

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

BACKGROUND

Part 2: Courts and Justice

Section 33: Abolition of scandalising the judiciary as a form of contempt of court

53. Scandalising the Judiciary (also referred to as scandalising the court or scandalising judges) is defined by Halsbury's Laws of England as 'any act done or writing published which is calculated to bring a court or a judge into contempt or lower his authority'.
54. The call to abolish the offence arose when, in March 2012, the Attorney General of Northern Ireland obtained leave to prosecute the Rt Hon Peter Hain MP following comments made in his autobiography about a High Court judge. Although the proceedings were withdrawn, the proposed use of the offence caused considerable disquiet in Parliament and more widely. They were perceived by many as a serious attack on free speech.
55. An amendment tabled by Lord Lester of Herne Hill, to abolish the offence in England and Wales and in Northern Ireland was debated at Lords Committee (Official Report, 2 July 2012, columns 555 to 566) but was withdrawn. The Law Commission subsequently published a consultation paper in August 2012 provisionally concluding that the offence should be abolished without replacement. In November 2012 the Law Commission published a summary of its conclusions, namely that they consider that the retention of the offence serves no practical purpose and accordingly they support its abolition.¹ Their final report in December 2012 confirmed this recommendation.² A further amendment on this issue was tabled at Lords Report stage by Lord Pannick and was agreed by the House (Official Report, 10 December 2012, columns 871 to 876) and now forms section 33 of the Act. In February 2013 the Northern Ireland Assembly considered and accepted an amendment to the Northern Ireland Criminal Justice Bill that would also abolish scandalising in Northern Ireland and that has been enacted as section 12 of the Criminal Justice Act (Northern Ireland) 2013.

¹ <http://lawcommission.justice.gov.uk/consultations/scandalising.htm>

² <http://lawcommission.justice.gov.uk/areas/contempt.htm>