IN THE HIGH COURT OF AUSTRALIA

Office of the Registry
Brisbane No B102 of 1996

In the matter of -

An application for Writs of Certiorari and Mandamus against the ATTORNEY-GENERAL OF THE COMMONWEALTH OF AUSTRALIA, HON. M. LAVARCH

First Respondent

COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS, MR M. ROZENES

Second Respondent

Ex parte -

ALAN GEORGE SKYRING, B.E., M.I.E. AUST, Chartered Engineer (Aust.)

Office of the Registry
Brisbane No B103 of 1996

In the matter of -

An application for Writs of Certiorari and Mandamus against the ATTORNEYGENERAL FOR THE COMMONWEALTH OF AUSTRALIA, HON. M. LAVARCH

First Respondent

MINISTER FOR FINANCE OF THE COMMONWEALTH OF AUSTRALIA, HON. K. BEASLEY

Second Respondent

TREASURER OF THE COMMONWEALTH OF AUSTRALIA, HON. R. WILLIS

Third Respondent

MINISTER FOR COMMUNICATIONS OF THE COMMONWEALTH OF AUSTRALIA, HON. M. LEE

Fourth Respondent

SECRETARY OF THE TREASURY, MR E. EVANS

-

Fifth Respondent

GOVERNOR, RESERVE BANK OF AUSTRALIA,
MR B. FRASER

-

Sixth Respondent

COMMISSIONER OF TAXATION OF THE
COMMONWEALTH OF AUSTRALIA,
MR M. CARMODY

-

Seventh Respondent

THE JUDGE OF THE FEDERAL COURT OF
AUSTRALIA, BRISBANE, HIS HONOUR
MR JUSTICE SPENDER

-

Eighth Respondent

Ex parte -

ALAN GEORGE SKYRING, B.E., M.I.E. AUST,
Chartered Engineer (Aust.)

-

Office of the Registry
Brisbane No B105 of 1996

In the matter of -

An application for Writs of Certiorari and Mandamus against the ATTORNEYG ENERAL FOR THE COMMONWEALTH OF AUSTRALIA,
HON. M. LAVARCH

-

First Respondent

MINISTER FOR FINANCE OF THE COMMONWEALTH OF AUSTRALIA,
HON. K. BEASLEY

-

Second Respondent

TREASURER OF THE COMMONWEALTH OF AUSTRALIA, HON. R. WILLIS

-

Third Respondent

MINISTER FOR COMMUNICATIONS OF THE COMMONWEALTH OF AUSTRALIA, HON. M. LEE

-

Fourth Respondent

SECRETARY OF THE TREASURY, MR E. EVANS

-

Fifth Respondent

GOVERNOR, RESERVE BANK OF AUSTRALIA, MR B. FRASER

-

Sixth Respondent

COMMISSIONER OF TAXATION OF THE COMMONWEALTH OF AUSTRALIA, MR M. CARMODY

-

Seventh Respondent

THE JUDGE OF THE FEDERAL COURT OF AUSTRALIA, BRISBANE, HIS HONOUR MR JUSTICE SPENDER

-

Eighth Respondent

Ex parte -

ALAN GEORGE SKYRING, B.E., M.I.E. AUST, Chartered Engineer (Aust.)

-

Applications for leave to begin proceedings

-

-

KIRBY J

-

(In Chambers)

-

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TRANSCRIPT OF PROCEEDINGS

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AT SYDNEY ON MONDAY, 26 FEBRUARY 1996, AT 10.00 AM

HIS HONOUR: Mr Skyring, you are appearing for yourself?

MR A.G. SKYRING: Yes, your Honour.

HIS HONOUR: This matter has come before me because orders were previously made by Justice Toohey which limit your commencement of proceedings without the leave of the Court.

MR SKYRING: Yes, your Honour, that is the situation as I understand it.

HIS HONOUR: And the purpose of the application is to secure that leave.

MR SKYRING: Basically, yes, your Honour.

HIS HONOUR: Could you just explain to me the differences between the three proceedings that you are bringing.

MR SKYRING: The first one, which was B102, which was against the Attorney-General and the Director of Public Prosecutions, to list the two of them, arises from the Queensland Court of Appeal determination refusing my appeal against the decision of the District Court in Queensland convicting me for defacing paper money which was allegedly lawfully current.

HIS HONOUR: Yes. Where do I find the decision of the Queensland Court of Appeal.

MR SKYRING: That I have included in the main affidavit, your Honour.

HIS HONOUR: I found the earlier one, that is to say the application for leave to appeal out of time from the order of Justice Dowsett. That was in civil proceedings.

MR SKYRING: Perhaps if I go through the formal procedure, your Honour. I would read my affidavit of 9 August 1995 with exhibits A, B and C.

HIS HONOUR: Is that common to each of them or separate to 102?

MR SKYRING: No, that is the main part or the main application which I seek to have brought up on the mandamus and certiorari. Now, the leave to institute proceedings is also - I would read also my affidavit of 9 August all of these were done together. Now, this is

HIS HONOUR: The affidavit of 9 August is a two-page document, is that correct?

MR SKYRING: No, there is the summons which is two pages. The affidavit itself actually runs to some 16 pages. That is the one actually seeking leave.

HIS HONOUR: There appear to be two affidavits in the file. One is a twopage affidavit.

MR SKYRING: Just a moment.

HIS HONOUR: Perhaps I can show you the two-page affidavit. That is dated 9 August 1995. I will just show you that document.

MR SKYRING: When I was speaking to Mr Miller when he was going through the document he indicated

HIS HONOUR: I do have the longer affidavit. That is to say the one

MR SKYRING: No, what this one is, that is the actual affidavit to issue the order.

HIS HONOUR: I understand. Very well. The one I have to concentrate on in the application for leave to proceed is the 16-page affidavit.

MR SKYRING: Yes, that is the one which runs with exhibits basically A to

HIS HONOUR: I have that and you read that. Thank you. That is in 102.

MR SKYRING: Yes, your Honour.

HIS HONOUR: Very well. I will mark that on the front of the affidavit. Yes.

MR SKYRING: Now, the next one was - I read my affidavits of 18 August. That is the principal affidavit which is the one again to bring up the writs.

HIS HONOUR: Which one is that?

MR SKYRING: This is for B103 which is against the Attorney-General, the Minister for Finance and others, there are about six of them.

HIS HONOUR: How many pages is that affidavit?

MR SKYRING: Again we have got two. Now, what we have got on this one, actually there are quite a few affidavits on this one. Let me get myself sorted out. The original one that I filed was on 18 August

HIS HONOUR: This is B103, is it?

MR SKYRING: Yes, this is B103. Again there was two. What I actually filed on this one on 18 August was the business affidavit to actually bring up the writs. At the time I thought that my previous affidavit to institute proceedings would have sufficed for the second one, because I see them as all being the same, but when the documentation hit the Court, Deputy Registrar Miller sent it back to me saying, "Look, you haven't put in your affidavit to seek leave". So I put a second affidavit in dated the 30th. Now, the business affidavit on this one runs to some 17 pages

HIS HONOUR: Yes, I have that affidavit. That is the only affidavit that I need to read for the purposes of the leave application.

MR SKYRING: That is the business one. There is one for leave which is only a very short one on that one. There was only about two pages of the actual affidavit for leave because what I did on that one was to crossreference to the first one.

HIS HONOUR: Yes, that is sensible.

MR SKYRING: But I just added a small amount just to bring it up to date in respect of that application.

HIS HONOUR: Is that a two-page affidavit then, the one relevant to leave in 103?

MR SKYRING: Yes, that is a very short one. That only had one exhibit to it which was referring to the *E ngineer's Case*.

HIS HONOUR: What is 103 about? B102 is the challenge to the Queensland Court of Appeal which presumably confirmed the conviction of the jury.

MR SKYRING: Yes.

HIS HONOUR: What does 103 do?

MR SKYRING: B103 was also against the Queensland Court of Appeal determination in effect upholding the judgments of Justice White at first instance in declaring me a vexatious litigant under the Queensland *Vexatious Litigants Act*. Now, this arose because, again, I had brought further proceedings against the ANZ, again over the matter of payment of some court costs, and from what I gather after the event, apparently they had approached the Crown Solicitor to have me declared a vexatious litigant, and that in fact happened.

HIS HONOUR: Very well.

MR SKYRING: Now, the third one, that is one which I have only just presented to the Court in the course of the last week, that has arisen in respect of - the principal thing which has brought this one on has been the action of the divisional returning officer for Ryan in this forthcoming federal election having proceeded in effect with the declaration of nominations for the seat of Ryan as though all the nominations were in fact valid when in fact I had made my nomination payment with gold coin of face value 250 bucks, which cost me 1,420 bucks in paper notes to get, and everybody else I gather only put in 250 bucks in paper notes. Now, this raises the interesting point whether in fact all other nominations are in fact valid when one reads the requirement of section 170(3)(c), I think it is, of the *Electoral Act* in respect of a nomination deposit having to be made of some 250 bucks for a House of Reps nomination.

> Now, where the problem arises is on account of section 14 of the *Currency Act* which allows for this discrepancy in values between paper money and gold coin, which is the strict legal tender under the *Currency Act*. It is this which causes the problems and, indeed, because this matter was not properly acknowledged in the earlier two matters, I believe that the earlier decisions were in fact wrong, and that is why I have sought to have the certiorari brought - at first instance, to have the decisions quashed, that is following practice in 1700, but there is the earlier practice then going right back to when certiorari first was, which allowed statutes and such matters to be brought before the court so they could be examined and try to get at the root cause of the problem, which does not seem to be able to be done any other way.

HIS HONOUR: The proceedings challenging the decision of the electoral returning officer for the electorate of Ryan - is that right, R-Y-A-N?

MR SKYRING: Yes, your Honour.

HIS HONOUR: That is B105?

MR SKYRING: Yes, that is the principal item which is really in it, but I have actually brought it on the matter of accounts generally against the Secretary of the Treasury and the Treasurer.

HIS HONOUR: But there was a B104, but I think that is simply a repetition of B105, is that correct

MR SKYRING: What happened, there was a spot of confusion between the actions of the registry in Brisbane and the registry in Canberra in that there was some doubt as to whether B102 would in fact be sent up to me. As I understood it from Deputy Registrar Miller, there apparently had been some documents which he could not lay his hands on and he asked me to supply another set, which I did. And I also put a blank summons in and when that blank summons hit the registry up in Brisbane, that was signed by the registrar up there. So that was how that came to be. But that has been superseded in effect by the one from Canberra.

HIS HONOUR: In the previous proceedings, you were agitating a similar point, I think, and Justice Dawson said that it was not open to you to agitate this point, having regard to the decisions of the Full Court

MR SKYRING: That has been the stance which has been taken, your Honour. My reading of the situation is that, taking this vexatious litigant question generally, both before this Court and indeed before the Court of Appeal, now as I understand proceedings - and this was in fact the point that was made very specifically in Justice White's judgment - she had quoted Justice Yeldham in *Pedler v Hunters Hill Council*, about (1976) NSWLR per Yeldham J. Where matters have been finally decided, if you persist, then you are a vexatious litigant. Now, it is my contention that the matters have never been finally determined. Everybody has been acting as though they have been, and the matters have proceeded on that basis, but it is my contention that it has never been so. It has been a misinterpretation by the lower courts of action taken in effect by the Full Bench of the High Court on the appeal of the original judgment by Justice Deane. Now, this is where the whole problem really gets back to, that if you take a close look at which I refer to now as "that judgment per Deane J" 59 ALJR 561 - that is the one usually cited

HIS HONOUR: I think you have annexed it to one of your affidavits.

MR SKYRING: Yes, your Honour, I did.

HIS HONOUR: I have read what Justice Deane said.

MR SKYRING: Now, the point that we dropped to fairly early on is that if you read that judgment closely, what he says very early in the piece in respect of the - having gone through the usual practice of citing what the application is about and what relief I have sought - he then saw fit to make the comment, about half-way through, "It would appear the summonses were not served. In any event, nobody appeared before me. It is appropriate, however, that I deal with the matter ex parte". Which he then promptly went on to do.

> In essence, then, he basically sums up the two points that I wished to make quite forcibly and I believe he summed me up very well, in effect saying that if certain sections of the Const itution were read together, if accepted, that would amount to a bar against the Commonwealth authorities making paper money legal tender. Then there was a second point about the judges. He then went straight on, from having sized me up very accurately - and that was in fact the only argument put because, as recorded earlier, the other side did not front - he then gave us - put some conclusions out which are in no way substantiated by the argument as was put. They are diametrically opposed. On the basis of this, then, he refused to issue the writ.
>
> Now, it is that practice which both my colleague, Mr Cusack, and myself - it was Pat actually got on to it first - realised that there was something wrong with the fact that those writs did not issue when I first sought them in 1985, because there was no sound constitutional argument to rebut the propositions that I had put which would allow the conclusions of Justice Deane to be properly drawn. And that is the essential point where we say that that is not a final judgment in that the rights of the parties, which in this instance is the sovereign right of the Crown to create money, were not decided. Therefore it is an interlocutory judgment and it is quite proper to continue proceedings to get a final judgment. That is the nub of the argument.
>
> Now, how this has come about is that I took the matter on appeal. I broached the matter at the time because the way I saw the thing - and I was a lot greener then than I am now - but I did broach the matter with Justice Deane that as I understood it constitutional matters can

only be determined by a Full Bench of this Court, not by a single Judge. I, in effect, asked the matter about leave to appeal and in effect it was not denied. So I appealed the matter, seeking to bring the matter up before the Full Court to get the determination that I sought.

HIS HONOUR: And this is the matter that came before Justices Mason, Wilson, Brennan and Dawson.

MR SKYRING: Yes, that was in the July of 1985.

HIS HONOUR: That is unreported, but that in turn is annexed to one of your affidavits.

MR SKYRING: Yes. It is a very brief judgment.

HIS HONOUR: I have read that.

MR SKYRING: Right. Now, in fact, what actually happened, seen from my perspective, when I got that first judgment I was quite overwhelmed by it. I did not fully grasp what was in the judgment. I got knocked back and the writs were not issued and as I saw it, that was not right. So I brought the matter up on appeal to hopefully get the main efforts addressed that I wanted to. Now, what I did at the time was to then broaden the matter, not actually specifically focussing on the conclusions of Justice Deane, because that sort of did not register with me. The problem, as I have seen - and this goes back to an earlier application arising from my appeal against the decision of McPherson J in the Full Court initially in 1983, the appeal of that on G72 of 1984 to the Federal Court, my application to seek leave to this Court, which was B11 of 1984 which my money was taken for but the case has never ever been heard. Now, we have this lot lying in the background and this really was the principal matter that I was trying to get at and that was this interaction effect of the legality of taxation generally being an infringement of property rights under Magna Carta on the one hand and the legality of the entire operations of the banking system inasmuch

HIS HONOUR: Of the banking system?

MR SKYRING: Of the entire banking system, your Honour, yes, nationally but also internationally. But we are only concerned with the national effects here. Because the crucial point which has never been argued properly before this Court, as I understand the legal history of this country this century, is that the matters of banking have come up twice - in 1932 there were three celebrated cases which were ultimately to lead to the downfall of the Lang administration and the next

one was the *Bank Nationalisation Case* in 1948. Now, it was the *Bank Nationalisation Case* that was in my time and I became aware of it even as I was only at primary school then. But as I understood it, that was argued under section 92 which treated banking as trade. That was the starting point. They did not actually go back beyond that.

Now, it is my contention that that was a wrong premise to start from because the essential function of banking is the creation of money by book entry credit. The section that the matter should have been argued under was section 51(xii), (xiii) and (xvi) which treats your money - (xii) is currency coins and legal tender, (xiii) is banking with the exception of State banking but including paper money, and (xvi) is promissory notes and bills of exchange. Those are the powers that were delegated to the Commonwealth at Federation by the States, that they should legislate for the peace, welfare and good government of the nation, which means the States, on those subjects.
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Now, the banking question has never been looked at from that standpoint and, in effect, that was what I was trying to do but to relate it to taxation as well because when one takes a good hard look at this lot - and I got into this matter as a result of my involvement in the Institution of Engineers task force on manufacturing in the late 70s and I had been having my own problems raising finance for a fairly major engineering development that I wanted to have done for a Master of Engineering that I was enrolled for with the University of Queensland to develop the theory and then to work up or to build a working design for the continuous boiling of sugar. Now, this is one of the local industries and, as a matter of history, it was the matter that I believed damn near broke my great grandfather. Old Dan, he had a hand in a sugar mill and it went bust on him and the thing that went wrong was crystallisation. In essence, I got embroiled in that about a decade later.

Now, I needed something like about one million bucks to get that done and I could never raise a million bucks and it got me thinking about the whole question plus thinking about patents. It had not sort of operated quite the way I thought. Now, when I got into - - -

HIS HONOUR: The three points, as I understand it that you have raised, are the power under the Const itution for the Commonwealth to issue currency notes; secondly, the legality of taxation and, thirdly, the legality of the banking system.

MR SKYRING: In effect, yes.

HIS HONOUR: And they are all interconnected.

MR SKYRING: Yes, and, in effect, having realised what the problem was as early as 1980 - I basically put a letter of objection into the Taxation Commissioner objecting against the total of my assessment for income tax, just to file the matter. Now, that did not come on until 1983. When it did, it came on before Justice McPherson and, in essence, there was three points that he made on this one. Firstly, in respect of my contention about the *Income Tax Act* and Magna Carta, his contention on this one very simply is

HIS HONOUR: Yes, I have seen Justice McPherson's judgment.

MR SKYRING: Yes, okay. Now, I believe he erred - - -

HIS HONOUR: I have great respect for Justice McPherson so I looked straight away to his reasons.

MR SKYRING: Now, I believe he erred on three points which were the subject of my appeal and which I eventually got to the doorstep of this Court but, in effect, that is where it stopped. Now, in essence, his view on the first point was to the extent that there is conflict between the *Taxation Act* and Magna Carta, the *Taxation Act* being later in time takes precedence. Now, my argument to that I believe is wrong because Magna Carta underpins the entire legal system, therefore if the Tax Act is wrong, the Tax Act has got to be changed.

HIS HONOUR: I do not like to interrupt you, Mr Skyring, because you have come down from Brisbane and I am very concerned to ensure that you get a fair hearing but I do not start from a blank page in this. It is not as if I am coming to this completely fresh.

MR SKYRING: That is what I did not know, your Honour.

HIS HONOUR: I start from the judgment of Justice Dawson who, on the last occasion - - -

MR SKYRING: Okay, that was 94, yes, right.

HIS HONOUR: - - - said you keep coming back trying to reargue the same point.

MR SKYRING: Okay. Now, the point I am making is that his effort would be fair enough if the matter had been finally determined at first instance by Deane J as everybody holds that it is and would have me believe that it is but I will not buy because I say, to use your marvellous terminology in your Boyer Lecture in 1983 which I happened to hear at a very critical time was the two terms you used, "the law in the books" and "the law on the ground". Now, the law in the books is very clear and it does not substantiate the law on the ground, which is this paper notes - - -

HIS HONOUR: I realise you say that but, you see, I have to start - I am a single Judge of this Court and I have to start from the judgment of the Full Bench on appeal from Justice Deane where their Honours, Justices Mason, Wilson, Brennan and Dawson, said, "We are not persuaded that the judgment of Justice Deane contains any error", so that is the starting point.

MR SKYRING: Okay, if I could stop you there. Right, okay, that is fair enough.

HIS HONOUR: And you have to get leave so you have, in effect, to show that something has changed since then.

MR SKYRING: All right. Now, I will draw your attention to their choice of words. I have noticed judges are very precise with their words. They "are not persuaded". That does not mean, as I understand it, to say that it is not in fact so; just I have not persuaded them. Now, this is where I come back to your wording of "the law on the ground" and "the law in the books". Now, what I am saying is that the law on the ground is that we have two forms of legal tender and they differ in value to the tune of about 6:1. Now, my contention is that the powers of the Commonwealth delegated to it are to make laws primarily for the peace welfare and good government of this Commonwealth. Now, something you cannot have is conflict on this matter because payment of money involves a sum certain in money. This is the law relating to money per F.W. Mann - that was where I got that one from.

> Now, what I am saying is the way the place is being run at present, we have this massive conflict to the tune of 6:1 in the values of the gold and silver form of legal tender and the paper form of legal tender. Now, that has been so since 1986. Now, this judgment of Justice Deane was given in 1985 and at that time the gold coinage that we had in circulation was these $200 koala coins which were about par value and they had the right relative value, that the coinage should be worth marginally more than bullion by the seigniorage which is that which is required to mint it to put it into coinage and it will stay as coinage because its value is higher that way.

Now, the change that came about was in 1986 when these gold nuggets were issued out of the Perth Mint. Now, I took this up in 1986 on a second certiorari that I brought before Justice Deane. Now, just to give you the history. What had actually happened here: I had been playing around with certiorari before the State Supreme Court and I had been doing battle with various authorities up in Queensland. Having put my objection in against tax back in 1983 and I got no responses I sought, I then went right across the board against all Crown instrumentalities who were after me for money: the Patents Commissioner, Telecom, Main Roads, councils, SEQEB, the lot of them and I raised this matter about form of payment with everybody to bring everybody in on the act.

Now, what in fact happened was that following - one of these certioraris came on before Justice McPherson at the end of 83 after he had heard my tax case and in the call over when he was going through the list, you know, when the case was called, I said, "This is further to the matter that came before yourself, your Honour. There were a series of matters were raised in that action. I am now trying to sought them out one at a time". His rejoinder to that immediately was, "Well, I heard the tax case so I can't hear this one, so down to see Justice Sheahan", which I did. So we had quite a chat for about a couple of hours and he gave me a few pointers on the niceties of process.

Anyway, the sequel to that was that the federal authorities then got on to me and said, "Look, because you're dealing with federal authorities, the way to deal with this is under the AD(JR) Act." So, I brought an action against the Patents Commissioner and Telecom under the Commonwealth AD(JR) Act before Justice Spender in the October of 84. Now, he knocked me back and that was that then, which gave rise to the first certiorari which came on before Justice Deane. That was the 1985 one which everybody cites. That was then appealed and, okay, that was the end of that round.

Now, what then happened was that there were two others that I had had before the Queensland Supreme Court, one against the council and the other, I think, was against SEQEB, and they said to me, "What do you want to do about these?", and I said, "Well, look, I would like to get the writs issued" and the rejoinder to me was, "Well, look, if you can get the High Court to issue the writs, we'll issue them here". So, I had another go and that was the one that came on then in 1986, in the June of 86 before Justice Deane again. Again, it was a pretty short judgment this time. Now, on this one what I did do, having had my attention focused then by the Court of Appeal - at least, by the Full Bench of this Court on Justice Deane's conclusions that there was no constitutional bar to the Feds making paper money legal tender, nor would there be any substance to the argument that the *Currency Act* overrides the *Reserve Bank Act*. I specifically addressed that point to show, "Look, there is a massive problem here."

Again, Justice Deane knocked me back. I appealed him again. Now, at this time - this was in 1986 now and there had been much fuss about the takeover of BHP by Robert Holmes a'

Court and in the course of argument I just happened to casually mention, "Where's this 1.2 billion coming from to take over BHP?" Interestingly, I was to get a job from BHP about a fortnight later asking me to do some engineering for them which, in fact, I ended up doing. But, in the meantime, I gave them a full set of my documentation that I had then in before this Court on appeal and that was the one that came on in the November of 86. Now, on that one, in effect, what happened there was - it was the same short Full Bench that had heard the one in 1985. Again, Justice Mason spoke for the Bench and he said, "Well, look, the Court can't waste time on ill-prepared cases." He did not say I was wrong; just that I did not have my act together which was fair enough.

Now, coming from my standpoint, at that particular hearing I had put out a 78B notice to the Commonwealth Attorney-General to have him join the matter as I saw this as being a matter of major interest to the Commonwealth and the Commonwealth authorities should come in. They did not come in, like they did not come in against the 78B notice I put out against my tax case in 84 when it was before the Federal Court. So, I said I have been left with the matter which is not properly mine to do. I have gone into an area where - from my perspective, I seem to have gained a better grasp of the whole thing than the formal authorities of the nations and it is, if you do not mind me saying, one hell of a bind to be in because I cannot get any sense out of anybody.

Now, this has been the difficulty that I have seen myself lumbered with. So, having been taken to task then by Justice Mason, which I saw as fair enough, but it completely changed the ball game for me.

HIS HONOUR: Just let us look at the law on the ground for a moment. Is there any country in the world that has no paper currency and pays by gold? Maybe Nepal or Bhutan or something like that.

MR SKYRING: No. There is a very interesting history with this, your Honour. I do not know whether you would be aware of this one, but in 1993 I did in fact do a 63-page argument in effect giving the history of how all this has come about that. Have you seen that?

HIS HONOUR: No, I have not seen it. You were quite right to correct me at the very beginning; let us get the formal record right.

MR SKYRING: Okay, right.

HIS HONOUR: You read the affidavits in each of the matters Nos 102, 103 and 105 which supports your application for leave to proceed under Order 63 rule 6(2)?

MR SKYRING: Yes, your Honour, yes.

HIS HONOUR: Very well. Well, we have got that clear. Now, just looking at it as a matter of practicality, if you are looking at what the law is like on the ground, even paper currency is now being overtaken by electronic currency and it seems a little bit unrealistic, if I can say so, to a person who is a Bachelor of Engineering and an intelligent man to be so troubled in his mind for so long with so many courts and so many cases about something which technology is shortly going to make irrelevant anyway.

MR SKYRING: I take your point.

HIS HONOUR: People will not have currency. They will have smart card.

MR SKYRING: Yes, okay.

HIS HONOUR: You are a Bachelor of Engineering. You should know this better than I.

MR SKYRING: I take your point on that but what is involved here is who controls this. Now, when we get - - -

HIS HONOUR: I know of no country in the world that has not embraced or entered the electronic funds transfer. I mean, paper currency is old hat.

MR SKYRING: Okay. I not unmindful of that, and I refer to this in my affidavits. Now, the crucial point is that in the end it does not matter what form the actual currency itself takes. The point is that it ought to be agreed by everybody, and this has never been done. The second point is -

HIS HONOUR: Well, it has been agreed by everybody - - -

MR SKYRING: No, it has not.

HIS HONOUR: - - - pursuant to an Act of the Federal Parliament. That is the way we get everybody's agreement in our democracy.

MR SKYRING: There was a point that was made rather interestingly twice in a programme that was run on the ABC radio meridian which they have now changed the time of but there was - - -

HIS HONOUR: Maybe it is Queensland that has changed its time.

MR SKYRING: No, that particular programme they have taken out of the time slot altogether and they have put a completely new programme in on the Midday Sunday but they had run this programme early last year and then it was the last programme that they ran before they changed and it was a philosophy professor from UCLA, I think it was, talking on the constructs of the institutions of our society and he made two - - -

HIS HONOUR: Mr Skyring, you and I could probably have a very interesting conversation but not in this formal setting. But here I am being asked as a Justice of the High Court of Australia for leave to permit you to bring three proceedings which, on the face of things, seem to be rearguing matters which have been disposed of by a single Justice of this Court and confirmed by a Full Court of this Court.

MR SKYRING: But I will make my point, your Honour. They have been argued, I am not disputing that, but they have not been finally argued to determine the rights of the parties.

HIS HONOUR: Can I just ask you this. Is there any other point on your criminal conviction save for the points that you have identified?

MR SKYRING: No, and I believe that should not be there either.

HIS HONOUR: I realise that and I must attend very carefully to ensure that you have not had any argument as to your criminal conviction that you would want to advance which has been blocked off by the order that has been made if it is different from the points that you have argued in the past.

MR SKYRING: The essential point, to come to occasion what that effort was about, now, there was a like action - actually there are two of them. One was brought in 1985 under the old Act, section 52(a) of the *Reserve Bank Act*. Although the *Currency (Crimes) Act* 1981 had in fact been enacted but those sections had not been proclaimed. Now, the wording of the Acts are different. They talk about international conventions and I got very hot under the collar at the time the way this was done because it seemed as though there is a high level of intrigue going on here. It was quite improper. Because if you look at the Act, the 1981 Act which was proclaimed in 1985, the relevant parts of it, it says that it is an offence to deface currency which is lawfully current. Now, the crucial question is this lawful currency thing. Now, it is a very fine point that I am taking here and it is the fineness of the point that I rather get the feeling escapes everybody, because what I am arguing is a rerun in this country of the notorious legal tender cases in the US of 1870 - 1869-70 and again in 1883.

HIS HONOUR: Yes, I think they were dealt with in a television programme on the civil war. I do not know if you saw that but that was

MR SKYRING: Yes. It was the determination of 25 February 1862 whereby Abe Lincoln brought in his green-back dollars to finance the Civil War.

HIS HONOUR: Yes, that is right.

MR SKYRING: Now, it was at that time that they brought in this wording on the American notes which is there to this day, "This certificate is legal tender for all debts, public and private", and there was one hell of an argument about it. Now, it is that argument - there were actually two of them. It is a very interesting case history, this one, because this is where the damage was done in the US then and we have caught up with it here and our effort has been subverted since earlier this century. It has only become apparent as a result of developments that happened in the latter part of this century and has brought about the present situation but the gun has been loaded, in effect, since Federation.

> Now, the crucial cases were - there was a case brought before the - there was a bill fall due on 20 Feb 1862 which was five days before the Act was proclaimed and the question was - money was paid into court and what constituted a legal tender of money? Now, the judgment in that case - and that was where a short Bench - there was eight; a Full Bench there is nine Judges, but they only had eight - and the judgment in that case was as it had been since the establishment of the Union, gold and silver only, end of story. Now, there

was another case brought a short time later - there were two cases involved and this is the celebrated one: *Knox v Lee; Parker v Davis* of 1870. Now, there was one involved - there was some sheep got nicked by the Confederates down in Texas and something else was involved and the two cases were brought on together. Now, what had happened: one of the judges had retired in the interim and they said that they would not replace the judge until the second one retired. Right, two of them retired so they had to make up the number which they did in between these two cases and when they came on again what actually happened was that all of the judges that had been on the Bench before held their lines and the two new judges came on and swung the issue.

Now, when you read through the case itself it makes very interesting reading because in fact what they did was to invoke the equivalent of our 51(xxxix) which is the miscellaneous powers provision and on the basis of that they determined that Abe Lincoln's green-back dollars were legal tender. Now, there was no specific power given to the US Congress to do that, and this was the hot dispute.

Now, there was a case by one, Mr Butler, argued against it. It goes on for - there is about 250 pages in the report. The key pages I had picked out in my argument - if you like, your Honour, I have got a copy of it here which is worth having.

HIS HONOUR: Can I just ask you this. You told me that matter No 103 of 1996 involved applications for certiorari and mandamus to challenge a decision of the Queensland Court of Appeal upholding the decision of Justice White declaring you to be a vexatious litigant?

MR SKYRING: Right, yes.

HIS HONOUR: But I notice that in the parties to that proceeding, Justice Spender of the Federal Court of Australia in Brisbane is named as a party. How does he become a party?

MR SKYRING: Actually, this matter arose - the start of the present round could be regarded to be the action that I brought again against Telecom in the Federal Court in March of 94. This was what actually started the thing. I brought that action. He then referred back to the previous High Court judgments and he knocked me back. I am saying that he put a wrong interpretation on those judgments which I have maintained consistently through this argument, and that was the principal application then for - I was still working only certiorari in those days and I had not got beyond the ex parte application and the leave to issue proceedings, so I made that the principal action.

Now, the supplementary action then that I used to seek leave to institute proceedings - and this was the one that came before Justice Dawson in the June of 94 - was the decision of the Court of Appeal on my tax case which had then come before them and they knocked me back on that one and they gave, again, what I believe was some wrong determinations about Magna Carta and the *Supreme Court Act* of Queensland on the matter of costs and I used that matter as the basis for my seeking leave to institute proceedings. Now, there was a second matter which also came on before Justice Pratt in the District Court.

HIS HONOUR: Judge Pratt.

MR SKYRING: Sorry, Judge Pratt, in the District Court. This was over fines for a traffic offence, and I raised the matter again, "How am I going to pay these lawfully, because in terms of payments within Queensland and this court, payment is to be made only in terms of the *Currency Act*?" The *Currency Act* speaks only of gold and silver coin. Paper money is not mentioned. Indeed, it is outlawed under section 22. My question was, "How am I going to pay this lawfully if what everybody is telling me is correct?", which I do not believe it is.

HIS HONOUR: Yes. Well, you have been very sincere about this and you have been agitating it for a very long time.

MR SKYRING: Because I believe it is wrong, your Honour.

HIS HONOUR: A judge must always keep an open mind in case there is some element of merit in what you are saying but my problem is I do not start with a blank page. I start from the point that Justice Toohey made an order, that Justice Dawson has held that you are bound by the earlier determinations of the Court on the appeal from Justice Deane, and unless you can show some distinction I am afraid that I am going to have to do the same thing as Justice Dawson did.

MR SKYRING: No. I am saying this comes to my point, your statement "the law in the books". Now, the law in the books is very clear. You talk payment; you are talking the currency. I would refer you to section 9 of the *Currency Act*: anything to do with the payment of money. Currency provided for by this Act. End of story. Now, that is very, very clear. Now, where the bone of contention comes in, and this is why - okay, I would make that point. I would also, in my lead exhibit in my application for leave to institute proceedings under the first one you called, B102, there was the extract from Quick and Garran, the celebrated text on the Australian Constitution, my lead exhibit.

HIS HONOUR: Can I just ask you in 105 of 1996 - and I am just looking at that now - you do not seem to have named the returning officer for the federal electorate of Ryan as a party. You have named - - -

MR SKYRING: No, because the way I see it - I had raised the matter with him when I made my nomination deposit and I asked him specifically to take the matter up with his superiors. When he came to conduct - - -

HIS HONOUR: I see. You think it is sufficient that you get orders against the various ministers?

MR SKYRING: Yes, because it is they who are ultimately responsible for the statutes and everybody else is caught up with them. That is my point.

HIS HONOUR: The long and short of it is you say that Justice Toohey and Justice Dawson misunderstood this Court on appeal from Justice Deane.

MR SKYRING: I believe so, your Honour, yes.

HIS HONOUR: This Court, Full Court, was not affirming the foundation of Justice Deane, they were just saying that they had not been persuaded that that was wrong and this is an interlocutory order and you should have the opportunity to - - -

MR SKYRING: That has always been my argument.

HIS HONOUR: That is the essence of it?

MR SKYRING: That has always been my argument. The point that I made in yet another costs effort which is what started the present round, if I could just give you the history. Because I could not, as I saw it, get any sense out of anybody - and what had complicated the issue, if I just follow the sequence through that I was giving you before you can see what has happened. Okay, in 1986 in the latter part, the Judge said, "Look, we can't waste time on ill-prepared cases" and that was fair enough. No argument. But what it did was to completely change my approach but, into the bargain - so there had been these gold nugget coins issued out of the Perth Mint which - this is where we had this enormous discrepancy between the value of the gold in them as bullion and the face value that was stamped on

them. Now, that was different from the situation to what it was in 1985 when Justice Deane gave his argument because then it was about the right proportion. Only the $200 coin was ever issued. That was the koala coin. And as soon as they issued these nuggets those koalas were withdrawn.

Now, my colleague, Pat Cusack, and I took this matter up with the Reserve Bank - a gent up on the seventh floor of the Reserve Bank in Brisbane. I do not mind saying, when we went up there we got a very chilly response initially wondering what the hell we were about.

HIS HONOUR: I hope you have been dealt with more courteously by the judiciary.

MR SKYRING: By and large, your Honour, yes. I can see I raise an extremely difficult problem which has enormous ramifications and seen from your point of view - not you personally, the entire Bench - what you say goes. If you say what I am asking you to say, that has enormous social ramifications, not only for this country but internationally, and this - - -

HIS HONOUR: I think you would be aware that this Court never shies from saying what the Constitution or the law requires, even though that may have great ramifications.

MR SKYRING: But the way I see it, because I have come into this as a comparative green horn - and I tell you, they do not come greener than I was when I hit this place first - thinking - my stance was if I raise this with the authorities they will see the matter will be taken up. I got anything but that response from the government authorities which immediately put the courts in a hell of a spot and that is what I have been fighting for a decade. Having realised that it was over to me then, to get a good solid argument which, as they say, even blind Freddy could see was right, and you would come out like they say, "Smelling like roses", having done the right thing. But I have got to present the case here in a way that you can adjudicate on it and no one can touch you. Until I have got it into that form I am bad news as far as you are concerned. In essence, what has been happening is that I have kept coming back but I have not had it in the right form where you can admit we can come down with one sharp chop and there can be no argument that what you have said is the right thing.

I have had to learn a whole new ball game. I have had to realise that I am the prime prosecutor in this. I therefore must be informed which initially I was not. I thought the system would pick it up. But I have had to get my own act together virtually with my own resources, which are extremely limited, to present a case which no one can touch if what I am saying is right. Now, it has taken me a damn long time to do this because I come in from the wrong premise at the start.

Now, just going back briefly and I will try to be fairly quick about this. Okay, in 1986 then I got knocked back. What I understood the banks were saying, "Look, get your act together before you come back here again", and that was fair enough; no argument about that. All right, now as soon as I went home from that case - there is a fairly small outfit that I had been doing work for for a couple of years and they said, "We've got a job for you; a fairly sizeable quarry effort for Bell Basic, as it happened. It was Robert Holmes a'Court's Bell. There was a sizeable quarry they were building down at Beenleigh from Brisbane. So, I duly did my thing. Now, in fact, my engineering contribution for that was about 30-odd grand.

Now, as a matter of history then the tax - as I have come to realise, this world is an awfully small place. You might think your affairs are private but no way. It is amazing how people can get tabs on you. So, I decided I would swim underwater and I would build enough in the pier so I could pay my tax bill.

Now, this was the one which had been hanging fire from 1979 up to 1983 which is when the matter came on before Justice McPherson. In fact, what was to happen - in the June of that year I got thumped with - it was June of 87 - a summons for a tax bill of about 23 grand. Now, I had to 32 in the pier as my lawful income from this job I did. So, as soon as the tax boys hit me with a summons to front up, I put a defence in basically following on from what I had said before Justice McPherson. I challenged the illegality or claim and how am I going to pay it lawfully anyway? Now, that bill of mine came due after the plant had been commissioned on 1 September. I then hit the ANZ - I had worded up a lawyer on how to do this - to present them with a cheque to get that paid in legal tender. So I presented them with - he said, "Write out a letter; present it." Now, all of this is in my subsequent documentation for my removal application under section 40 which came on before this Court in 1988.

Now, what I did was to present the cheque and saying, "Look, I have some commitments I have to meet. I require that you pay this in strict legal tender in terms of the *Currency Act*. If it is not so paid I will take action against you." So, they did not pay me and I sued them. Now, as soon as that hit the court - I had got the name slightly wrong so there was some minor shenanigans to get the party's name right. Then they moved to have me struck out. Now, I say that action was wrong but I got overwhelmed by it and I just did not know quite what to do. Now, I challenged it very severely before Master Lee as he then was; went through the *Bills of Exchange Act* and the upshot of it was - his comment to me from the Bench was, "You need a bit of legal advice" and he mentioned declaratory proceedings. I understood that to mean an action in this Court to get a declaration on this legal tender question. So, I promptly brought a removal action under section 40 jointly against my appeal against the Tax Act and against the ANZ action but there was a flaw in the argument. Whereas I had been prepared to make the payment, to make the first application

which I thought should have got up, when I got lumbered on appeal there was a security deposit plus the small matter of the filing fees to bring that appeal on. Now, if I was going to be consistent with my argument, how was I going to pay that lawfully?

Now, if I did not make the payment under the rules of the Supreme Court an appeal did not exist. I have had a lot of trouble on this point and that was what precipitated my defacing the currency which brought on this effort before the Court of Criminal Appeal later. So, what happened was I did not appeal it because I could not make the payment lawfully, notwithstanding I reckoned it was a good case, so as soon as that hit the High Court in the July of 1988, again on a Full Bench, although it was only a short Bench this time, it was only three Judges. About page 5 of the transcript, the Chief Justice made the point, "I cannot think of a worse case to remove. Your pleadings have been struck out and there is nothing to remove." Now, had I appealed it I would have been okay but I did not appeal it. So, again process miscarried.

Now, what happened from this was then that that was immediately seen by the taxation authorities as the final judgment needed to institute bankruptcy proceedings, so they then hit me with a bankruptcy and I say that it utterly wrong. So, that got carried through and then I got bankrupted, again quite wrongly and I am hot under the collar about that. So, in an endeavour then to try and focus attention then, with all that lot having gone completely wrong - all right, these blighters do not blooming well see, I will come at them in a way that they do jolly well see. Now, my first application before the this Court, *Skyring's Application [No 1]*, which seldom gets cited, was in fact challenging the constitutional existence of that body called Cabinet. This is the one that Justice Brennan heard. It was 1984. I have just forgotten the number of it. But on that one he made the point that, going back to Blackstone, an information of quo warranto was a writ of right for the King to establish "by what authority" the franchise, or whatever it is, is held. But then he went on to say, "But it is well settled that this cannot be used to challenge the office itself", and then he cited *Reg v Taylor* (1840) and then went in and basically knocked me back.

Now, if you look at that as a matter of history, what one shows up here is that in 1840 Queen Victoria came of age. Now, there had been one hell of an argument in the Great Reform Act 1832, about the last of the Monarch's prerogatives, that of right of choice of ministers. In fact, it was not brought into the Reform Act so the Monarch still has right of choice of ministers which is embodied in our section 62 of our Constitution to this day. But Peel, in effect, stood up William IV and he virtually became the boss and thereafter the King took what ministers he was given, something George III took great exception to right through his entire reign.

Now, okay, come 1840, we have this woman, mere woman Queen; her choosing ministers. Not bloody likely, mate. Pardon my French. So, they slipped this one through where, in effect, a single judge changed the Constitution of Britain and, in my view, has utterly screwed up the system of government around the world since. Now, because I could

not get that one up I, in effect, had another bite of the cherry then by standing for the election on the basis that I did, to raise the matter, "Well, all right, if you will not come at it by formal processes of law in the normal manner, using the writs which is what you should be able to do, then we will come at it through the currency", and that is why I stood then on the first basis I did in 1990 which I have repeated again in the 1993 elections and again this year.

Now, what happened was that I got the matter up. I went through all the preliminaries and I got the matter up to the Court of Disputed Returns, again before Justice Dawson, after a preliminary hearing before Justice Gaudron down here in respect of the matter of payment of fees to bring the thing on. It was only a matter of six weeks after and Justice Dawson again knocked me back in that there had not been sufficient time had elapsed and the matter was adjourned to Canberra to a date to be fixed. That date was never fixed. Now, the reason for it, as I see it, although I was sort of vaguely aware of it at the time - what everybody was being nice about, "Look, you're a bankrupt, can't you bloody see you can't do that?" But I say my bankruptcy was wrong anyway and the whole thing has miscarried whichever way you look at it. So, the net effect of it is that this matter has never been properly raised and adjudicated upon by a Full Bench of this Court as it should be.

HIS HONOUR: Yes, I realise that that is what you say. You have said that now to me four times. If I missed it the first time, I have got it right now.

MR SKYRING: Right, okay. Now, why I keep saying it to you - this is why I keep coming back. There is the law in the books; there is the law on the ground and there is the perception of both and this is where the problem arises.

HIS HONOUR: Yes. Well, I think you have a short point. You say that the Full Court in upholding Justice Deane's order did not finally dispose of the argument that you wish to take.

MR SKYRING: Exactly.

HIS HONOUR: And you ask now that you be given leave to pursue these matters so that you can bring them to the Court and have them dealt with.

MR SKYRING: In effect, in the intervening years, having got my argument together, which was, in effect, what Chief Justice Mason took me to task on in 1986: get your act together.

HIS HONOUR: Yes. Well, I think I understand that and I have now listened for one hour which is twice what you would ordinarily have got on a special leave application. Is there anything else that you feel that you have to say in order to explain why you should be given leave? Is there anything additional beyond the constitutional points that you want to advance to the Court?

MR SKYRING: To me, the constitutional point is the essential one.

HIS HONOUR: Yes, I understand that. In fact, you told Judge McMurdo that you have been agitating this point since 1985, I think, or even earlier.

MR SKYRING: Well, I had actually got on to it earlier but because I could not get my tax matter up - see, what I am about, ultimately - okay, while there is the constitutional point about the currency, as I see this whole problem, this is the like the tip of the iceberg.

HIS HONOUR: Well, you say it is wider than that and it attacks the banking system and the taxation system.

MR SKYRING: Yes. It it like the proverbial iceberg. There is some 10 percent of it sticking above the water. That manifests as the currency. But that is what you can see and that is what I am latching on to. The real bit is this creation of money in the dematerialised form of credit by book entry which is done as a private operation for a fee. That amounts to a usurpation of a sovereign right of the Crown in the first instance and then there is the enormous gall to charge interest for this. Now, that is the real problem to be addressed, and this currency, really, that does not matter. What I am on about ultimately is the sovereign rights being returned to the Crown; that it can create money as it should be by a legislative effort. Now, in order to run this we have to have a properly drawn set of accounts in the form of - now, all businesses run - there are two major efforts. You have got a balance sheet and you have got your profit and loss. The national affairs of this country are run on the equivalent of a profit and loss but we have no balance sheet. So, we do not know what the state of the nation's

HIS HONOUR: Yes, I have seen the relief that you are seeking in 105, so I

MR SKYRING: In effect, is to bring that whole matter on and to have the thing questioned in a way that it should be. Everybody realises, "Look, there is something wrong with the way the books are kept." We really need to have a look at that and that is what I am trying to do.

HIS HONOUR: Well, I understand that. Thank you very much, Mr Skyring.

HIS HONOUR: In order to understand the present proceedings it is necessary to read four decisions of this Court. The first is *Re Skyring's Application [No 2]* (1985) 59 ALJR 561. The second is an unreported decision of a Full Court of this Court, Justices Mason, Wilson, Brennan and Dawson of 9 July 1985 on appeal from the first decision titled *In the matter of an Application by Alan George Skyring*. The third is the decision of Justice Toohey in *Jones v Skyring* (1992) 66 ALJR 810. An application was brought for leave to appeal against that decision. It was rejected by the Court in an unreported decision of 1 July 1993. The fourth is *Re Skyring* (1994) 68 ALJR 618, a decision of Justice Dawson.

> Justice Toohey, in his 1992 decision, made an order under Order 63 rule 6 of the High Court Rules that, without leave of the Court or of a Justice of the Court, Mr Skyring should not be permitted to commence further proceedings in the Court. Justice Dawson, in his 1994 decision, declined to give such leave in the proceedings then brought before him. I am asked now to give leave for the commencement of proceedings in three matters.

> Apart from the above proceedings, there has also been a great deal of litigation in the Federal Court of Australia, in the Court of Appeal of Queensland, in the trial division of the Supreme Court of Queensland, and in the District Court of Queensland before at least two judges of that last mentioned court, Judges Pratt and McMurdo. The full litigation in Queensland need not be described. It is sufficient to note that on 12 May 1994 the Court of Appeal of Queensland refused an extension of time within which Mr Skyring could appeal against an order of Justice Dowsett of the Supreme Court of Queensland in chambers, striking out an action in the Supreme Court of Queensland designed, in effect, to challenge the note issue of Australian currency. The Court of Appeal held that the appeal had no prospects of success and that the extension necessary for its prosecution should be refused.

> 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. He raises, in connection with that challenge, a number of other challenges to the legality of the banking and taxation systems of this country. The extreme inconvenience of a return to gold in the modern credit economy, in a global milieu which is fast replacing even paper money with electronic funds, has been brought home to Mr Skyring. However, he relies on the Constitution and on Magna Carta and seeks to enlist the aid of the courts to uphold his strongly held opinions. His opinions are also held by another citizen, Mr Cusack. It is useful to note the associated proceedings involving Mr Cusack, see *Jones v Cusack* (1992) 66 ALJR 815. If the foregoing five reported decisions of this Court are read, they will explain the great number of reported and unreported decisions which lie behind the application which is now before me.

Unfortunately for Mr Skyring it is my view that his arguments were effectively rejected in 1985. They were rejected by Justice Deane in the first case of the series. His Honour's judgment was affirmed by the Full Court of this Court in the second judgment in the series. That rejection was applied by Justice Toohey in the third case. It was assumed by Justice Dawson 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 Justice Toohey took of the holding of the Full Court of this Court when he came to consider the matter in 1992. See ibid, 813. It was also the view taken by the Court of Appeal of Queensland in 1994.

Mr Skyring's persistence in agitating the constitutional issues which he has repeated before me today led to the order by Justice Toohey under Order 63. Mr Skyring has subsequently applied to Justice Dawson for leave, in effect, to reagitate at least some of the issues. As I have said, that leave was refused.

Three proceedings are now presented to the Registrar of this Court in Brisbane for the purpose of commencing actions against various officers of the Commonwealth and others designed, in effect, to agitate the same constitutional and legal points. I will summarise those proceedings as follows:

· B102 of 1996: This is substantially a challenge to a decision of the Court of Appeal of Queensland confirming a conviction which followed a verdict of a jury in a criminal trial. That verdict arose out of an arraignment of Mr Skyring before Her Honour Judge McMurdo in the District Court of Queensland on 8 May 1995. Mr Skyring was then charged with 16 counts of offences against the *Crimes (Currency) Act* 1981 Cth. He pleaded not guilty and stood his trial. On 9 May 1995 the jury returned verdicts of guilty on all 16 counts. Her Honour convicted Mr Skyring. He was released on a bond. He appealed to the Court of Appeal of Queensland, challenging the legal basis of the statute upon which he had been charged. That appeal was rejected. Application No B102 of 1996 is designed to challenge his convictions. In answer to questions addressed to him by me, Mr Skyring affirmed that no separate or other basis of challenge was raised by him beyond the constitutional and related issues he wants to argue;

· B103 of 1996: This concerns a challenge to another decision of the Court of Appeal of Queensland. That decision upheld an order of Justice White, declaring Mr Skyring to be a vexatious litigant in the Supreme Court of Queensland. 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 Justice Spender 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 proceedings appears to be a challenge to the decision of the Queensland Court of Appeal affirming the earlier determination of Justice White declaring Mr Skyring to be a vexatious litigant; and

· B105 of 1996: Mr Skyring explained that the purpose of these proceedings was to challenge a decision of the Electoral Returning Officer for the federal electorate of Ryan in rejecting his nomination for candidature in the current federal election. Mr Skyring told me that he had presented gold coin, which he asserted was equivalent to the required deposit of $250. He asserted that the other candidates who had deposited $250 in paper notes, had not properly paid a deposit as the law requires. He raised a question as to whether their nominations were valid. But the foundation for that challenge was once again his constitutional and associated legal arguments which, as I have held, have been disposed of earlier by Justice Deane and affirmed by a Full Court of this Court.

I approach the application by Mr Skyring for leave to proceed on the three proceedings, which I have in general terms described, with the following considerations in mind:

First, it is always important for every Judge to keep an open mind in case a person who has been rejected by courts in the past may have, hidden amongst the verbiage of his or her arguments, a point which has not been previously seen and which may have merit. Vigilance, and not impatience, are specially required where that person is not legally represented;

Secondly, it is regarded as a serious thing in this country to keep a person out of the courts. The rule of law requires that, ordinarily, a person should have access to the courts in order to invoke their jurisdiction. It is a rare thing to declare a person a vexatious litigant. It is extremely rare in this Court to use the power, whether under the inherent power or under Order 63, to require leave before a person may commence proceedings invoking the Court's jurisdiction;

Thirdly, the Court must never shy away from the determination of a point sought to be argued simply because it may have major ramifications. Mr Skyring urged that I should not be reluctant to provide relief on the legal grounds argued by him simply because to provide relief would be to attack both the banking and taxation and other economic systems of this country. The history of this Court since its establishment in 1903, including recently, has shown that the Court does not refrain from offering relief where the law requires it simply because its decisions may have large consequences for the nation or particular interests in it;

Fourthly, I do not pause to consider the appropriateness of the particular process that Mr Skyring has commenced, seeking relief by way of the writs of certiorari and mandamus. It is not necessary for me, in the decision which I have arrived at, to determine whether they are in each case, or in any of the cases, the appropriate process of the Court to invoke its jurisdiction. Mr Skyring appears before me today unrepresented. If he had commenced proceedings by an irregular process which had any separate or different merit from the matters which have already been determined by the Court, I would endeavour to assist him to get such proceedings into proper form or require him to commence again in proper form. I would not dispose of his application upon such a formal basis; and

Fifthly, no question arises as to the validity of the rule under which Mr Skyring approaches the Court for leave to proceed. In any case, Justice Toohey in the decision cited, 66 ALJR at 814 , has indicated his opinion that the rule is valid and I am content to proceed on that basis.

Having taken into account all of the considerations which I have mentioned, listened carefully for more than an hour to Mr Skyring's arguments and attended closely to the decision of Justice Deane and the affirmation of that decision by a Full Court of this Court, I am of the opinion that Mr Skyring is once again endeavouring to argue matters which have been held by the Court to be without legal merit.

In my opinion the applications under Order 63 rule 6 for leave to begin the three proceedings nominated should therefore be refused. I so order.

The Court will now adjourn.

AT 11.15 AM THE MATTER WAS CONCLUDED