

1985-049

IN THE MATTER OF AN APPLICATION

BY ALAN GEORGE SKYRING

JUDGMENT

(Oral)

9/7/1985.

MASON J.  
WILSON J.  
BRENNAN J.  
DAWSON J.

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In December 1984 the appellant lodged with the Brisbane Registry six documents which he sought to have issued as writs. In five of them, the defendant named was a Commonwealth Minister. In the sixth, the defendant named was "the Judge of the Federal Court of Australia holden at Brisbane".

On 17 January 1985, the Chief Justice directed the Registrar of the Court to refuse to issue any of the writs without the leave of a Justice first had and obtained. This direction was given pursuant to Order 58 rule 4(3) of the High Court Rules.

On 23 January the appellant applied by chamber summons for leave to issue the documents as writs. This application came on before Deane J. ex parte. Deane J. refused the application. In this appeal from Deane J.'s decision the appellant claims that the writs were designed to establish a decision by the Court that the provisions of the Commonwealth Constitution do not authorize the issue of paper money as legal tender, that section 36(1) of the Reserve Bank Act 1959 (Cth) which so provides is invalid,

that taxation is an infringement of property rights deriving from Magna Carta and that therefore the Income Tax Assessment Act 1936 (Cth), in making provision for taxation, is invalid and unconstitutional.

In relation to the submissions that the applicant made, Deane J. said at first instance:

"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 section 36(1) of the Reserve Bank Act 1959 are invalidated or overruled by the provisions of the Currency Act 1965. That being so, I am unpersuaded that there is any substance in the proposed proceedings against Mr Justice Spender [the judge of the Federal Court referred to in the sixth document], nor am I persuaded that proceedings by certiorari against Mr Justice Spender would in any event be appropriate.

As regards the other and more general matters which Mr Skyring seeks to litigate, it appears to me to be plain that there has not been disclosed any basis at all upon which the relief sought in the proposed writs or the relief indicated by Mr Skyring in the course of his submissions could or should properly be granted by this Court."

Having listened attentively to the submissions made by the appellant in support of this appeal, we are not persuaded that the judgment of Deane J. contains any

error. We should say in addition that the power conferred upon the Commonwealth Parliament by s.51(ii) of the Constitution to legislate with respect to taxation extends to the imposition of taxation and its collection, even though it has the effect of requiring the person on whom taxation is levied to pay the tax out of property which he owns.

For these reasons, the appeal must be dismissed.

The order of the Court is that the appeal is dismissed.