

House of Representatives

Supplementary Order Paper

Tuesday, 6 August 2019

Contempt of Court Bill

Proposed amendments

Hon Andrew Little, in Committee, to move the following amendments:

Part 2, subpart 6 heading

In *Part 2*, replace the *subpart 6 heading* (page 24, lines 25 to 27) with:

Subpart 6—Prohibiting publication of false statements about
Judge or court, and power to make take-down orders

New clauses 24A and 24B

After *clause 24* (page 27, after line 24), insert:

24A Offence to publish false statement about Judge or court

- (1) A person commits an offence if—
 - (a) the person publishes a false statement about a Judge or court;
and
 - (b) the person knew or ought reasonably to have known that the statement could undermine public confidence in the independence, integrity, impartiality, or authority of the judiciary or a court; and
 - (c) there is a real risk that the statement could undermine public confidence in the independence, integrity, impartiality, or authority of the judiciary or a court.
- (2) A person who commits an offence against **subsection (1)** is liable on conviction,—
 - (a) in the case of an individual, to a term of imprisonment not exceeding 6 months or a fine not exceeding \$25,000:

- (b) in the case of a body corporate, to a fine not exceeding \$100,000.

24B Further provisions applying for purpose of section 24A

- (1) A charging document for an offence against **section 24A(1)** may be filed only with the consent of the Solicitor-General.
- (2) Despite any other enactment, a proceeding against a defendant for an offence against **section 24A(1)** must be transferred to the High Court on adjournment of the defendant's first appearance in the District Court, and the proceeding from that point, including the trial, must be in the High Court.

Schedule 2

In *Schedule 2*, the item relating to the Coroners Act 2006, *new section 117(5A)*, replace “subpart 3 and sections 28 and 29(1) and (2)” (page 32, line 23) with “**subpart 3 and sections 28 and 29(1) and (2)**”.

Explanatory note

This Supplementary Order Paper reinserts an offence of publishing a false statement about a Judge or court, and an associated procedural clause. An offence provision was in *clause 24* of the Bill originally. The Justice Select Committee recommended that *clause 24* and the associated procedural provisions in *clause 25* be replaced by a High Court take-down power (as set out in *clause 25* of the Bill as reported by the Committee). The proposed *new clauses 24A and 24B* in this Supplementary Order Paper were considered by the Justice Committee.

The proposed *new clause 24A* differs from the former *clause 24* in that—

- it uses the concept of a false statement rather than an untrue allegation or accusation;
- the offence has a mental element (the person knew or ought reasonably to have known that the statement could undermine public confidence in the independence, integrity, impartiality, or authority of the judiciary or a court);
- for an individual, the maximum term of imprisonment is 6 months rather than less than 2 years and the maximum fine is \$25,000 rather than \$50,000.

The proposed *new clause 24B* provides that the Solicitor-General's consent is needed for a prosecution under *new clause 24A* and that the charge is transferred to the High Court after the defendant's initial appearance in the District Court.

This Supplementary Order Paper also puts a bold font on a cross reference in *Schedule 2*, to ensure that the cross reference is correctly renumbered when the Royal Assent version of the Bill is prepared.