

IN THE FEDERAL COURT OF AUSTRALIA)
GENERAL DIVISION)
No. QP 598 of 1996
BANKRUPTCY DISTRICT OF THE)
STATE OF QUEENSLAND)

RE: ALAN GEORGE SKYRING

EX PARTE: AUSTRALIA AND NEW ZEALAND BANKING
GROUP LIMITED

MINUTES OF ORDER

JUDGE MAKING ORDER: Spender J

DATE OF ORDER: 9 December 1996

WHERE MADE: Brisbane

THE COURT ORDERS THAT:

1. A sequestration order be made against the estate of Alan George Skyring,
2. The costs of and incidental to the petition, including reserved costs, be taxed and paid in accordance with the *Bankruptcy Act 1966*.

NOTE: Settlement and entry of orders is dealt with in Rule 124 of the *Bankruptcy Rules*.

IN THE FEDERAL COURT OF AUSTRALIA)
GENERAL DIVISION)
No. QP598 of 1996
BANKRUPTCY DISTRICT OF THE)
STATE OF QUEENSLAND)

RE: ALAN GEORGE SKYRING

EX PARTE: AUSTRALIA AND NEW ZEALAND BANKING
GROUP LIMITED

CORAM: Spender J
DATE: 9 December 1996
PLACE: Brisbane

REASONS FOR JUDGMENT

This is a contested creditor's petition brought against Alan George Skyring. The act of bankruptcy on which the petitioning creditor, the Australian and New Zealand Banking Group Limited ('the bank'), relies is that under s 40(1)(d)(ii) of the *Bankruptcy Act 1966* ('the Act'), namely, that execution has been executed against the debtor under process of a Court and has been returned unsatisfied.

The extensive material filed on behalf of the petitioning creditor is not the subject of any factual dispute by Mr Skyring, who appears for himself. The contentions that he wishes to make in answer to the petition I will have to deal with in a little detail later. The factual material on behalf of the bank indicates that a number of costs orders have been obtained by the bank against Mr Skyring. Those costs orders form the basis for a number of writs of execution. The affidavit of Alexander Raymond Hams filed on 22 October 1998 indicates that on 30 August 1996, when Mr Hams was Acting Sheriff of Queensland, he caused a number of writs, which are specified more particularly in paragraphs 4 to 9 of the petition, to be returned unsatisfied. He deposes that the statements contained in those paragraphs of the creditor's petition dated 30 August 1996 are true.

As I say, the factual basis of the bank's petition has not been challenged. What Mr Skyring submits, however, is that at the root of the bank's claim are fundamental misunderstandings and fundamental illegalities in relation to the currency system and the financial system in this country.

A number of the actions leading to the costs orders which in turn led to the writs of *feri facias*, which in turn led to the act of bankruptcy and then to the petition, are claims by Mr Skyring that the bank failed in its lawful obligation to pay to Mr Skyring, in exchange for bills of exchange presented to the bank, legal tender which Mr Skyring asserts, pursuant to s 16 of the [Currency Act 1965](#), requires payment in gold coins of a denomination greater than \$25.

In a series of letters now going back more than ten years, Mr Skyring has indicated to the bank that failure to comply with that request, namely, to make payment in gold coins of a denomination greater than \$25, will be treated by him as non-payment on demand, as a dishonour. He unsuccessfully brought a number of proceedings seeking to vindicate that claim, leading to the costs orders which are at the root of the present petition against him.

As litigation in, amongst other courts, the Supreme Court of Queensland, the Queensland Court of Appeal, the Federal Court of Australia, the Full Court of the Federal Court of Australia, before single judges of the High Court and before Full Courts of the High Court, demonstrates, Mr Skyring's views as to the lawfulness of the currency system has been extensively canvassed.

On 5 April 1995, her Honour Justice White of the Supreme Court of Queensland declared Mr Skyring to be a vexatious litigant, pursuant to s 3 of the *Vexatious Litigants Act* 1981 (Queensland). In the course of reaching her conclusion to make that declaration, her Honour considered, and set out as a schedule to her reasons for judgement, extensive litigation commenced or in which Mr Skyring was concerned, in the Supreme Court of Queensland.

Toohey J in *Jones v Skyring* (1992) 66 ALJR 810, on the application of the then Registrar of the High Court of Australia, made an order pursuant to O 63 r 6 of the *High Court Rules* ordering that Mr Skyring "*not, without the leave of the Court or a Justice begin any action, appeal or other proceeding in the [High] Court.*"

In the course of making an order in those terms, (which was made on 27 August 1992), Toohey J reviewed the extensive litigation conducted by Mr Skyring in the High Court of Australia. At page 811 his Honour, having referred to some of the matters in the High Court, noted:

" *To anticipate what is to follow, it is fair to say that the aim of all subsequent proceedings brought or attempted to be brought by Mr Skyring has been to debate the correctness of Deane J's conclusions.* "

The reference to Deane J's conclusions is a reference to the judgment by his Honour of 6 February 1985.

Mr Skyring submitted again before me that Deane J's conclusion in that case is wrong, but he accepts that the summary of the contentions that he wished to argue then, and persists in arguing now, is accurately summarised in his Honour's judgment. His Honour's reasons are reported in *Re Skyring's application (No. 2)* (1985) 59 ALJR 561.

It is helpful, in the light of Mr Skyring's statement as to the accuracy of Deane J's summary of his contentions, if I set out how his Honour recorded those contentions. At 561 his Honour said:

" The overall attack remains one upon the Australian financial system and, to some extent, the Australian legal system. The objective of the attack is to obtain a general review and reform of the law of those areas. There are, however, two particular matters which emerged in the course of Mr Skyring's oral submissions to which I should make specific reference. These are:

1 A submission that the combined effect of a number of sections of the *Constitution* is to erect a barrier against the issue by the Commonwealth of paper money as legal tender. The sections of the *Constitution* upon which particular reliance is placed are ss 51(xii), 51(xiii) and 51(xvi), and 115. Mr Skyring also referred to s 105 and 105A. Additionally, reference was made to the provisions of the *Currency Act 1965 (Cth)* dealing with coins. The argument, if accepted, would result in the invalidity of s 36(1) the *Reserve Bank Act 1959 (Cth)* which provides that 'Australian notes are a legal tender throughout Australia'.

2 The basis upon which Mr Skyring seeks relief against "the Judge of the Federal Court," is alleged error by Spender J of the Federal Court of Australia in proceedings in the Federal Court by Mr Skyring against the Commissioner of Patents and Telecom Australia. As I followed Mr Skyring's oral submissions, the error into which Spender J is said to have fallen is a failure to accept the argument referred to in 1 above. "

Later, at the foot of the same page, his Honour said:

" I have come to a clear conclusion that there is no substance in the argument that there is a constitutional bar against the issue by the Commonwealth of paper money as legal tender. Nor in my view, would there be any substance in an argument that the provisions of s 36(1) of the *Reserve Bank Act 1959* are invalidated or over-ruled by the provisions of the *Currency Act 1965*. That being so, I am unpersuaded that there is any substance in the proposed proceedings against Spender J, nor am I persuaded that proceedings by certiorari against Spender J would in any event be appropriate. "

Later proceedings in the High Court are reported, touching on the currency question and Mr Skyring's view of it. Without in any way trying to be exhaustive, I refer to a decision of Gaudron J in *Re Skyring* (1990) 64 ALJR 461; a decision of Mason CJ [as he then was] in *Alan George Skyring v The Commissioner of Taxation* (1991) 12 LR 19; *Re Skyring* (1994) 68 ALJR 618; and

finally to the most recent High Court judgment, that of Kirby J, in *Re: Attorney-General (Cth); Ex parte Skyring* (1996) 70 ALJR 321. That judgment, given on 26 February 1996, recites at 321:

" *For some years Mr Skyring, with obvious sincerity, has been agitating an opinion that it is beyond the constitutional power of the Federal Parliament to legislate to make paper money, as distinct from gold, legal tender in this country. "*

His Honour concluded on the following page:

" *Unfortunately for Mr Skyring it is my view that his arguments were effectively rejected in 1985. They were rejected by Deane J in the first case of the series. His Honour's judgment was affirmed by the Full Court of this Court in the second judgment of the series. That rejection was applied by Toohey J in the third case. It was assumed by Dawson J in the fourth. Mr Skyring argues that that judgment of the Full Court of this Court was merely interlocutory and did not finally dispose of the merits of his application. However, if that judgment is considered, it indicates fairly clearly, in my opinion, that the Full Court of this Court considered that there was no legal merit in the points being argued. That certainly was the view which Toohey J took of the holding of the Full Court of this Court when it came to consider the matter in 1992. See *Jones v Skyring* (1992) 66 ALJR 810 at 813. It was also the view taken by the Court of Appeal of Queensland in 1994. "*

Later, in the course then of his reasons his Honour referred to the order of White J declaring Mr Skyring to be a vexatious litigant in the Supreme Court of Queensland.

There is an error in the report of his Honour's reasons for judgment at 322. At 322, right-hand column letter C, referring to the application to Justice White in the Supreme Court of Queensland for Mr Skyring to be declared a vexatious litigant, his Honour said:

" *The application to have him declared a vexatious litigant was brought at the request of the Australia and New Zealand Banking Corporation. The proceedings name Spender J of the Federal Court of Australia as a party. This was done presumably*

because of earlier connected proceedings brought by Mr Skyring against Telecom, heard by her Honour. However, the essence of the proceeding appears to be a challenge to the decision of the Queensland Court of Appeal affirming the earlier determination of White J declaring Mr Skyring to be a vexatious litigant... " [emphasis added]

To the best of my knowledge, information and belief, I am and always have been male.

In the submissions made before me today, Mr Skyring again asserts that Sir William Deane was wrong in the decision he gave in 1985, and that that error has been perpetuated in the various revisitings of the fundamental problem ever since. In his affidavit filed on 6 December, Mr Skyring said in paragraph 5:

" *It is this much deeper seated problem which I now DEMAND be addressed in a PROPER manner by this Court, and that I be accorded forthwith, the relief to which I am CONSTITUTIONALLY QUITE PROPERLY ENTITLED, but which I have nevertheless been quite improperly denied for so long, plainly as the consequence of the mindless adherence, by so many Officers of this Court, among others, to the quite spurious interpretations that have been put on the INTERLOCUTORY judgments which I obtained in the High Court of Australia on this matter over a decade ago now, and the wrongful action based thereon. "*

I ought for completeness refer to what Mr Skyring says in paragraph 6(c) of that affidavit, namely:

" *As pointed up in s 13 of my affidavit of 25th November, 1996, it seems to me that 'The Establishment', at the Commonwealth level of the national administration at least, seems NOT YET to have 'come to grips' with the 'very nasty' idea that NO MEMBER OF THE COMMONWEALTH LEGISLATURE - 'MINISTERS OF THE CROWN' AT ALL LEVELS INCLUDED, SINCE THEY ONLY GET TO HOLD SUCH OFFICE THROUGH HAVING BEEN ELECTED TO ONE OR OTHER HOUSE OF THE LEGISLATURE - HAS BEEN PROPERLY ELECTED SINCE THE ELECTION FOLLOWING THE WITHDRAWAL FROM CIRCULATION OF THE NATION'S GOLD CURRENCY IN 1931, for want of having made the requisite 'nomination deposit' in the required form, as detailed in the aforesaid s 13 of my affidavit. "*

And later in that same paragraph he says:

" *The necessary consequence HAS TO BE, therefore, that AS A STRICT MATTER OF CONSTITUTIONAL LAW THE MINISTER OF THE DAY WAS INDEED NOT PROPERLY INSTALLED, AND ACCORDINGLY WAS 'ACTING BEYOND HIS CONSTITUTIONAL WARRANT' REGARDLESS OF WHAT 'ORDERS' HE MAY HAVE GIVEN in 1989 when that 'charter' was granted...."*

His penultimate paragraph of that affidavit reads:

" My Claim is made as well for the Queen as for myself, and is made with a view to instituting formal process to remedy long-standing defects in respect of the manner in which the State and Commonwealth's affairs generally, but the financial and legal aspects thereof in particular, are conducted. "

In the light of the statements at the highest levels in the court system concerning the claims that Mr Skyring persists in making concerning the currency question, I pointed out my position in the hierarchy and my obligations as I see them in relation to those judgments.

Mr Skyring, while acknowledging something of merit in those aspects, contended that I should adjourn the petition so as to permit him to approach the High Court for writs of prohibition and *certiorari*. I will not do that. I see myself bound by decisions of the highest authority, which require the rejection of Mr Skyring's claims concerning what might be compendiously called "*the currency question*".

Mr Skyring has indicated that, should I not adjourn the matter, he will pursue writs of prohibition and *certiorari* against me. I will have to endure that consequence with as much fortitude as I can muster.

Many judges have referred to the sincerity and persistence with which Mr Skyring has pursued this question, but I have to say for myself that it is getting somewhat tiresome. It has been authoritatively determined against him.

In the circumstances of the present petition, I am satisfied of the matters of which the Act requires proof.

I note that Paul Desmond Sweeney, a registered trustee, has consented to act as trustee in the event that Mr Skyring becomes bankrupt.

I make a sequestration order against the estate of Alan George Skyring and order that the costs of and incidental to this petition, including reserved costs, be taxed and paid in accordance with the Act.

*I certify that this and the preceding nine (9) pages are
a true copy of the reasons for judgment herein of
the Honourable Justice Spender.*

Associate

Date: 9 December 1996

The debtor appeared for himself.

Solicitors for the creditor : Gadens Ridgeway

Date of Hearing : 9 December 1996