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IN THE HIGH COURT OF AUSTRALIA

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Office of the Registry
Brisbane No B19 of 1990

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In the matter of -

An application by ALAN GEORGE SKYRING for leave to file an electoral
petition

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 9.30 AM

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MR A.G. SKYRING appeared in person.

HER HONOUR: Before you commence, Mr Skyring, you have 10 minutes and 10 minutes only.

MR SKYRING: Right, your Honour. I make this application because of the order of Justice Toohey in 1992 by which I was declared to be a vexatious litigant. In respect of any action I take it has to be by leave of the Court or a Judge. So that is how the matter comes up in this form.

HER HONOUR: What form does it come up in?

MR SKYRING: I have presented the petition under the 1990 number which

HER HONOUR: You cannot do that.

MR SKYRING: My basis on seeking to do that, your Honour, was the ruling that was given by Justice Dawson in respect of that application in June 1990 wherein the matter was adjourned to Canberra to a date to be fixed. Now, I did try very hard during the ensuing three years to have that matter brought on and I was unsuccessful. I therefore stood again in the 1993 election on the same basis as I had done in 1990 and again sought to have the matter brought on. I encountered difficulties again on this Order 63 rule 6 order which had, in the interim, been made against me. I was unable to overcome that in respect of the electoral petition, although I had been working on it in other directions.

So as complementary to these matters, which is the subject of my second application this morning

HER HONOUR: Ten minutes was in respect to your first application.

MR SKYRING: Yes. I will just mention that I had put this electoral petition in again because the subject matter is the same. I sought to put it in on the old number because I saw it as a continuation of that. Now, if it has to be filed under a new number, all right, so be it. I thought I ought to raise the matter because there was a continuity aspect.

HER HONOUR: Mr Skyring, not only can it not be filed under the 1990 matter clearly, because it is a challenge to the 1996 election, there is no basis for its being filed at all. It seeks to agitate matters which you have agitated in - which have been found against you in this Court on numerous occasions.

MR SKYRING: The short fact is, your Honour, while the matters have been raised - and I do not deny that - there is the small matter of final judgments requiring to be given before the whole process that has been invoked against me can be properly invoked against me. Now, it is my contention that this matter which is central to all of my actions has been raised, true, but final judgment has not been given, determining the rights of the parties. In this instance, it happens to be the rights of the very Crown itself in respect of the currency. I get caught up in this.

Now, because a final judgment has never been given, although everybody says it has, but if you look at the judgments and you compare the statutes, there are enormous gaps that just do not add up. So the fact is that the final judgment has not been given. It is therefore entirely proper that the matter be persisted with until such time as that final judgment is given.

Now, it is in this vein that I bring this action and, indeed, in respect to this 63 rule 6 order that has been made against me, having had cause now to consider very closely the background conditions of that, I am firmly of the view that that order - as indeed I have always been - was wrongly made against me in the first instance, which requires me to have to go through this exercise because, as was pointed up in *Oceanic Sun Line Shipping Company v Fay*, which was a case which I got from the Attorney-General's Office on my appeal against that declaration at first instance, the essential requirement for a vexatious litigant is that he persists with an action knowing that there is no proper basis for action or has not the wit to grasp that there is no basis for action.

Now, it is my submission that neither of those matters apply in my case. I was therefore wrongly declared, which was why I appealed it and, indeed, if one looks at the judgment on that one, it is a very non-committal judgment. Although the matter was not overturned as I believe it should have been, because of the complexities of the matters that I have got into, it is clearly - there had to be a lot more argument, and that I have provided over the intervening years. Now, where the situation has got to now is I think it is pretty clear that the statutes as they stand are not being met, particularly in respect of the currency which, as I say, involves the rights of the Crown, this applies even in respect to the legislature itself where these matters seem not to be understood, and the whole problem is that if anybody is a vexatious litigant, I believe it is the other side in this, which is the established order, because what I seem to be having used against me is the very judicial process itself which is denying me my entitlements and that amounts to massive oppression. Oppressions is also defined in that case cited above.

So it seems to me that now this general oppression has worked in the way that it did, that the matter

HER HONOUR: Mr Skyring, I am not interested in anything other than whether you should have leave. I am not interested - you have got minutes only and

MR SKYRING: My point is that I am saying that leave ought to be granted because the basis on which it has been denied in the past arises from wrongful applications of statutes which themselves become highly suspect when one looks closely at this, and it is my contention that in this instance leave ought to be granted because I am not properly declared to be a vexatious litigant. I do not satisfy the requirements; therefore I should not have that lot put on me. That is what I am seeking to have overturned in my second application. This one is associated with that. The purpose of this is to allow this whole crucial matter of the currency as it affects the legislature to be broached in a matter that will allow the matter to be properly dealt with in a way that has never happened before in the history of this nation from what I can see of it.

In such situation, for leave to be denied itself constitutes a massive denial of justice on the part of the Court, which is contrary to the whole way the place is supposed to operate, as I perceive it, and I think a lot of other people perceive it as well. It all comes about because of these misconstrued ideas that matters have been finally determined when plainly they have not been. So in such a situation it is, I believe, quite wrong that leave should be denied. That is the essence of the argument, your Honour.

HER HONOUR: Thank you. That is the first matter.

This is an application to re-list proceedings under the *Commonwealth Electoral Act 1918 (Cth)* challenging the election of Mr Moore as the Member for Ryan in the 1990 federal election. By this course, Mr Skyring seeks to file an electoral petition with respect to the 1996 election, again challenging the return of the Member for Ryan on the ground that he did not, whereas the applicant did, lodge a deposit in gold coin. In this way Mr Skyring seeks to re-agitate a proposition which has been rejected by this Court on numerous occasions, namely that the constitution mandates gold coin rather than paper money as legal tender.

The application is clearly frivolous. It is refused.

Call the second matter.

AT 9.39 AM THE MATTER WAS CONCLUDED