Office of the Registry
Brisbane No B106 of 1996

In the matter of -

An application by ALAN GEORGE SKYRING for leave to file an application for writs of certiorari and mandamus

GAUDRON J

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(In Chambers)

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TRANSCRIPT OF PROCEEDINGS

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AT SYDNEY ON FRIDAY, 3 MAY 1996, AT 9.39 AM

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MR A.G. SKYRING appeared in person.

HER HONOUR: Yes, Mr Skyring.

MR SKYRING: Now, this matter also is associated with the same general problem. In this particular occasion in the judgment by Justice Kirby attention focused very specifically on this Order 63 rule 6 which is the order which I was required to satisfy to have a mandamus and certiorari against previous lower court judgments brought. Now, he focused attention on the matter of this order that had been made against me but he thought it was most unusual and I, from the general tenor of his remarks, got the impression as to whether or not it was in fact proper.

In my main application on this one, I did focus attention on the Law Report to which my attention was drawn in 1992 when this application to have me declared a vexatious litigant at first instance was made and that was the Law Report going back to 1943 when these particular provisions were written into the High Court Rules. Now, from that report which I noticed at the time a certain similarity of the subject matter which I had been seeking to raise, which is the connection between money, banking and taxation, is essentially the same argument that I got on to some 50 years later. Although I had been aware that there had been a challenge to the matter - - -

HER HONOUR: Ten minutes in this case too you only have.

MR SKYRING: Okay, all right. So, again, what became apparent here, when I read through that report, taking rather closer scrutiny on the basis of what both Justice Toohey's comments initially at the hearing as to whether I took objection to it and, indeed, Justice Kirby's effort when he focused attention on it as well, the bit that caught my attention was in respect of the way the order was originally written that while a litigant may appear, as I do now, against whom such an order might be made, what upset me and seems to me as terribly wrong was the statement that leave may not be granted if it is proven there is no abuse of process involved in the application sought to be instituted and there is bona fide ground for the issue of the process.

Now, that seems to me to fly in the face of everything that the judicial system in this country is supposed to stand for. If process is correct, it ought to be allowed to proceed. Now, here was a case wherein obviously a very sensitive matter had been raised. Because of the way the matter originally came up - and there are striking parallels with the subject matter I have been ultimately seeking to litigate - it was brought up in a way that made it extremely difficult for the courts to deal with. I have got on to an approach, I think, which I believe is the proper one which would allow not only judicial process but the parliamentary process itself to be allowed to operate but, nevertheless, I am having this order pulled against me in the way that it was originally framed, that is, to preclude even a proper action being brought.

Now, although that particular rule now has been changed from "if" to "unless" so it reads properly that if you are a vexatious litigant you cannot get up "unless it is proven", I believe I have satisfied the "unless" requirements of the order as it now stands but the problem is that I am lumbered with this vexatious connotation which seems to provoke a whole lot of reactions that the fact that you are so stigmatised, presumably rightly, then you cannot get up. Now, in my case, I say here I have been stigmatised quite improperly.

HER HONOUR: Yes. That is not an issue in this case. The issue is only whether you should have leave to issue writs of mandamus and certiorari.

MR SKYRING: Right. Again, the process - - -

HER HONOUR: And that depends on the merits of the application.

MR SKYRING: Right. Now, the merits of the application, again: the essential point here is that what is sought to be raised again or what I am seeking to put in train was the application that I originally brought on before Justice Deane way back in 1985. That was initially an application for certiorari which sought to have matters determined. The parties who should have fronted at that one never did front. A judgment was given. This is why I have always maintained that is an interlocutory judgment, and that process needs to be completed properly which it has never been done. This whole stand-off has been worked to the great detriment of the nation as a whole, quite apart from me personally.

So, again, when one looks very closely at the judgments themselves, they are not final. It is therefore entirely proper that process should be continued which is what I am seeking to do. The matter has now been broadened and also, in the intervening years, the argument has been brought down a lot more definitively as to what the problem is and how to deal with it. Now, again, what seems to be happening: there seems to be no grasp on the other side of what the real problem is and so I am stuck in the bind where I seem to be the subject of what the psychiatrists refer to as "projection" wherein I have the weaknesses of others projected on to me as though it is my weakness and I become the scapegoat, so called, so things do not get up because I am barred.

Now, the fact of the matter is: I believe I have presented a very good argument to show where the problems are; what the answer is that would be to the real benefit of this nation and, again, that process ought to be allowed to run. Now, because Justice Kirby denied me that, although he did focus attention on what has been the fly in the ointment, I have attacked that problem seeking to have that lot set aside to allow the process to be done.

So, the electoral petition was brought up as another facet that will allow attention to be focused on that and that would seem to be a precursor which would allow the matter to be broached to say, "Look, there is a very definitive problem here. It needs to be got at at a much higher level" and then the intention then was to invoke the mandamus and certiorari which would allow the essential problem, which I see essentially as an accounting problem. Although I have come at it as a currency problem, it is essentially an accounting problem because of the way the books are kept which are related to these other forms of money, and this is where the difficulty lies. The accounting problem arises because we have no standard for value of money in this nation, which is what our currency is supposed to provide and that is where the difficulty arises. This is what those in power do not seem to grasp, that that is where the problem is and that is what needs to be addressed. Yet no one will, and this is what I am seeking to do.

So, again, I say leave ought to issue in this case. Again, it is being denied because of this quite fallacious declaration of me as a vexatious litigant which precludes my taking action when it is not properly applied in my case and I ought to be free to be able to bring the actions to allow the Court to function as it should in the interests of the nation. So, I say, leave ought to be granted. Thank you, your Honour.

HER HONOUR: This is an application by Mr Skyring who has been declared a vexatious litigant. He seeks leave to issue process, being an application for writs of mandamus and certiorari directed to Justice Kirby of this Court. That application arises out of the refusal of Justice Kirby to grant leave to issue process in three separate proceedings in which Mr Skyring wishes to agitate, once again, the proposition that the Constitution mandates gold coin rather than paper money as legal tender. Perhaps the argument is now confined to transactions which involve larger amounts of money.

Whether or not the argument has been so confined, it is entirely without merit and has been so held by this Court on numerous occasions.

The proceedings which Mr Skyring sought the leave of Justice Kirby to institute were clearly frivolous. The application was properly refused. This application must also be refused. The Court will now adjourn.

AT 9.48 AM THE MATTER WAS CONCLUDED