New South Wales
Supreme Court

CITATION :	**Attorney General of NSW v Wilson [2010] NSWSC 1008**
HEARING DATE(S) :	15 July 2010
JUDGMENT DATE :	23 September 2010
JURISDICTION :	COMMON LAW
JUDGMENT OF :	Davies J
DECISION :	(1) Pursuant to s 8(7)(b) Vexatious Proceedings Act 2008 John Wilson is prohibited from instituting proceedings in New South Wales other than with leave of an appropriate court under that Act. (2) Any legal proceedings instituted by John Wilson in any court or tribunal in New South Wales before the date of this order are hereby stayed. (3) Order that John Wilson is not to be allowed to file and is hereby restrained from filing and also from serving any Notice of Motion in any proceedings currently before any court or tribunal in New South Wales, and is not to be allowed to make and is hereby restrained from making any oral application in such proceedings without the leave of a judge of an appropriate court under that Act. (4) The Defendant is to pay the Plaintiff's costs of the proceedings.

CATCHWORDS :	PROCEDURE - application for vexatious proceedings order pursuant to s 8 Vexatious Proceedings Act - whether proceedings are vexatious - whether vexatious proceedings were instituted or conducted frequently - meaning of "frequently".
LEGISLATION CITED :	Dental Practice Act 2001 High Court Rules 1952 Income Tax Assessment Act 1997 (Cth) Supreme Court Act 1970 Supreme Court Rules 1970 Taxation Administration Act 1953 (Cth) Uniform Civil Procedure Rules Vexatious Proceedings Act 2008
CATEGORY :	Principal judgment

CASES CITED :	Attorney General of New South Wales v Croker [2010] NSWSC 942 Attorney General v Bar Mordecai [2005] NSWSC 142 Attorney-General v Ebert (No. 1) [2005] BPIR 1029 Attorney General v Wentworth (1988) 14 NSWLR 481 Attorney-General for the State of Victoria v Weston [2004] VSC 314 Brogden v Attorney-General [2001] NZCA 208; [2001] NZAR 809 Hambleton v Labaj [2010] QSC 124 In Re Boaler [1915] 1 KB 21 Jones v Cusack [1992] HCA 40; (1992) 109 ALR 313; 66 ALJR 815 Matchett v Deputy Commissioner of Taxation; Lattimore v Deputy Commissioner of Taxation (unreported – Supreme Court NSW, O'Keefe J – 23 October 2000) National Australia Bank Limited v Freeman [2006] QSC 086 Re De W Kennedy (Finance) Pty Ltd v Ley (unreported – Supreme Court NSW, Holland J – 29 March 1978) Registrar of the Court of Appeal v Willesee [1984] 2 NSWLR 378
TEXTS CITED :	Nikolas Kirby, "When Rights Cause Injustice: A Critique of the Vexatious Proceedings Act 2008 (NSW)" (2009) 31 SLR 163
PARTIES :	Attorney General of NSW (Plaintiff) John Wilson (Defendant)
FILE NUMBER(S) :	**SC** 2010/49922
COUNSEL :	C Spruce (Plaintiff) In person (Defendant)

SOLICITORS :	Crown Solicitor of NSW (Plaintiff) In person (Defendant)

IN THE SUPREME COURT
OF NEW SOUTH WALES
COMMON LAW DIVISION

DAVIES J

23 SEPTEMBER 2010

2010/49922 ATTORNEY GENERAL OF NSW V WILSON

JUDGMENT

1 The Attorney General of NSW moves by Summons for a vexatious proceedings order pursuant to s 8, *Vexatious Proceedings Act* 2008 in relation to the Defendant, John Wilson. The orders sought are orders envisaged by s 8(7)(a) and s 8(7)(b) that all proceedings instituted by the Defendant before the date of the order be stayed and that the Defendant shall not without the leave of the Court institute any legal proceedings in any court.

2 When the proceedings came before me for hearing, Mr Wilson appeared for himself. He informed me at the outset that the Court had no jurisdiction to do anything, and that the appointment of all judges was fraudulent. Mr Wilson talked over the top of me and of Ms Spruce of counsel, who appeared for the Attorney. On a number of occasions he was warned that he should sit down and be quiet until it was his turn to address the Court. When he refused to do so, I eventually had him removed from the Court. At the time I informed him that if he wished to come back and listen to the case in silence, he should let the Sheriff's Officers know and he would be permitted to return to Court.

3 The matter then proceeded in his absence. Ms Spruce opened the case to me, read the Affidavit in support of the Summons and tendered a number of exhibits. I was then informed, some 14 minutes having elapsed since Mr

Wilson was removed, that he wished to come back into Court. He returned to Court and I said that he was permitted to remain in Court provided that he abided by my directions to be quiet when somebody else was speaking. Mr Wilson continued to argue with me, asserting that the Court had no authority over him. I warned him again a number of times about his behaviour and, eventually, he fell sufficiently silent for Ms Spruce to proceed, although he interjected from time to time. He remained in Court for the rest of the hearing.

4 When Ms Spruce had finished, I called upon Mr Wilson to address me, which he proceeded to do. At the conclusion of his address Ms Spruce indicated that she had nothing in reply, and I reserved my decision in the matter.

The legislative scheme

5 Section 8 relevantly provides:

Making of vexatious proceedings order

(1) **When orders may be made**

An authorised court may make an order under this section (a *vexatious proceedings order*) in relation to a person if the court is satisfied that:

(a) the person has frequently instituted or conducted vexatious proceedings in Australia, or

(b) the person, acting in concert with a person who is subject to a vexatious proceedings order or who is referred to in paragraph (a), has instituted or conducted vexatious proceedings in Australia.

(2) For the purposes of subsection (1), an authorised court may have regard to:

(a) proceedings instituted or conducted in any Australian court or tribunal (including proceedings instituted or conducted before the commencement of this section), and

(b) orders made by any Australian court or tribunal (including orders made before the commencement of this section).

(3) An authorised court must not make a vexatious proceedings order in relation to a person without hearing the person or giving the person an opportunity of being heard.

(4) **Orders may be made on court's own motion or on application**

An authorised court may make a vexatious proceedings order of its own motion or on the application of any of the following persons:

(a) the Attorney General,

...

(7) **Orders that may be made by Supreme Court**

The Supreme Court may make any one or more of the following vexatious proceedings orders in relation to a person:

(a) an order staying all or part of any proceedings in New South Wales already instituted by the person,

(b) an order prohibiting the person from instituting proceedings in New South Wales,

(c) any other order that the Court considers appropriate in relation to the person.

...

6 Section 6 defines ***vexatious proceedings*** as follows:

Meaning of "vexatious proceedings"

In this Act, *vexatious proceedings* includes:

(a) proceedings that are an abuse of the process of a court or tribunal, and

(b) proceedings instituted to harass or annoy, to cause delay or detriment, or for another wrongful purpose, and

(c) proceedings instituted or pursued without reasonable ground, and

(d) proceedings conducted in a way so as to harass or annoy, cause delay or detriment, or achieve another wrongful purpose.

7 Section 4 defines ***proceedings*** as follows:

Meaning of "proceedings"

In this Act, *proceedings* includes:

(a) any cause, matter, action, suit, proceedings, trial, complaint or inquiry of any kind within the jurisdiction of any court or tribunal, and

(b) any proceedings (including any interlocutory proceedings) taken in connection with or incidental to proceedings pending before a court or tribunal, and

(c) any calling into question of a decision, whether or not a final decision, of a court or tribunal, and whether by appeal, challenge, review or in another way.

8 Section 5(1)(a) provides that ***institute*** in relation to proceedings includes:

for civil proceedings—the taking of a step or the making of an application that may be necessary

> before proceedings can be started against or in relation to a party, and ...

Legal principles

9 Under the now repealed s 84 *Supreme Court Act* 1970, what constituted vexatious legal proceedings was not defined. A person would be a vexatious litigant if they habitually and persistently and without any reasonable grounds instituted vexatious legal proceedings, but such a definition contained more than an element of circularity. Roden J grappled with the problem in *Attorney General v Wentworth* (1988) 14 NSWLR 481 and reached conclusions (at 491) that can now be seen to be reflected in the definition provided in s 6 of the present Act.

10 More significantly, once it was determined what were vexatious legal proceedings, it had to be shown under s 84 *Supreme Court Act* that such proceedings were habitually and persistently and without any reasonable ground instituted. By contrast, the present test is a different one in a number of respects. Two matters must be satisfied before an order under s 8 can be made. The first matter is that the person has instituted or conducted vexatious proceedings as defined in s 6.

11 The second matter is that these proceedings must have been instituted or conducted frequently. It would not be sufficient, therefore, to point to the fact that a litigant had instituted even a number of vexatious proceedings. If the adverb “frequently” could not be used in connection with the sum of them, no order can be made under s 8. That is a significant matter because it is a serious thing to deprive litigants of their access to the courts, a right which might be thought to be an inherent right for persons living in a democratic society under the rule of law – see in that regard *In Re Boaler* [1915] 1 KB 21 at 34 and *Re De W Kennedy (Finance) Pty Ltd v Ley* (unreported – Supreme Court NSW, Holland J – 29 March 1978).

12 In *Attorney General of NSW v Croker* [2010] NSWSC 942, Fullerton J seemed to accept, relying particularly on what Roden J said in *Wentworth* (at 492), that the test under s 84 required more than a test that only demanded frequency of instituting proceedings, as for example, Order 63, r 6(1) of the High Court Rules 1952 required. In that regard, it has been held that “frequently”, in that sort of context, is a relative term and had to be looked at in the context of the litigation being considered: *Jones v Cusack* [1992] HCA 40, (1992) 109 ALR 313 at [14]; *National Australia Bank Limited v Freeman* [2006] QSC 086 at [30]; *Hambleton v Labaj* [2010] QSC 124 at [56].

13 It is instructive to see what the understanding of the word “persistently” has been. In *Brogden v Attorney-General* [2001] NZCA 208, [2001] NZAR 809 at [21] it was said:

> A litigant may be said to be persisting in litigating though the number of separate proceedings he or she brings is quite small if those proceedings clearly represent an attempt to re-

> litigate an issue already conclusively determined against that person, particularly if this is accompanied by extravagant or scandalous allegations which the litigant has no prospect of substantiating or justifying. The Court may also take into account the development of a pattern of behaviour involving a failure to accept an inability in law to further challenge decisions in respect of which the appeal process has been exhausted, or attacking a range of defendants drawn into the widening circle of litigation solely because of an association with a defendant against whom a prior proceeding has failed.

14 This test was adopted by Whelan J in *Attorney-General for the State of Victoria v Weston* [2004] VSC 314 at [21]. The important thing to note is that the individual number of proceedings can be quite small but still satisfy the word "persistently" if the proceedings are an attempt to re-litigate an issue already determined against the person. There is no reason to think that such an approach should not be taken in relation to the word "frequently".

15 There are two other significant differences between s 8 and the repealed s 84 *Supreme Court Act*. First, s 84 directed attention to the institution of proceedings only. Section 8, on the other hand, enables the Court to take into account the way the person has conducted vexatious proceedings. That is important on 2 levels. First, because the definition of "proceedings" includes interlocutory proceedings as well as appeals, the Court considering whether or not to make an order under s 8, can have regard to how the person concerned acted within proceedings that were commenced by another party. So, baseless applications or appeals within another party's proceedings would fall within s 8(1)(a).

16 The second aspect to this matter is that the Court can also have regard to the manner in which the person concerned has behaved and conducted himself or herself in proceedings before the Court. For example, repeated oral applications, which themselves have no proper basis, would fall within the meaning of the word "conducted". Further, the manner in which the person speaks or acts in the courtroom is a matter of relevance. This finds support from paragraph (d) in the definition of *vexatious proceedings* in s 6.

17 Secondly, regard may be had to proceedings not only in this Court and "any inferior court" but to proceedings in any Australian court or tribunal: s 8(2). Section 84 concerned itself only with this Court and those below it.

The evidence

18 Ms Spruce read the Affidavit of Danielle Hartman, which chiefly exhibited 6 volumes of material. That material comprised court files in relation to various proceedings in which the Defendant had been involved between 1996 and 2009. It contained pleadings, affidavit evidence, transcripts and judgments for each case.

19 Whilst most of the proceedings were in this Court, a few were in the High

Court and the District Court. As noted above, by virtue of s 8(2) of the Act, all of the proceedings that were put into evidence on the hearing of this Summons were proceedings to which regard could be had in determining whether or not to make an order under s 8.

20 Although Mr Wilson was outside the courtroom when the Affidavit was read and the exhibits were tendered, I informed him what had taken place after he had returned to the courtroom. He confirmed that all of the material had been served upon him. He took no objection to the material itself. Rather, he continued to object to the Court (which he said was not a Court, but merely a corporation) having any jurisdiction over him.

21 I am satisfied that all of the material tendered by the Attorney is admissible.

22 It is necessary to examine the various proceedings commenced by Mr Wilson and proceedings in which he has filed applications and appeared to see if it can be said that these are vexatious proceedings. In many or all of these proceedings orders have been made dismissing or striking out the proceedings or the applications on various grounds, but including grounds identified in Parts 13.4 and 14.28 UCPR. In coming to a view whether such proceedings are vexatious, I can adopt the approach taken by Patten AJ in *Attorney General v Bar Mordecai* [2005] NSWSC 142 at [5], and followed by Fullerton J in *Croker* at [125], namely, that although I need to form my own view about each piece of litigation relied upon by the Attorney General,

> I'm entitled to have regard to the result of the proceedings, and where appropriate, the findings of, and views expressed by, the various judicial officers who dealt with them.

Wilson v St George Bank Limited

23 Mr Wilson filed a Statement of Claim on 4 July 1996 against St George Bank alleging that a loan agreement he had with St George Bank was void because the 7-year loan had a fixed interest rate for 5 years, and thereafter a further interest rate would be established either on the then applicable fixed rate or the applicable variable rate for residential home loans. Mr Wilson alleged that that contract was void for uncertainty. The matter came before Master Greenwood by Notices of Motion filed both by Mr Wilson and the Bank. Master Greenwood determined on 17 September 1996 that there was no basis for Mr Wilson's claim and dismissed the proceedings. It may be inferred from his reference to Part 13 r 5 and Part 15 r 26 Supreme Court Rules 1970 that he found that there was no reasonable cause of action.

24 Mr Wilson appealed to a single judge of the Court. The matter was heard by Hamilton AJ on 30 September 1996, who dismissed the appeal for the reasons given by the Master. Mr Wilson then appealed to the Court of Appeal. On 28 October 1996 the Court of Appeal determined that he needed leave to appeal. It held that he should not be given leave because there was no uncertainty about the contract with St George Bank.

25 Mr Wilson then sought special leave to appeal to the High Court, but on

11 April 1997 leave was refused on the basis that any appeal would not enjoy sufficient prospect of success to warrant the granting of special leave to appeal.

Wilson v ACP Publishing Pty Ltd

26 No doubt arising out of the proceedings against St George Bank, ACP Publishing, the publisher of *The Bulletin*, published an opinion piece by David McNicoll on 17 June 1997, which said this:

> "Wilson must be one of the most determined and loquacious litigants in Australia. Before judges galore, and now Buckingham Palace, he seeks to prove that the word 'variable' means certain, whereas his opponents hold that 'variable' means uncertain".

In fairness to Mr Wilson, this was the opposite of what he sought to prove.

27 Mr Wilson commenced defamation proceedings against ACP on 17 June 1997 alleging that this article defamed him. His first Statement of Claim was struck out by Levine J, who gave him leave to replead, and drew his attention to Part 67 SCR.

28 Mr Wilson filed a Further Statement of Claim on 7 July 1997. ACP brought a Motion to strike out the Further Statement of Claim. On 25 July 1997, Levine J struck out his Further Statement of Claim. He said it was fundamentally flawed in a number of respects. He found it was embarrassing and vexatious.

Wilson v Greenwood & ors

29 On 24 July 1997 Mr Wilson filed a Statement of Claim naming as the defendants all of the judicial officers who had been involved in hearing his claim against St George Bank starting with Master Greenwood and including the 3 High Court judges who heard the special leave application. The pleading says only that he, Mr Wilson, had been the victim of a terrible civil wrong, that all of the members of the judiciary had lied or had been party to lies and that there should be a trial by jury of the matter.

30 The Australian Government Solicitor and the State Crown Solicitor both filed Notices of Motion seeking orders that the proceedings be dismissed. The Motions came on for hearing before Murray AJ, who on 5 September 1997 held that the Statement of Claim disclosed no cause of action known to the law, was vexatious and was an abuse of process of the Court. He held that the Statement of Claim did no more than seek to re-litigate a question, which had been decided against Mr Wilson at every step of the judicial hierarchy.

The Prothonotary v Wilson

31 When Murray AJ handed down his decision, Mr Wilson threw two yellow

paint bombs at him. He was subsequently charged with contempt of court. The Summons for contempt first came before Studdert J where Mr Wilson said that he wanted trial by jury. Studdert J told him that he did not have a right to trial by jury, and he adjourned the matter to enable Mr Wilson to get legal advice.

32 Mr Wilson then filed a Summons in the Court of Appeal on 24 November 1997 asking that proceedings before Studdert J be “terminated” on the grounds, it would seem, that Studdert J had refused Mr Wilson a trial by jury.

33 On the same day, he filed a Notice of Motion in the Common Law Division seeking to stay the contempt proceedings until the appeal to the Court of Appeal had been determined. On 3 December 1997 Dunford J dismissed Mr Wilson’s application, it would seem, on the basis that it was well established that proceedings for contempt were not heard by a jury and that, contrary to Mr Wilson’s submission, s 80 of the Constitution was not relevant.

34 On 19 December 1997 the Court of Appeal dismissed what it regarded as an application for leave to appeal by Mr Wilson from Studdert J’s decision without offering any reasons therefor. Since, however, the Notice of Appeal had relied on s 80, it can reasonably be inferred that the leave to appeal application was dismissed on the basis that the appeal had no prospects of success.

35 Thereafter, on 23 January 1998 Mr Wilson filed a Notice of Motion for leave to file a requisition for trial by jury. His Affidavit in support relied upon Magna Carta and s 80. On 9 February 1998 he filed a requisition for trial by jury, which also made reference to Magna Carta and s 80.

36 The Notice of Motion was heard by Hidden J on 13 February 1998 and on this occasion (unlike any prior occasion) Mr Wilson was represented by a lawyer.

37 On 16 March 1998 Hidden J found that:

> For the same reason that Dunford J refused to grant a stay, *Willesee* [*Registrar of the Court of Appeal v Willesee* [1984] 2 NSWLR 378] is clear authority for the proposition that trial by jury for contempt is obsolete and that summary trial is now the normal procedure.

38 On 17 March 1998 Mr Wilson filed a Notice of Appeal to the Court of Appeal against the judgment of Hidden J. On 25 May 1998 he filed a Notice of Motion in the Court of Appeal seemingly asking to be able to file a requisition for trial by jury.

39 On 10 June 1998 he filed a Summons for Leave to Appeal against the judgment of Hidden J. On 26 June 1998 he filed another Notice of Motion in the Court of Appeal seeking leave to file a requisition for trial by jury to try the application for leave to appeal.

40 On 6 July 1998 Registrar Jupp dismissed Mr Wilson's Notice of Motion for a jury trial in the Court of Appeal on his Leave to Appeal application.

41 Mr Wilson's application for leave to appeal against Hidden J's judgment came before a 2-bench Court of Appeal on 24 August 1998. The Court of Appeal dismissed Mr Wilson's application for leave to appeal principally on the basis that *Willesee* established that there is no right to trial by jury in contempt cases.

42 On 11 September 1998 Mr Wilson filed an application for special leave to appeal to the High Court. The application was heard by Gaudron and Callinan JJ on 16 April 1999. They held that s 80 had no application and that the decision of the Court of Appeal was correct.

43 Notwithstanding what the Court of Appeal and the High Court had said, Mr Wilson filed a further Notice of Motion in the Common Law Division on 19 August 1999 seeking leave to file a requisition for trial by jury. This time his Affidavit based his application on art 14 of the United Nation's *International Covenant on Civil and Political Rights*.

44 That Motion came before Sully J, who dismissed the application on 6 September 1999. He said that the application Mr Wilson brought was "in every sense the same as the application dealt with successively by Hidden J, by the Court of Appeal and by the High Court". He made reference to Mr Wilson's reliance on the *ICCPR*, but went on to say that his submissions in that regard were "wholly and transparently without merit either in law or in fact". He said that the application before him was not supported by any submission of substance differing from submissions, which had previously been put on the earlier application.

45 On 23 September 1999 Mr Wilson filed a Summons for Leave to Appeal to the Court of Appeal against the decision of Sully J. In response to that Summons the Prothonotary filed a Notice of Motion in the Court of Appeal seeking an order that the Summons for Leave to Appeal be dismissed on the basis that the question of whether Mr Wilson was entitled to a jury had already been determined by the Court of Appeal.

46 On 21 October 1999 Mr Wilson filed a Notice of Motion seeking to vacate the hearing date of the contempt Summons to allow him to proceed with his application for leave to appeal to the Court of Appeal that he had filed on 23 September 1999.

47 That Motion came before Smart AJ on 1 November 1999. Smart AJ dismissed the application saying it seemed to him that the matter had been authoritatively determined by the High Court of Australia.

48 The Summons for contempt was heard by Wood CJ at CL on 9 November 1999 and his Honour found the contempt proved and convicted Mr Wilson on the 2 counts. His Honour then heard submissions on sentence, and imposed a sentence of a fixed term of 2 years imprisonment commencing on that day. Mr Wilson then obtained solicitors to act for him. They filed a Notice of Appeal against his convictions and against the sentence that was

imposed.

49 In the meantime the Summons for Leave filed by Mr Wilson on 23 September 1999 came on for hearing in the Court of Appeal by a bench comprising Meagher, Sheller and Heydon JJA. In a judgment delivered by Sheller JA on 23 February 2000 he said:

> In my opinion, in light of the decisions of Hidden J, this Court and the High Court … the present application for leave to appeal is a proceeding which can be appropriately described as one amounting to an abuse of the process of the Court. I am quite satisfied, for that reason, the Court may order that the proceedings be dismissed.

50 On 29 February 2000 the Court of Appeal (Sheller and Heydon JJA, Meagher JA dissenting) quashed the sentence and in lieu sentenced Mr Wilson to a term of imprisonment of 3 months and 20 days commencing 9 November 1999. Mr Wilson was thereupon released.

Wilson v St George Bank (No 2)

51 On 18 March 1999 Mr Wilson commenced new proceedings against St George Bank, in effect, challenging the costs order made by the Court in the previous proceedings. From what appeared in the Statement of Claim, he was challenging the decision of Master Greenwood, subsequently upheld (as he noted) by Hamilton AJ, the Court of Appeal and the High Court.

52 On 18 March 1999 Mr Wilson filed a Notice of Motion in the proceedings seeking what he described as a prohibitive injunction under s 66 *Supreme Court Act* to restrain St George Bank from exercising its power of sale in respect of his loan account. This Motion came on for hearing before Grove J on 6 April 1999, but on that day the Bank provided a letter to Mr Wilson and the Court saying that they would not take any steps to obtain possession without notice to Mr Wilson until the proceedings were determined.

53 Before Grove J heard that Motion, on 26 March 1999 Mr Wilson filed a Notice of Motion for leave to file a requisition for trial by jury. On 27 April 1999 St George Bank filed a Notice of Motion to strike out the Statement of Claim and for summary dismissal of the proceedings. The Motions were heard by Bell J who on 6 May 1999 found that the Statement of Claim did not disclose any valid cause of action and that no material facts were pleaded in the Statement of Claim to give rise to a tenable cause of action. Accordingly, her Honour summarily dismissed the proceedings under Part 13, r 5, SCR. As a consequential order, her Honour dismissed Mr Wilson's Notice of Motion.

St George Bank v Wilson

54 These were proceedings by the Bank claiming possession of land pursuant to a mortgage of 13 September 1995 arising out of a breach of a loan agreement, said to be dated 14 October 1998. However, the number of the loan account appears to be the same as the loan challenged by Mr

Wilson in the proceedings he commenced on 4 July 1996 (para 23 above). Mr Wilson's defence consisted largely of a complaint about the judgments of Master Greenwood and the other judges up to and including the High Court Judges, and asserted fraudulent activities on the part of the Bank.

55 On about 25 May 1999 Mr Wilson filed a Motion for leave to file a requisition for trial by jury. This Motion was supported by an Affidavit in almost identical terms to earlier affidavits concerning requests for trial by jury and involved assertions that Magna Carta guaranteed such right, and that Australian judges were corrupt and were parties to fraudulent activities by the banks.

56 On 21 July 1999 the Bank filed a Notice of Motion seeking summary judgment. Both that Motion and Mr Wilson's Motion for a trial by jury were heard by Simpson J on 4 August 1999. During the course of the hearing before Simpson J, Mr Wilson made an oral application that there should be a jury to hear the Motion by the Bank for summary judgment. Simpson J dismissed that application.

57 On 30 November 1999 Simpson J gave summary judgment for the Bank. In the course of that judgment, she pointed out that the substance of the defence Mr Wilson pleaded was the same issue that had been determined against him by Master Greenwood as upheld by the other judges up to and including the High Court.

Wilson v St George Bank (No 3)

58 On 28 December 2000 Mr Wilson filed a Statement of Claim against St George Bank and the State of New South Wales. It is clear from an examination of that very brief document that it was an attempt to claim compensation of $5 million for what was said to be the wrong decision of Simpson J in giving summary judgment to the Bank. It appears that Mr Wilson made application to the vacation judge (Hulme J) for an early return date for his Notice of Motion in the proceedings seeking a stay of Simpson J's order. Hulme J refused the application saying that he was not satisfied on the evidence before him that there was any point in shortening the time for the return of the Notice of Motion.

59 Mr Wilson then made a further application on the following day to Hulme J. Mr Wilson read a further Affidavit in support of the application. Hulme J dismissed the application saying that none of the further matters put forward by Mr Wilson provided evidence which would be of any use in support of his Notice of Motion.

60 It appears that Mr Wilson then filed his Notice of Motion and was given a return date of 26 February 2001.

61 However, on 11 January 2001 Mr Wilson applied to the vacation judge (then Sully J) seeking a stay of Simpson J's order until his Notice of Motion was heard. Sully J made enquiries and ascertained that the Sheriff had already taken possession of Mr Wilson's property. In those circumstances,

Sully J said that there was nothing he was able to do.

62 On 16 January 2001 Mr Wilson filed a requisition for trial by jury in the proceedings and a Notice to Set Down for Trial by Jury.

63 Mr Wilson's Notice of Motion for a stay of Simpson J's order came before Hulme J on 26 February 2001. Mr Wilson applied for Hulme J to disqualify himself. From what Mr Wilson said during the hearing, Hulme J discerned 3 bases upon which disqualification was sought. The first was that Hulme J had refused Mr Wilson's applications for an early date for his Notice of Motion on 28 and 29 December 2000. Secondly, Mr Wilson asserted Hulme J had been antagonistic towards him on those occasions. Thirdly, Mr Wilson complained that the State of New South Wales paid Hulme J's salary and he, Mr Wilson, was suing the State of New South Wales in the proceedings.

64 Hulme J refused the application on all grounds. Mr Wilson then said he intended to appeal Hulme J's decision and, shortly afterwards, left the courtroom. Hulme J proceeded to hear the application of the Defendant to dismiss Mr Wilson's Motion for a stay. Hulme J dismissed the Motion for the same reasons that Sully J had given for refusing the stay, namely, that the Writ had been executed.

65 On 6 March 2001 Mr Wilson filed another Notice to Set Down for Trial by Jury. He filed an Affidavit at the same time annexing various documents alleging fraud and corruption on the part of the Bank and the judges of the Court.

66 On 10 April 2001 the State of New South Wales filed a Motion for summary dismissal of the proceedings.

67 The Notice of Motion was heard by Adams J who delivered judgment on 19 July 2001. His Honour struck out the Statement of Claim and said that the Affidavits read by Mr Wilson on the application demonstrated that his complaints against Simpson J had no basis in fact, let alone law.

68 On 1 August 2001 Mr Wilson filed a Summons for Leave to Appeal to the Court of Appeal against the order of Adams J. In his summary of argument, Mr Wilson alleged that Adams J had acted in bad faith and that his judgment was deceitful, unlawful and malicious. The argument also put forward the submission that the Motion ought to have been heard by a jury.

69 The Summons was heard by Priestley and Stein JJA on 16 November 2001. They held that Mr Wilson's chances of succeeding on appeal were so slim that there was no point in granting leave to appeal.

70 On 6 December 2001 Mr Wilson filed an application for special leave to appeal to the High Court. His summary of argument contained the same arguments that he had put forward earlier in these proceedings and in the prior proceedings, although in some greater detail. They included such matters as his right to trial by jury and the corruption of the judiciary. The special leave application was heard on 14 February 2003 by Gummow and Callinan JJ who refused special leave, saying that there was no reason to

doubt the correctness of the decision reached by the Court of Appeal.

Deputy Commissioner of Taxation v Wilson

71 On 16 March 2000 the Deputy Commission of Taxation commenced proceedings in the District Court of Parramatta claiming $48,621.18, being income tax, instalments of provisional tax and additional charges for late payment of the other amounts. On 10 April 2000, Mr Wilson filed his Defence alleging that the method of levying the tax was wrong, and that the relevant laws were invalid. He claimed hardship and claimed the right to trial by jury.

72 On 17 October 2000 he filed a Notice of Cross-Claim against the Deputy Commissioner of Taxation and added the Commonwealth of Australia and State of New South Wales as Cross-Defendants. The Cross-Claim included his complaints about the case Master Greenwood heard and the appeals from that decision. It also asserted that the *Income Tax Assessment Act* 1997 (Cth) was invalid because a law made by the Crown of the United Kingdom of Great Britain and Ireland was and ought to have been made by the Legislature, said to mean the King. He claimed $5 million in unliquidated damages by reason of the claim of the Deputy Commissioner of Taxation.

73 He also filed a requisition for trial by jury on the same day.

74 Subsequently, the Registrar of the District Court rejected these documents because they had been filed out of time without leave. Mr Wilson attempted to re-file them on 2 subsequent occasions. Eventually, the Registrar informed Mr Wilson that he was not permitted to file a cross-claim without the leave of the Court.

75 On 30 November 2000 Mr Wilson commenced proceedings in the Common Law Division of this Court against the State of New South Wales complaining about the fact that the Registrar of the District Court rejected his documents. He asked relief by way of certiorari and mandamus requiring the District Court to perform its duty by reinstating his Cross-Claim.

76 On the same day, he filed a requisition for trial by jury in those proceedings. On 12 December 2000, he filed a Notice to Set Down for Trial by Jury and a Notice of Motion for expedition.

77 In the meantime, on 5 December 2000 the Deputy Commissioner of Taxation filed a Notice of Motion in the District Court proceedings seeking summary judgment.

78 On 14 February 2001 the State of New South Wales filed a Motion for summary dismissal of the Supreme Court proceedings, or in the alternative, for a stay by reason of there being an abuse of process.

79 The matter came for hearing before Adams J on 19 July 2001. Mr Wilson asked for a trial by jury, which was refused by Adams J. He then asked for an adjournment on the basis that he was exhausted and emotionally distraught by what Adams J had done in a previous case involving Mr Wilson

(see para 67 above). The adjournment was granted.

80 The Defendant's Notice of Motion to strike out the Statement of Claim eventually came on for hearing before Dunford J on 8 October 2001. Mr Wilson asserted that Dunford J had no jurisdiction because he was sitting without a jury.

81 Dunford J gave judgment that day in which he said that the proceedings were completely misconceived. He said the proceedings were also improperly constituted because the proper parties, including the Deputy Commissioner of Taxation and the District Court, had not been joined as defendants. He found that no reasonable cause of action or ground for mandamus or certiorari was disclosed, and he was satisfied that the proceedings were an abuse of process. Accordingly, he dismissed the proceedings.

82 On 23 January 2002 Mr Wilson filed a Notice of Motion in the District Court asking that his Cross-Claim be reinstated.

83 On 20 February 2002 Mr Wilson filed a Motion seeking orders that the Court be constituted by a judge and jury, and that the jury be properly informed of its responsibilities.

84 On 10 April 2002 Mr Wilson requisitioned for a Grand Jury.

85 These 3 motions, together with the Motion of the Deputy Commissioner for summary judgment, came before Judge Delaney of the District Court on 24 April 2002.

86 Judge Delaney first considered at length but rejected Mr Wilson's Motion that the motions had to be heard by a jury. He then dismissed Mr Wilson's Motion seeking a Grand Jury on the basis that no such jury was available in the District Court. He then considered Mr Wilson's Motion to file a Cross-Claim out of time. He said that most of the matters raised by the Cross-Claim had already been determined in the Supreme Court, and that general matters raised concerning the validity of laws had been dealt with in the Federal and the High Courts. He noted that the Cross-Claim claimed $5 million which was well beyond the jurisdiction of the District Court. In those circumstances, his Honour refused the relief sought in that Motion.

87 Finally, Judge Delaney dealt with the Deputy Commissioner's Motion seeking summary judgment. At this point Mr Wilson absented himself from the Court because of the previous judgment which Judge Delaney delivered in relation to his right to have his Cross-Claim reinstated.

88 Judge Delaney said that he considered the matters raised by Mr Wilson in his Defence to the Deputy Commissioner's claim had been dealt with in other Courts and in particular, the judgment of O'Keefe J in *Matchett v Deputy Commissioner of Taxation; Lattimore v Deputy Commissioner of Taxation* (unreported – Supreme Court NSW, O'Keefe J – 23 October 2000). In those circumstances, his Honour struck out the Defence and gave judgment for the Plaintiff.

89 On 11 July 2002 Mr Wilson filed a Summons for Leave to Appeal to the Court of Appeal, having earlier on 15 May 2002 filed a Holding Summons for Leave to Appeal. In a brief judgment of 30 September 2002, Handley and Hodgson JJA said that the four judgments by Judge Delaney were correct for the reasons he had given. Accordingly, they dismissed the Summons for Leave to Appeal.

90 On 17 October 2002 Mr Wilson filed an application for special leave to appeal in the High Court. The application was heard by Kirby and Heydon JJ. Special leave was refused. Kirby J held that the points which Mr Wilson raised were without merit and they had been raised to avoid paying his taxes in accordance with the law. No error was shown in the orders of the Court below.

91 The Deputy Commissioner sought costs on an indemnity basis. This was because Mr Wilson had advanced the same arguments concerning trial by jury as he had advanced on 2 previous occasions in the High Court on special leave applications. The High Court agreed, saying that the contentions were without legal merit and that other litigants deserved protection from futile claims of the same kind.

Wilson v the State of New South Wales

92 On 11 April 2000 Mr Wilson commenced proceedings against the State of New South Wales saying that he had been treated unlawfully by being imprisoned on 2 occasions from 26 to 28 September 1997 and from 9 November 1999 to 29 February 2000. It is to be noted that the second period referred to was the period that Mr Wilson was jailed for contempt of court by throwing the paint bombs at Murray AJ. He sought compensation of $5 million. On the same day, he filed a requisition for trial by jury.

93 On 17 May 2000 the Defendant applied to dismiss the proceedings on the grounds that no reasonable cause of action was disclosed, that the proceedings were frivolous or vexatious and that they constituted an abuse of the process of the Court. On 27 July 2000, he filed a Notice to Set Down for Trial by Jury.

94 On 10 August 2000 Mr Wilson filed a Notice of Motion for expedition of the proceedings and that the case be set down for trial generally by a jury.

95 The Notice of Motion came on for hearing before Sully J. Mr Wilson claimed that the Court had no jurisdiction to deal with the Notice of Motion because he was asserting he had been wrongly imprisoned as a consequence of decisions of judges of the Court. The only way, he said, that he could properly be tried was by a jury. Sully J said that there was no serious basis upon which it could be contended that the Court did not have jurisdiction to deal the Notice of Motion. He overruled Mr Wilson’s preliminary objection.

96 On 27 December 2000 Mr Wilson filed a Summons for Leave to Appeal to the Court of Appeal against Sully J’s decision in that regard. The Summons

was heard by Meagher and Handley JJA. Initially, Mr Wilson asked each of them to disqualify themselves for bias, but they declined to do so. They then heard the Summons for Leave to Appeal but dismissed it on the basis that they could discover no error in Sully J's judgment. Mr Wilson immediately announced that he would be appealing to the High Court.

97 On 30 May 2001 Mr Wilson filed an application for special leave to appeal in the High Court. The grounds were said to include the constitutionality of laws, the right to trial by jury and the abuses of the processes of the Court. The application was heard by McHugh and Callinan JJ. They dismissed the application saying that there were no grounds for thinking that the Court of Appeal was wrong.

98 On 13 December 2001 Mr Wilson filed a Notice of Motion in the proceedings asking for an injunction under s 70 of the *Supreme Court Act* to prevent any Judge or Master assigned to deal with the case from acting until he or she produced the warrant by which he or she claimed jurisdiction to determine any part of the case without a jury.

99 That Motion and the Defendant's Motion to dismiss the proceedings (filed in May 2000) came on hearing before Hidden J. His Honour dismissed Mr Wilson's Motion on the basis that the issue had already been agitated before Sully J, and Sully J had found against Mr Wilson. Hidden J also dismissed Mr Wilson's proceedings on the basis that the Statement of Claim had no prospects of success because it was based upon the claimed right to a jury trial for the contempt proceedings, which had already been decided against Mr Wilson.

Wilson v The Honourable Robert Carr MP

100 On 14 January 2002 Mr Wilson filed a Summons in the Common Law Division of this Court against the Honourable Robert John Carr MP seeking declarations that Mr Carr was guilty of treason and treachery in removing the Governor from Government House and from advising the Governor to give Royal Assent to legislation which took away the common right to trial by jury. The Summons also sought orders that the Defendant be punished for such treason and treachery.

101 The Crown Solicitor, acting for Mr Carr, filed a Motion on 18 February 2002 seeking that the proceedings be dismissed. The matter came before Grove J on that day. Mr Wilson sought to file a requisition for trial by jury but Grove J would not accept it. Grove J then held that the proceedings were entirely misconceived, that there was no possible merit in the Summons and that there was no possible prospect of the relief sought being granted. In those circumstances, Grove J dismissed the proceedings.

Wilson v State Electoral Office

102 Mr Wilson was fined $50 plus court and professional costs by Magistrate Garbett on 15 October 2003 for failing to vote at the 2003 State general election. On 3 November 2003, Mr Wilson filed a Summons in the Common

Law Division of this Court against the State Electoral Office asking that the order of the Magistrate be set aside and seeking an order that the matter be set down for trial by jury. Subsequently, Mr Wilson filed an Amended Summons naming the State of New South Wales as the Second Defendant.

103 On 11 December 2003, the State of New South Wales moved to have the Amended Summons dismissed.

104 The Motion came on for hearing before Adams J on 17 March 2004. Adams J found that it was clear beyond demonstration that the Affidavit of the Plaintiff in support of the Amended Summons expressed no valid ground for the relief sought, and that the proceedings were vexatious. In those circumstances, his Honour dismissed the Amended Summons and ordered Mr Wilson to pay the costs of the Motion.

105 Subsequently, a judgment in the sum of $5,683.32 was filed in relation to the costs order. In June 2006, a Writ for Levy of Property and a Notice of Motion for Levy of Property were filed. Leave to issue the Writ was granted on 27 June 2006. The Sheriff wrote to Mr Wilson on 3 August 2006 in relation to the seizure of property. That letter prompted the next set of proceedings.

Wilson v NSW Sheriff

106 On 10 August 2006 Mr Wilson filed a Statement of Claim in this Court as a result of the letter from the Sheriff concerning the seizure of property to satisfy the judgment for costs. The Statement of Claim also asked for “relief by a jury” because the costs were not awarded by a jury. Once again, he made a claim for compensation of $5 million. The State of New South Wales was also sued on the basis that it was vicariously liable for the acts of the Sheriff. An Affidavit filed at the same time contained the usual submissions that caught up passages from the Bible with Magna Carta and various other pieces of legislation that Mr Wilson asserts guarantees him trial by jury for every sort of legal proceeding.

107 On 14 August 2006 the Crown Solicitor acting for the Defendants filed a Motion seeking that the Statement of Claim be dismissed.

108 This Notice of Motion was heard by Grove J, along with 2 similar Notices of Motion concerning another litigant in person, Mr Eric Jury, who had brought proceedings against the Sheriff and the State of New South Wales.

109 Mr Wilson made his usual submissions that Grove J had no authority to hear the applications because there was no jury present, and also because he had never been validly appointed as a Judge. Grove J overruled those preliminary objections.

110 His Honour then dealt with the Defendant’s Notices of Motion in circumstances of great difficulty (as the transcript discloses) because whilst he was delivering his judgment, Mr Wilson constantly spoke over the top of him (as he had done when I heard the present matter) and personally abused the Judge. Grove J held, however, that the assertions in the Statement of Claim put forward by Mr Wilson were doomed to failure and

had no prospects of success. In those circumstances, he dismissed the proceedings.

Wilson v Dental Board of New South Wales

111 Mr Wilson was the subject of a consumer complaint to the Dental Board made by a former patient who alleged that a crown fitted by Mr Wilson was inadequate. The complaint was referred to the Dental Care Assessment Committee, who under the provisions of the *Dentists Act* 1989 recommended to the Board that Mr Wilson refund the fee for the crown. Mr Wilson failed to do so. An appointment was made for Mr Wilson to meet with the Dental Board pursuant to s 53(1)(e) of the *Dental Practice Act* 2001 on 5 November 2004.

112 On that day, Mr Wilson filed a Statement of Claim in the Supreme Court naming the Dental Board of New South Wales and the State of New South Wales as Defendants. The Statement of Claim raised yet again the assertion that Mr Wilson was entitled to a jury but also asserted that Professor Marie Bashir AC was never validly appointed as the Governor and that that meant that the *Dental Practice Act* 2001 to which she had given her assent as Governor was illegitimate legislation. On this occasion, Mr Wilson claimed $25 million, a five-fold increase on earlier claims for compensation made.

113 The Crown Solicitor acting on behalf of both Defendants brought a Notice of Motion to dismiss the proceedings. The Notice of Motion ultimately came before Simpson J on 9 March 2005. Mr Wilson’s behaviour was such that he was removed from the Court at the Judge’s direction on 2 occasions.

114 Simpson J determined that the purported Statement of Claim was incomprehensible, disclosed no reasonable cause of action, and even on its most liberal reading contained no statement of any questions of law or fact for determination by the Court. She held that it was vexatious, frivolous and an abuse of the proceedings of the Court, and she struck it out.

Wilson v Crown Solicitor

115 On 29 June 2006 Mr Wilson filed a Statement of Claim in the Court naming the Crown Solicitor as the Defendant. The Statement of Claim complained of what took place before Simpson J, asserting because there was no jury, the Court had no jurisdiction to determine the Motion. On this occasion, he only asked for $5 million in compensation.

116 On 18 July 2006 the Defendant applied to have the proceedings dismissed.

117 The Motion came before Adams J on 24 July 2006. Mr Wilson again insisted on pressing his application for a jury to hear the Motion, an application which Adams J dismissed. Adams J then said that is was manifest that the Statement of Claim disclosed no cause of action and was an abuse of process. The proceedings were dismissed and Mr Wilson was ordered to pay costs.

Wilson v State Debt Recovery Office

118 On 19 October 2005 Mr Wilson was found guilty in the Local Court of 4 alleged offences under the *Taxation Administration Act* 1953 (Cth) for failing to lodge tax returns for the years ending 30 June 2001, 2002, 2003 and 2004. Mr Wilson was fined $400 and ordered to pay court costs of $65 within 28 days. He was also ordered under s 8G *Taxation Administration Act* to file and lodge his tax returns by 19 December 2005. When Mr Wilson did not pay the fine or costs, it seems that he was served with a Notice of Suspension of Licence by the State Debt Recovery Office.

119 On 13 April 2006 Mr Wilson commenced proceedings in this Court against the State Debt Recovery Office and the State of New South Wales in relation to his conviction in the Local Court for the tax offences and in relation to the issue of the Notice of Suspension. The complaint was the usual one that he had been denied a trial by jury and that, therefore, the Local Court had no jurisdiction. On this occasion, he claimed compensation of $100 million.

120 On 9 May 2006 the Defendants filed a Notice of Motion seeking that the proceedings be dismissed. On the return date of that Notice of Motion, 19 May 2006, Mr Wilson filed a requisition for trial by jury.

121 The Defendants' Motion came on for hearing before Adams J on 24 July 2006 (presumably heard at the same time as the Motion referred to in para 117 above). Mr Wilson made the usual application for a trial by jury in relation to the Motion. This was rejected by Adams J who then went on to determine that the Statement of Claim raised no possible cause of action and should be dismissed with costs.

122 On 14 August 2006 Mr Wilson filed a Holding Summons for Leave to Appeal to the Court of Appeal against the judgment of Adams J. The written submissions filed by Mr Wilson contained the usual mix of biblical references, Magna Carta and other legislation that Mr Wilson said justified his right to a jury, and the usual pseudo-philosophical analysis of what the law and justice was supposed to be about.

123 It seems clear that a Summons for Leave to Appeal must subsequently have been filed because that came before Mason P and Tobias JA on 4 April 2007. Because s 78B Notices had to be served (by reason of what Mr Wilson had raised), the matter was adjourned for a few weeks. The matter was then dealt with and judgment delivered on 24 April 2007. The Summons was dismissed with costs, seemingly, for the reasons that Adams J had given in relation to the Notice of Motion.

Wilson v GIO

124 On 29 November 2006 GIO commenced proceedings against Mr Wilson seeking payment of worker's compensation insurance in the sum of $563.93 plus costs. On 22 February 2007 default judgment was entered against Mr

Wilson in North Sydney Local Court in the sum of $1389.60. On 19 March 2007 a Writ of Levy of Property issued in the sum of $1389.60. On 27 June 2007 GIO filed a Notice of Motion seeking that the Court authorise the Sheriff to enter the premises of Mr Wilson for the purposes of executing the Writ of Levy of Property. On 16 August 2007, the Sheriff issued a Notice of Seizure which notified Mr Wilson that the Sheriff was authorised to seize a Toyota RAV4 white four-wheel-drive vehicle.

125 That led Mr Wilson to file a Summons in the Common Law Division of this Court naming as Defendants GIO General Limited, Local Court of New South Wales, Parliament of New South Wales, Sheriff of New South Wales and State of New South Wales. The claim, in essence, was that because there was no jury in the Local Court, the judgment was illegal and void, and everything flowing from it was illegal and void. The Parliament was said to be responsible for passing legislation which permitted the Magistrate to sit at the Local Court. On this occasion, Mr Wilson claimed $150 million damages which included exemplary damages.

126 On 11 September 2007 the Defendants filed Notices of Motion seeking to dismiss the proceedings. The Motions were heard by Harrison AsJ who delivered a reserved judgment on 14 December 2007. Her Honour said that the Plaintiff's Summons was untenable, was an abuse of process of the Court and could not be cured by amendment. In those circumstances, she dismissed the Summons with costs.

Wilson v Hatzistergos

127 On 17 October 2007 Mr Wilson filed a Statement of Claim in this Court against the Attorney General, Mr Hatzistergos, and the Crown Solicitor, Mr Knight. This Statement of Claim arose from demands that had been made by the State Crown for Mr Wilson to remove from his website copies of transcripts of proceedings, on the basis that the Crown was the owner of the copyright, and no permission had been obtained by Mr Wilson to post those transcripts.

128 The Statement of Claim alleged a conspiracy to perpetrate a fraud to censor illegally and to intimidate Mr Wilson.

129 The Defendants filed a Motion on 30 November 2007 seeking orders that the proceedings be dismissed. Before that Motion came on for hearing, Mr Wilson filed a Motion on 1 February 2008 for the empanelment of a special jury to determine the jurisdiction of the Court.

130 The Motions came on for hearing before Adams J on 8 March 2008. Mr Wilson conducted the proceedings in the usual fashion which involved him talking over the top of the Judge and making insulting submissions. He was eventually removed from the courtroom. He was given the opportunity to return if he was prepared to remain silent but he refused and was again removed.

131 Adams J held that the relief claimed in the Statement of Claim was

impossible to obtain by the law of New South Wales. He held that it disclosed no reasonable cause of action and was manifestly frivolous and vexatious. He struck it out with an order for costs.

Wilson v State of New South Wales (No 2)

132 On 4 September 2008 Mr Wilson filed a Summons in this Court naming the State of New South Wales as the Defendant. The only relief sought was that a jury adjudge that Mr Wilson had been unlawfully arrested and imprisoned and that it award him $150 million in damages. The Affidavit in support referred to an arrest by 2 police officers on 20 August 2008.

133 When the Summons was mentioned on 15 September 2008, Mr Wilson was ordered to file a Statement of Claim by 10 October 2008, and in the event of default, the Defendant was permitted to file a motion to have the proceedings dismissed.

134 Mr Wilson did not file the Statement of Claim and on 14 October 2008 the Defendant filed a Notice of Motion to have the proceedings dismissed. That Motion came before Hislop J who ordered that the proceedings be stayed until Mr Wilson filed and served the Statement of Claim. In the absence of the filing and serving of that Claim by 5 February 2009, the Defendant was permitted to apply to have the proceedings dismissed.

135 On 18 November 2008 Mr Wilson filed a Statement of Claim. When Mr Wilson did not supply particulars as he was directed by the Registrar to do, the Defendant filed a Notice of Motion to dismiss the proceedings on 11 March 2009.

136 The Motion came before Adams J on 11 May 2009. Adams J noted that Mr Wilson simply made speeches about trial by jury and asserted that he (Adams J) could not hear the application. Once again, because he would not remain silent, Adams J had him removed from the courtroom. He then held that the Defendant had overwhelmingly established its right to the order dismissing the proceedings. He dismissed the proceedings with costs.

Were these vexatious proceedings?

137 I have approached this matter with some care because there was no real contradictor to the Attorney’s claims. Although, as I have said, Mr Wilson addressed me after the evidence had been led, he did not address the issue whether or not the proceedings he had brought, and the applications he had made, were vexatious proceedings.

138 He started his address by referring to Magna Carta and then addressed on the dispute he was having with St George Bank in 1996 about the words “variable” and “uncertain”. I suggested to him it would help me if he could give me some reason why he should not be declared a vexatious litigant, but he said he did not have to justify anything to me. He said I had no authority, and that there was a conspiracy between the banks and the judges to enable banks to steal and obtain money by fraud.

139 In an endeavour to find anything that may be of assistance to Mr Wilson I had regard to a very helpful article in the Sydney Law Review entitled "When Rights Cause Injustice: A Critique of the *Vexatious Proceedings Act* 2008 (NSW)" by Nikolas Kirby (2009) 31 SLR 163. This article provides an informed and interesting critique of the present legislation and suggests some alternative approaches to the acknowledged problem of vexatious litigants.

140 In particular, the article suggests a more flexible and targeted remedy which might require a discontinuance and prevention of new proceedings against a specific party and perhaps other agents collaterally involved in those proceedings (see at 178). I have also had regard to the proposition that vexatious litigants are simply a part of the cost of democracy, and that the economic and social costs of attempting to exclude litigants from the system is very high with the prospects of the effectiveness of that exclusion being low (see at 174-175).

141 I have examined all of the court process filed by Mr Wilson in the proceedings that I have detailed above. Even if I had not had the benefit of the various judgments to which I have referred, I would have had no doubt that with the exception of one application for expedition by Mr Wilson in the High Court (which was not opposed), and his appeal against his sentence for contempt, the remainder of his claims and applications were either an abuse of the process of the Court, were frivolous and vexatious, or disclose no reasonable cause of action. I am fortified in this view by the judgments delivered and the outcomes of Mr Wilson's proceedings and applications.

142 Many of the proceedings he commenced, and most of the applications he made, were attempts to re-litigate matters which had already been determined against him, and sometimes on many occasions. In particular, his claim that he was entitled to trial by jury for the determination of motions filed was made time and again, sometimes even to the same judge, when the matter had been determined against him. The matter is particularly highlighted in the proceedings where the High Court granted an indemnity costs order because Mr Wilson was raising for the third time before the High Court matters which it had already determined against him.

143 All of the proceedings commenced by Mr Wilson constituted an abuse of the process of the Court concerned and were instituted and pursued without reasonable ground. Applications that he made both in his own proceedings and in proceedings commenced against him seeking trial by jury, particularly for the hearing of notices of motion, were an abuse of process of the Court and were pursued without reasonable ground.

144 Further, Mr Wilson's behaviour in Court before many of the Judges was behaviour that harassed, annoyed, caused delay and detriments both to the Judge concerned, counsel for the opposing party and for the administration of justice generally. The transcripts of hearings before the various individual judges in particular, but also in the Court of Appeal and in the High Court, demonstrate that Mr Wilson was often rude, overbearing and offensive in

the way he conducted himself. On many occasions, he was removed from the courtrooms by the Judges concerned, as I was forced to do in the present proceedings. No other course was possible because Mr Wilson would not remain silent when other people were speaking and were entitled to speak.

145 The proceedings which Mr Wilson himself commenced were all vexatious proceedings within the meaning of paragraphs (a), (c) and (d) of the definition in s 6. Applications which Mr Wilson made in proceedings commenced against him were vexatious proceedings within the meaning of those paragraphs. The applications for leave to appeal to the Court of Appeal (except his appeal against his sentence for contempt) and the applications for special leave to appeal to the High Court were vexatious proceedings within the meaning of those paragraphs.

Were they instituted or conducted frequently?

146 Between 4 July 1996 and 17 October 2007 Mr Wilson commenced 14 sets of proceedings in the Court. When it is considered that the majority of individuals in our community would never institute legal proceedings, and those that do would ordinarily have a need to do so once or twice in their lives, commencing 14 separate Supreme Court actions in 11 years can be said to be the institution of proceedings "frequently". That conclusion receives some support from the decision of Toohey J in *Jones v Cusack* 66 ALJR 815 where he held that 2 summonses and 3 notices of motion in 6 years "readily answer that description" (at 816).

147 In the light of the fact that most of the proceedings instituted by Mr Wilson derived from his dissatisfaction with the result in his first claim against St George Bank, the approach in *Brogden v Attorney-General* (followed in *Attorney-General for the State of Victoria v Weston*) that the number of proceedings can be quite small if those proceedings attempt to re-litigate matters already determined against the claimant is applicable when determining whether proceedings have been instituted "frequently".

148 If all the notices of motion filed by Mr Wilson even in his own proceedings are added, let alone those which he filed in proceedings commenced against him, I have no doubt that the requirement for the frequent institution of proceedings is satisfied.

What orders should be made?

149 It will be recalled that an alternative approach suggested by Nikolas Kirby in his article in the Sydney Law Review was a limited order that prevented litigation against a specific party. Whilst that approach has much to commend it where one particular party is the focus of the litigant's attention, it does not seem to me that such a limited order would be appropriate in the light of Mr Wilson's litigation history. His original source of complaint was the St George Bank. However, what flowed from his dissatisfaction with the result in that case was the joinder of the State of NSW (on a number of occasions) and also other public officials including

judges for which both the Commonwealth and State Crown Solicitors were obliged to step in. Mr Wilson has not confined his proceedings and applications to either the St George Bank or the State of NSW. Any order that restricted him against those 2 parties would be an inadequate response in the light of the history of his litigation.

150 Moreover, it is apparent that whenever legitimate proceedings are brought against him (e.g. claims by the Deputy Commissioner of Taxation) his response to an adverse outcome is to bring unmeritorious proceedings against any person or body he sees as responsible for that outcome. That normally involves public officials but it is difficult to predict in advance who they will be.

151 I do not think it can be seriously suggested that no order at all should be made against Mr Wilson on the basis that his proceedings are the price the community must pay for enabling citizens to have open access to justice and the courts. It is quite appropriate to have regard to the waste of "scarce and valuable judicial resources … on barren and misconceived litigation, to the detriment of other litigants with real cases to try": *Attorney General v Ebert (No. 1)* [2005] BPIR 1029 at [50].

152 An examination of the litigation with which Mr Wilson has been involved gives some idea of the time and resources that have had to be devoted to dealing with Mr Wilson's frivolous and unmeritorious proceedings and applications.

153 In my opinion, the only appropriate orders to make are orders that embrace what appear in s 5(7)(a) and (b), and an ancillary order to prevent applications and appeals within existing proceedings. I endeavoured to ascertain from Mr Wilson if he had any current proceedings in this Court but he answered only by telling me that the Supreme Court was not a Court. He did not answer further questions I put to him asking what other proceedings he had on foot anywhere in any court.

154 Accordingly, I make the following orders:

> (1) Pursuant to s 8(7)(b) *Vexatious Proceedings Act* 2008 John Wilson is prohibited from instituting proceedings in New South Wales other than with leave of an appropriate court under that Act.
>
> (2) Any legal proceedings instituted by John Wilson in any court or tribunal in New South Wales before the date of this order are hereby stayed.
>
> (3) Order that John Wilson is not to be allowed to file and is hereby restrained from filing and also from serving any Notice of Motion in any proceedings currently before any court or tribunal in New South Wales, and is not to be allowed to make and is hereby restrained from making any oral application in such proceedings without the leave of a judge of an appropriate court under that Act.

(4) The Defendant is to pay the Plaintiff’s costs of the proceedings.

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