

IN THE FEDERAL COURT OF AUSTRALIA  
QUEENSLAND DISTRICT REGISTRY  
GENERAL DIVISION

) No. QG 217 of 1993  
)

BETWEEN: ALAN GEORGE SKYRING  
Applicant

AND: TELECOM AUSTRALIA  
Respondent

MINUTES OF ORDER

JUDGE MAKING ORDER: Spender J.

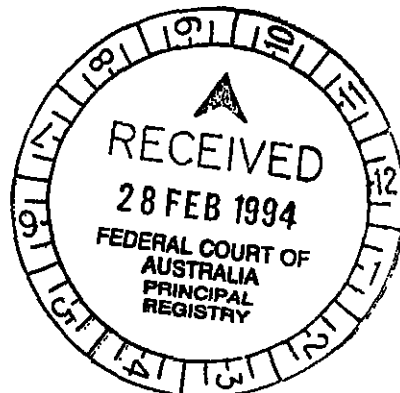
DATE OF ORDER: 18 February 1994

WHERE MADE: Brisbane

THE COURT ORDERS THAT:

The application be dismissed with costs, to be taxed if not agreed.

NOTE: Settlement and entry of orders is dealt with in O. 36 of the Federal Court Rules.



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CORAM: Spender J.  
PLACE: Brisbane  
DATE: 18 February 1994

REASONS FOR JUDGMENT

I am dealing now with an application filed 21 December 1993 by Mr Alan George Skyring, being proceedings No. QG217 of 1993. The respondent is Telecom Australia. The application seeks an order that Telecom Australia be restrained from disconnecting the telephone service to the premises at 9 Alkina Street, Kenmore, for apparent failure of the applicant to pay an outstanding account, "pending a definitive determination by the High Court of Australia in the action presently before it of the constitutionality of the instruments presently in circulation of the Crown issue purporting to be, and of issue of others apparently widely accepted by the community at large as being, legal tender. "

In the affidavit in support of the application, Mr Skyring in paragraph 2 says:

*" I make this application as part of my ongoing efforts seeking to remedy massive errors of law that have been perpetrated against me by this*

Court at first instance on 18th October 1984 - with its refusal to grant the relief I sought in my applications G104/1984 and G105/1984 to it, brought against the Commissioner of Patents and Telecom Australia respectively under the A.D.J.R. Act 1977, when this vital matter of the constitutionality of the Australian currency was formally raised, in effect, on 'directions' given on how this question should be resolved, by the Full Court of this Court on 18th April 1984 in Skyring -v- Commission of Taxation of the Commonwealth of Australia - and continued by every court in the land ever since to my great and quite unjustified detriment, despite my most concerted efforts over the intervening years to have the courts at all levels in this land 'see reason' and respond accordingly to effectively remedy the appalling situation confronting this nation in respect of 'matters financial' which I pointed up thereby. "

Further on in his affidavit, at paragraph 5, Mr Skyring refers to a matter which he says is a recent discovery. That paragraph says:

" The crucial point on which the whole argument now swings is the statement made in Art.178 of Quick and Garran's still celebrated 1901 text The Annotated Constitution of the Australian Commonwealth - touching upon the powers of the Commonwealth Parliament under s. 51(xii), Currency, Coinage and Legal Tender - wherein, at p.575, it is quite unequivocally stated:

' but if a state endeavoured to compel a person to accept anything but gold or silver as a legal tender, the person aggrieved could appeal to the Courts of ther (sic) Commonweal (sic) for relief'. "

As Mr Skyring has correctly indicated, the matters raised in the application and affidavit have been before the courts on many previous occasions. In particular, I refer to Re Skyring's Application 59 ALJR 123, which was an application before Brennan J for quo warrant against the Federal Government;

and Re Skyring's Application (No. 2) 59 ALJR 561, which was an application before Deane J with respect to the power of the Commonwealth Parliament to legislate with respect to legal tender. As Mr Skyring has indicated in his submissions, I was one of a number of respondents to that application, along with five Ministers of the Crown.

Deane J, in chambers, observed that the Commonwealth Parliament is empowered to legislate with respect to 'currency, coinage, and legal tender' by s. 51(xii) of the Commonwealth Constitution, and with respect to banking (with an exception) and 'the issue of paper money' by s. 51(xiii) thereof. Under s. 115 it is provided that a State shall not make anything but gold and silver coin a legal tender in payment of debts. The Reserve Bank Act 1959 (Cth), s. 36(1) provides that 'Australian notes are to be a legal tender throughout Australia.'

His Honour held at p. 561:

*" 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 36(1) of the Reserve Bank Act 1959 are invalidated or overruled by the provisions of the Currency Act 1965. "*

Many proceedings have occurred since then.

In Jones v. Skyring 66 ALJR 810 before Toohey J in the High Court in Brisbane in 1992, the Registrar of the High Court

sought an order that:

*" [Mr Skyring] shall not, without the leave of the Court or a Justice, begin any action, appeal or other proceeding in the Court other than an appeal against this order. "*

His Honour (at p. 810) recited some of the history of these very lengthy attempts by Mr Skyring to agitate the question of the validity of legal tender, starting with the application in 1984 before me. Having referred to the passage in Deane J's judgment, which is set out above, Toohey J said (at 811):

*" 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. For this reason it is unnecessary to set out in great detail each step in those proceedings. "*

His Honour then continued to summarise the history of those efforts by Mr Skyring in the subsequent proceedings. For present purposes, I need not detail that history. His Honour concluded at 814 by saying:

*" The overall picture is one of persistent attempts by Mr Skyring to argue questions which the Court has determined against him. Mr Skyring contended that Deane J.'s judgment of 6 February 1985 contained no reasons and was not a final judgment in that it did not ultimately define the rights of the parties. "*

Toohey J rejected that submission and said:

*" ...the fact is that the Court did determine those questions against him. Once those questions had been determined by Deane J and a Full Court, there was no reasonable ground for employing a variety of mechanisms to get the questions before the Court again. The absence of any reasonable ground for employing these*

*mechanisms and the persistent institution of proceedings for the purpose of re-agitating the questions already determined point unequivocally to a situation in which Mr Skyring has, frequently and without reasonable ground, instituted vexatious legal proceedings in the Court. Subject to one matter, with which I now deal, the application must succeed. "*

And he ultimately gave an order in terms of the Registrar's notice of motion, the effect of which was to require the leave of the Court before any action, appeal, or other proceeding in the High Court might be initiated.

Conscious as I am of my position in the hierarchy of things and of my involvement in the matters since 1984, in my opinion, this is a case where, in defence of the court's own process, the court should order that the application be struck out. In so doing, I have had regard to O. 11 r. 16 of the Federal Court Rules which provide:

*" Where a pleading -*  
*(a) discloses no reasonable cause of action or defence or other case appropriate to the nature of the pleading;*  
*(b) has a tendency to cause prejudice, embarrassment or delay in the proceeding; or*  
*(c) is otherwise an abuse of the process of the Court,*  
*the Court may at any stage of the proceeding order that the whole or any part of the pleading be struck out. "*

The matters which Mr Skyring wishes to agitate have been authoritatively determined against him, and there have been repeated attempts to re-agitate those matters which are truly *res judicata*. This is yet a further attempt and I will not countenance it. Mr Skyring of course may take whatever steps he

might wish concerning the view that I have just expressed, but for these reasons, proceedings No. QG217 of 1993 is dismissed, with costs, to be taxed if not agreed.

*I certify that this and the preceding five (5) pages are a true copy of the reasons for judgment herein of the Honourable Mr Justice Spender.*

*B. P. ...*  
Associate

Date: 18 February 1994

The applicant appeared in person.

Solicitor for the respondent: Mr R. Owbridge of Australian Government Solicitor

Date of Hearing: 18 February 1994