Loans are Book Entry Credits

The US *"Modern Money Mechanics*, the *Credit River* decisions, and Australian *"How to screw your bank"* by Laurence F. Hoins.

The following is an analysis of the *Credit River* decisions in the US by Forrest J. in ***Permanent Custodians Ltd v Virgin Investments Pty Ltd [2009] VSC 429*** (From 20):

"The appeal from Associate Justice Evans came before me on 8 September in the Practice Court. In the course of that application Mr Palmer referred to an affidavit filed the day before to which he annexed a copy of a booklet entitled "Modern Money Mechanics" and two decisions emanating from Credit River Township, Scott County, Minnesota.

On the morning of the hearing, Mr Moffatt, who appeared for Permanent Custodians, sighted Mr Palmer's affidavit and was content to deal with it and its annexures in the course of submissions. He did not oppose leave being granted to Mr Palmer to rely upon it.Mr Palmer asserted, in the course of argument, that two decisions in *First National Bank of Montgomery v Daly* [1] ("the Credit River decisions") were not only authoritative but stood unreversed.[2] In addition it was said that, the "Modern Money Mechanics" booklet also provided the foundation for the discovery of the "lawful consideration" category of documents.

- *1 Justice Court State of Minnesota, Martin V. Mahoney.*
- *2 Transcript of proceedings, Permanent Custodians Ltd v Virgin Investments Pty Ltd (Supreme Court of Victoria, Justice Forrest, 8 September 2009), at p 26.*

Subsequently, on 14 September, Mr Moffatt provided the Court and Mr Palmer with extracts from the judgment of Byrne J in ***National Australia Bank Ltd v McFarlane [2002] VSC 116*** and Dodds-Streeton J in ***Walter v National Australia Bank Ltd [2004] VSC 36***.

I also thought it necessary to research the status of the Credit River decisions in both State and Federal Courts in the United States. My Associate provided Mr Palmer with details of a number of State and Federal U.S. authorities relating to those decisions as well as details of the two Victorian cases identified by Mr Moffatt. It was then arranged that the matter be re-listed to 24 September for further argument. Mr Palmer appeared, under protest, asserting that the Court should not re-open argument about the authority of the Credit River decisions.

I pause at this moment to observe that it was essential that the Court re-open the debate concerning the status of the Credit River decisions. As will be seen, Mr Palmer's statements to the Court as to their status were patently wrong. The purpose in reconvening the Court was to enable Mr Palmer to put any other material forward which may have indicated that a number of decisions of the Minnesota Supreme Court, U.S. Federal Judges, other U.S. State Judges and Judges of this Court were incorrect. On 24 September, the parties made submissions in relation to these decisions."(From 35) "In support of his argument, Mr Palmer relied upon the two quite different sources which I have already referred to. Firstly, the booklet "Modern Money Mechanics", which has no named author. Secondly, the Credit River decisions.

"Modern Money Mechanics" appears to be a treatise describing the U.S. banking system. It is described as "the workbook on bank reserves and deposit expansion". It was apparently published by the Federal Reserve Bank of Chicago in February 1994. One passage, in particular, is relied upon by Mr Palmer:

> *"In the United States neither paper currency nor deposits have value as commodities. Intrinsically, a dollar bill is just a piece of paper, deposits merely book entries. Coins do have some intrinsic value as metal, but generally far less than their face value.*
>
> *What, then, makes these instruments – cheques, paper money and coins – acceptable at face value in payment of all debts and for other monetary uses? Mainly, it is the confidence people have that they will be able to exchange such money for other financial assets and for real goods and services whenever they choose to do so." (Reserve Bank of Chicago, Modern Money Mechanics page 3.)*

Putting to one side that this analysis is of the US banking system and, in particular, the operations of the Federal Reserve, the contents of the booklet do not support Mr Palmer's contention. The booklet simply sets out the manner in which the U.S. banking system operates and the role of the Federal Reserve.

The facts of this case demonstrate the fallacy of Mr Palmer's assertion that there was no lawful consideration. The moneys advanced by Permanent Custodians were used to pay off an existing mortgage (of about $1.2 million) and other costs associated with the loan and the registration of the mortgage. In addition, Virgin Investments directly received nearly $70,000 by way of bank cheque.[3] Each of these transactions had a value. Virgin Investments was relieved of its indebtedness to the previous mortgagee, creditors were paid out and Virgin received funds which it was able to utilise for its own benefit. Virgin received value as a result of it entering into the loan agreement and the mortgage.

- 3 *Affidavit of Andrew Brown, 23 January 2009, Exhibits APB16 and APB17.*

The second limb to Mr Palmer's argument was based upon the Credit River decisions. In fact, the first of those decisions (*First National Bank of Montgomery v Daly*) [4] related to a trial by a jury of 12 "talesman" presided over by Martin V. Mahoney in the township of Credit River, Scott County Minnesota. [5] The second related to the appeal by the Bank against the jury's decision.

- 4 (12/07/1968) Justice Court State of Minnesota, Justice Martin V. Mahoney.
- 5 Affidavit of Michael Palmer, 7 September 2009, Exhibit MGP10.

In the course of his submissions, Mr Palmer said the following:

> *"MR PALMER: Yes, Your Honour. This ruling has gone unchallenged for 40 years because they cannot dispute his findings. No-one can fault his findings that no lawful consideration was ever tendered either in the initial contract with Mr Jerome Daly, nor was lawful consideration tendered to the court on the appeal with the $2.*
>
> *HIS HONOUR: On your argument, would they ever have been able to appeal?*
>
> *MR PALMER: Yes, they would have, Your Honour.*
>
> *HIS HONOUR: How would they have done that?*
>
> *MR PALMER: With either paying two silver dollars, four half dollars, eight quarter dollars or indeed 200 pennies, Your Honour." [6]*

- *6 Transcript of proceedings, Permanent Custodians Ltd v Virgin Investments Pty Ltd (Supreme Court of Victoria, Justice Forrest, 8 September 2009), p 26.*

Mr Palmer's assertion that the two decisions of the Justice of Credit River Township have gone unchallenged is quite wrong, indeed, misleading. Mr Daly, an Attorney, was sued by the Bank for possession of a property he owned in Scott County. The jury concluded that the loan of $14,000, secured by a mortgage given by Mr Daly, did not constitute "lawful consideration". Martin V. Mahoney was, in fact, a justice of the peace with no legal qualifications. He presided over the trial and wrote in the "judgment and decree":

> *"The jury found there was no lawful consideration and I agree. Only God can create something of value out of nothing … Plaintiff's act of creating credit is not authorised by the Constitution of laws of the United States, as unconstitutional and void and is not a lawful consideration in the eyes of the law to support any thing or upon which any lawful rights can be built."[7]*

- *7 Exhibit MGP10 to the affidavit of Mr Palmer, 7 September 2009.*

The saga did not end there. The Bank appealed and provided security, perhaps unwisely in the context of the first decision, in the form of two one dollar bills. On 6 January, the Court filed a notice of refusal to allow the appeal. On 22 January at 7.00pm, Mr Daly again appeared before Justice of the Peace Mahoney. The bank was unrepresented. The nub of Mr Mahoney's decision was:

"That the Federal Reserve notes on deposit with the clerk of the court are not lawful money of the United States; are in violation of the Constitution of the United States and are not valid for any purpose."[8]

- *8 Exhibit MGP11 to the affidavit of Mr Palmer, 7 September 2009.*

It is necessary, for a few moments, to look at events in Minnesota subsequent to the Credit River decisions. On 11 July 1969, Justice C. Donald Peterson, acting for the Minnesota Supreme Court, directed "Martin v Mahoney, Justice of the Peace of Credit River Township and Jerome Daly to show cause", in respect of a separate proceeding, as to why they should not be permanently restrained from further proceedings in the Justice Court.[9] The death of Mr Mahoney on 22 August 1969 rendered the proceedings against him moot, however Mr Daly was suspended by the Supreme Court from the practice of law in Minnesota courts from 1 October 1969.[10]

- *9 Jerome Daly v Savage State Bank & Anor 171 NW (2d) 218.*
- *10 In Re Jerome Daly 284 Minn. 567, 171 NW 2d 818 (1969), at 568.*

In July 1971, Mr Daly's disbarment hearing came on before the Minnesota Supreme Court. Mr Daly appeared for himself. The tenor of his argument and the Court's response can be gleaned from the following remarks by the Court:

"Contrary to the respondent's fanciful assertions that these proceedings are a conspiracy by banks and their directors to put an end to his persistent attacks upon the constitutionality of the monetary system of the United States, disciplinary proceedings, including this one are not designed to punish an attorney or to prevent him in good faith espousing a legal cause however unpopular or seemingly untenable, but rather to discharge this court's responsibility to protect the public, the administration of the justice and the profession …".[11]

- *11 In Re Jerome Daly 291 Minn. 488, 189 NW 2d 176 (1971), at 489.*

The concluding remarks of the court in disbarring Mr Daly are worth summarising:

"No useful purpose would appear to be served by repeating the detail of the instances supporting the foregoing summary of ultimate findings, all of which are adopted as the basis for respondent's removal from practice. It should be noted, however, that respondent's persistent and continuing attacks on our national monetary system can hardly be regarded as zealous advocacy or a good-faith effort to rest the validity of repeated decisions of courts of record. For, as found by the referee, up to the time of his findings and recommendations respondent had avoided payment of any Federal income tax from 1965 and subsequent years on the asserted ground that he has not received gold and silver coin and, therefore, had no earnings that were taxable. Also, he has taken personal advantage of the system he attacks by borrowing money from a bank to purchase lakeside property, only to subsequently defeat the bank's repossession after mortgage foreclosure by taking the position that the bank's extension of credit was unlawful, obligating him neither to pay the debt, nor to surrender possession following expiration of the time to redeem.[12]

- *12 In Re Jerome Daly 291 Minn. 488, 189 NW 2d 176 (1971), at 495.*

The argument that paper dollars have no intrinsic value and therefore nothing of any worth has been loaned has surfaced regularly in Courts in the United States, often with references to the Credit River decisions. For instance, in 2007 *Sneed v Chase Home Finance LLC* [13] Judge Burns of the United States District Court said as follows:

> *"Plaintiff's allegations concerning the loans appear to be contradictory. She alleges both that Defendants never loaned anything of value … and also that payment of the loan in full was attempted … . The nature of the alleged business relationship, where nothing of value was lent but where Plaintiff attempted to repay the loan anyway, is never explained.*
>
> *The resolution of this paradox appears to be that Plaintiff does not recognize U.S. Federal Reserve notes as legal tender (or 'lawful money', as she terms it). Plaintiff repeatedly either implies or asserts that Defendants did not lend lawful currency. … In particular, Plaintiff reveals her thinking in a boldface paragraph citing what purport to be cases of Minnesota state courts for the proposition that 'Federal Reserve Notes [are] fiat money and not legal tender …*
>
> *Furthermore, the Minnesota cases cited by the plaintiff are not only unreported but they have been vacated by the Minnesota Supreme Court reported decisions. … The plaintiff is hereby admonished. She must not cite any decision under which Justice Martin Mahoney purported a question of the validity of Federal currency or the constitutionality of the Federal Reserve Act, nor may she cite any opinion or decision as authoritative which no longer has authoritative status".[14]*

- *13 2007 WL 185 1674 (S.D. Cal. June 27, 2007).*
- *14 Sneed v Chase Home Finance LLC 2007 WL 185 1674 (S.D. Cal. June 27, 2007), p 3-4.*

It is also clear that in this State, like the United States, arguments concerning fractional reserve banking have been raised and rejected on a number of occasions: ***Smart v ANZ Banking Group Limited* [2002] VSCA 111, *Walter v National Australia Bank Limited* [2004] VSC 36**, and ***National Australia Bank Limited v McFarlane* [2002] VSC 116**. In each of these cases, the argument based on "no lawful consideration" was raised in a similar fashion to that articulated by Mr Palmer. It suffices to repeat what was said by Byrne J in *McFarlane:*

> *"The defendants next contend that there was no lawful consideration given for the mortgages as the Bank did not advance the money claimed but only created a credit in the accounts of the McFarlanes. … As best I understood him, he based his conclusion on the fact that the Bank, as lender, does not in fact lend money, that is, cash, banknotes or bullion, but merely creates a book entry. This, he said, was a fraud on the customer who believes that they are receiving a loan. Unless the supposed lender in a transaction such as the present hands over bullion, banknotes or coin, he continued, the mortgage entered into is invalid. It is apparent to me that this is arrant nonsense. It has no regard to the legal obligations which are created by a bank loan; it ignores the reality of modern commerce where it is money, in the broad sense of that term, including choses in action, and not only gold, banknotes and coin, or indeed legal tender, which plays a most important part.*
>
> *I was referred also to the decision of Justice of the Peace Martin V Mahoney in First National Bank of Montgomery v Daly decided in 1969 in the Justice Court, Township of Credit River, County of*

Scott, State of Minnesota in the United States of America. I have read this decision with care. This is not an easy task as its procedural aspects are unfamiliar to an Australian practitioner and its logic is bizarre. Insofar as His Honour relied upon the provisions of the Constitution of the United States of America, the Constitution of the State of Minnesota and the laws of the United States, these precepts have no application in Victoria. I am not bound by this decision. In any event, I am not persuaded that His Honour's reasoning is valid. [15]

- 15 *National Australia Bank Limited v McFarlane* [2002] VSC 116, [7] and [8]. Cited with approval by Dodds-Streeton J in *Walter v National Australia Bank Limited* [2004] VSC 36 [246].

This overly long narrative places in context the Credit River decisions. Absent his death, it is fair to assume that Justice of the Peace Mahoney would have been removed from office. [16] The Credit River decisions are worthless as authority for any proposition in any Court in this country.

- 16 *Daly v Savage Stone Bank* (1969) 171 NW (2D) 218.

The argument put by Mr Palmer that s 115 of the *Constitution* and s 22 of the *Currency Act (C'wealth)* render the printing of paper money by the Reserve Bank illegal is so unmeritorious it does not warrant any further attention.

I have spent far too long in endeavouring to deal with the submission based on "fractional reserve banking" and the absence of lawful consideration; it does seem, however, to be a recurrent theme advanced by litigants in person when confronted with loan default. The argument is totally devoid of merit and should be rejected. If there was a power of admonition, such as that possessed by a US Federal Court Judge, I would apply it unhesitatingly. It follows that none of the documents within the classes sought by Mr Palmer are relevant to the issues in this proceeding."

https://freemandelusion.com/wp-content/uploads/2020/06/permanent-custodians-ltd-v-virgin-investments-pty-ltd-2009-vsc-429.pdf

This document from the *Credit River* decisions in the US is often raised as an attempt to substantiate the book-entry credits contention:

https://freemandelusion.com/wp-content/uploads/2020/09/bank-loan-validity.pdf

This is an Australian publication titled *"**How to screw your bank**"* by Laurence F. Hoins, (1992) which is raised in various cases as a source for the book entry credits contention.

https://freemandelusion.com/wp-content/uploads/2020/11/how-to-screw-your-bank-.pdf

There are many cases in which the book entry credits contention has been raised, you can locate them on this website under the Tag "***Book-entry Credits***".

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