substantially the same" may compel the same result in another case involving the same two offences where the circumstances may be such that a second prosecution should be permissible....'*

referred in [2019 PLRonline 1009 \(Bom.\)](#)