

David S Brooks

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Ladies & Gentlemen of the Commission,

Here is my contribution to your enquiry into the subject of "Contempt of Court." I trust you find it worthy of your consideration.

The subject is immense and appears to have grown over time as a punitive measure with case law and the political desire of the day. I will restrict my input to three (3) subjects within the ambit of the meaning of "Contempt of Court." This restriction (only 3 points) is to preserve myself in the face of so much jargon and terminological verbosity intended, either deliberately or unthinkingly, to deter anyone but the most determined from input to the enquiry.

The three points are:

1. Contempt of Court.
2. Sub Judice
3. Scandalising the Court.

"Do unto others as you would have done to you."
"All men are created equal."

Contempt of Court:

"2.6 Historically, the common law of contempt of court developed out of the King's power as a source of justice to punish abuses and affronts to the King's peace and the King's courts.² Subsequently this power was assumed by the superior courts of common law in England as part of their inherent jurisdiction..³"

"Contempt law gives the courts powers to deal with and punish conduct which might undermine or obstruct their ability to do their work fairly and effectively"

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The consultation paper points out many conflicts regarding Contempt of Court (CofC) and this adds to the, frequent, fear people have of the courts. Individuals living outside the world of the judiciary see this as an elitist world where they have no part and one to avoid contact with at all costs. Our educationalists point out that as many as 20% of the population cannot read or comprehend what is written.

The sheer number of laws, there are literally thousands, is itself a barrier to the common well being. Whilst law practitioners themselves recognise the complexity of these laws this enquiry is one of an extremely few where Joe Public is asked for input.

So to face a charge of CofC for a person whose education is at least standard (s/he can read write & comprehend) can elicit all manner of confusion. The simple use of current law, outside of "Contempt" law would more than adequately cover any "offence" perpetrated by person in or around the court. The whole box and dice should be eliminated. We do not have Kings in charge of our laws and courts and offending a member of the judiciary may depend upon which side of the bed was used that morning. This also applies to others in the court particularly the defendant, who may feel that s/he has been harshly treated. Whilst

continued

the particular magistrate or judge may feel offended they are in a most powerful position and should be of such stature as to take no offence to the reaction of a person sentenced to a term in a cage or a fine that they could not possibly pay.

Other Contempt of Court perennials are those of failing to stand when the magistrate or judge enters the court – we rise for the king? This is nothing but an act of subjugation, whatever happened to “All men are created equal?” The law already has a subject, has more than adequate forces to prove its point and now demands an act of subjugation. Really? Do we need it? How can this be offensive to the court? The court has no body, it has no blood, it has no feeling, it has no conscience. It is purely a paperwork construct. Stop persecuting people for victimless “crimes.”

“Contempt proceedings are heard by a judge sitting alone, under the court rules which govern civil proceedings.”

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This is akin to Police investigating Police or the Army investigating the Army. What sort of result would you expect? What are the statistics on such matters?

Has anyone considered the Courts contempt for those who attend the court? But this is not mentioned in the CofC summary.

Sub Judice:

Once again we come upon the King. This is a throwover from British law and is merely an attempt to shut up people and the press. With the advent of e-mail, facebook, Instagram etc.etc., devices for human communication, all of which are in print, and form a publication, it would appear to be a daunting task to apply any control. Why are you reading our correspondence anyway? How many people do you wish to imprison for discussing with their friends etc. the subject of a court case? Do you really believe you can eliminate such chatter? For the mainstream press this is a gag on freedom.

Sub Judice does not stand in the U.S.A. They have not found the ranting and ravings of newspapers and other publications to be detrimental to the accused. It may even be supportive of the accused and, given the declining readership of the mainstream press it is unlikely to even marginally influence a jury or the judicial officer in charge of a case!

Sub Judice does not stand up to the litmus test of public interest. Like many matters at law, the rules are dragging far behind the times.

150 “Suppression orders which are valid ‘until further order’ can remain in force indefinitely and long after the need for suppression has passed, causing difficulties for journalists who unwittingly breach an order by mentioning a case years after the order was made.”

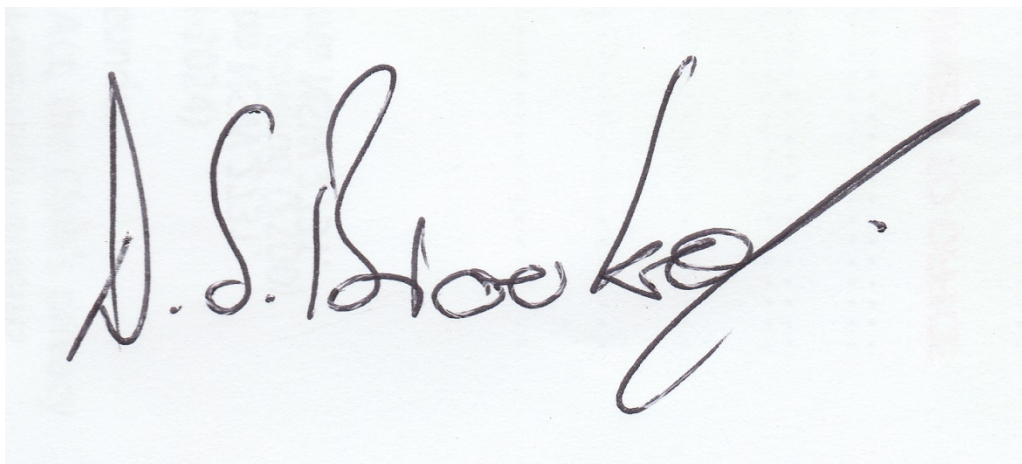
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Suppression Orders should be abolished. There is more than enough secrecy around government without it impinging upon the courts and the people’s right to know!

Scandalising the Court:

What an absurd expression! As I have already pointed out “The court has no body, it has no blood, it has no feeling, it has no conscience. It is purely a paperwork construct.” So who (it has to be a person) is being “scandalised”? Is it one of the Judiciary? Perhaps there should be violins! If it’s the Attorney General we can talk to his Union – with violins. Only the legal profession could possibly expect to be taken seriously with such a description more suitable to the 19th Century or even the 18th Century. Jurisdiction does not extend beyond the Australian shoreline, do you believe it’s possible to stop people reading the New York Times or the Daily Sketch or for people of a certain birth to read the French, Greek or Italian papers?

Does the whole judicial system feel that it is so precious that it needs protecting from every nuance of comment and criticism that can occur in a society such as ours? I suggest it is time for the system to grow up and treat people as people and perhaps, somehow, regain the respect of the citizenry.

A handwritten signature in dark ink on a light background. The signature is written in a cursive style and reads "D. S. Blouke". The letters are connected, and there is a long, sweeping flourish at the end of the word "Blouke".