

Joint Standing Committee on Electoral Matters	
Submission No.	71
Date Received	22-3-05
Secretary	[Signature]

SUBMISSION NO. 71

Submission by A.G.Skyring BE MIE Aust. to the Joint Standing Committee on Electoral Matters of the Parliament of the Commonwealth of Australia in respect of irregularities relating to the initial stages of the election process for the 2004 Federal General Election, the effect of which is to invalidate, legally, the entire election.

Synopsis: This presentation is made as a supplement to the submission recently made to this committee by one Mr Gunter, a copy of which he kindly gave me, in my capacity as a party to the proceedings on his Petitions brought in respect of both the 2001 and 2004 Federal General Elections after he had made his presentation. Having since perused same and found myself generally in agreement with the views expressed therein, it seemed to me appropriate that I should provide a little more of the detail of the action I had taken myself, both in the lead up period to the 2004 Election, and also subsequent to his filing of his most recent Petition, as I have sought to help 'unravel the problems' with which he now finds himself 'lumbered' seemingly as a consequence of my having become a party to the proceedings on both of his Petitions. To facilitate integration of our endeavours I have adopted the same general format as he used for his presentation, Documentation necessary to substantiate my contentions are also provided.

Background to the presentation of this Submission

Having followed closely - and with rising dismay I might add - over the years since Mr Gunter first made contact with myself in mid 1994 re his 'problems' with the operations of the legal system in this country, the unbelievable difficulties which he has encountered as he has sought to extricate himself from the 'quite impossible' situation in which he was to find himself placed - as a consequence of what were clearly massive miscarriages of process in the way in which the proceedings were initially brought against him in early 1990 under the *Family Law Act 1975* and then subsequently prosecuted - and found, from those observations, an eerie confirmation of the same sorts 'distortions' of process, particularly by the High Court of Australia, that I had experienced myself a decade earlier - when I too had sought to invoke the *prerogative writs* to obtain relief from not dissimilar miscarriages of process which I too had experienced, as I sought likewise to address some problems, albeit of a very different type and of far less 'intensity' than those which Mr Gunter found himself confronted - it became very clear to me that only by the bringing of an action of the type and on the basis that Mr Gunter had was there 'any hope of ever getting anywhere near' providing a resolution of those sorts of problem which could be both 'workable' and 'durable'.

With such an action having been brought by Mr Gunter in 2001, there really was no credible option open to myself - IF I was maintain my own personal integrity in anything like a 'respectable' condition - but to join the proceedings on his Petition and hopefully thereby bring to bear such experience as I had gained from my own 'sorties' into the legal arena over the last 20 years in respect of the matters he had again raised, and thereby hopefully AID the accomplishment his endeavour. As events were to turn, however, in many ways it would seem, at first sight at least, that I have been of more 'hindrance' to him than 'help', given the imposts that have been placed upon him as a result of my joining his action, as he has recounted so accurately in his submission to this Committee. For reference purposes, a copy of his submission, taken from the one he gave me, is appended hereto as 'Attachment 1'.

As is so often the case in the 'political' arena, however - as the redoubtable Benjamin Disraeli observed well over a century ago of the U.K. political scene of his time;

'In politics things are not always as they seem...' and

'The world is governed by very different personages from what is imagined by those who are NOT behind the scenes'.

- and so it would seem are they again in this instance these days.

From my perspective, this state of affairs comes about as a consequence of the views which 'influential persons' in the political, legal and financial arenas in this country - and who clearly reckon they 'run the whole show' here by virtue of their 'positions' - have put on judgments which I obtained from the High Court of Australia in the mid 1980's when I sought to tackle, by recourse to the *prerogative writs*, the same matters which are centrally in issue in the proceedings which Mr Gunter has now brought two decades on with his Election Petitions, such action clearly having arisen as a consequence of the 'failure' of my own earlier efforts to 'resolve the problems'. The judgments in question which have brought about this situation were those given in the actions reported as:

Re Skyring's Application (1984) 59 ALJR 123 and

Re Skyring's Application (No.2) (1985) 59 ALJR 561 & 58 ALR 629

copies of which are appended hereto as **'Attachment 2'**

As I see the current situation, this 'difference' between 'perception' and 'reality' comes about primarily because those who would be 'informed persons' who have acted on those judgments have 'failed utterly' to 'read the fine print' of them - or if they have 'read' them, then they have clearly 'failed utterly to understand' the niceties of just what was stated in the 'limitations' which formed a vital part of those judgments - and as a result they have 'seen only what they want to see' in them, rather than what was 'really there'. The upshot has been that the 'ruling ideas', in terms of which action is taken by the 'powers that be' in the day to day conduct the 'Affairs of State' of the nation, 'bears no resemblance whatsoever to reality', and as consequence we have the 'utter chaos' we now do, when it comes to taking to bring real 'law and order' as traditionally known in this country in the ~~community at large~~, since the action taken is 'quite unreal'. The 'proof' that this is a 'fair assessment' of the current situation is surely provided by the subject matter of Mr Gunter's submission.

The Constitutional irregularities under the current 'order of things'

In the opening segment of the counterpart section of Mr Gunter's presentation, he makes reference to 'disparities' between what Kirby J. referred to in his 1983 *Boyer Lectures*, aired on ABC Radio in the November of that year, as the 'Law in the Books' and the 'Law on the Ground', insofar as the structure of 'Executive Government' at both the Commonwealth and State levels of the administration in this country is concerned. It was precisely this topic which I sought to address in the first of my above cited applications to the High Court of Australia in mid 1984, having been first brought aware of it myself by an observation which was made in public debate at the height of what has since become known as the 'constitutional crisis' in 1975 wherein it was pointed up that;

'.. There is no office of 'Prime Minister' recognised by the Constitution'.

Although I 'made a mental note' at the time of that observation - for it struck me as being 'rather strange'- it was not for another five years that I actually 'did anything about it'. This situation came about not least because, in the interim and in the process of trying to resolve some 'personal difficulties' of my own - as well as making a contribution to some activities within the *Institution of Engineers Australia* in which I participating at the time, notably its Task Force on Manufacturing, mounted in the late 1970's - I had cause to 'do some very deep thinking' on the vital matter of 'who had got it wrong here', ie.

. was it that my 'personal philosophy of life' was in error and primarily as a result of that I had 'got into the difficulties' I had or

. was it that my 'philosophy of life' was O.K. but rather was it that primarily as a result of 'systemic defects' in the way the entire partisan political/legal/financial systems operated, my 'problems' arose.

Suffice to say here that, as the upshot of a lot of effort put in at that time to addressing such matters, in late 1979, after reading a very interesting

1965 text *Magna Carta and its Influence in the World Today* by the very eminent British Constitutional Lawyer Sir Ivor Jennings KBE QC LittD,LLD - which I had had forwarded to me 'with compliments' by the British Information Office attached to the British Consulate in Sydney following a query I had made of them a short time before on the 'interesting' topic

'...where could I get a copy of *Magna Carta* how much would it be' - I purchased from the Queensland University Bookshop a copy of the *Commonwealth Constitution* along with another text which seemed highly relevant to such matters *How to Read an Act of Parliament* with a view to 'taking a closer look' at just what the *Constitution* 'did have to say' on this and what was to me - on the basis of the old adage, 'He rules who controls the purse strings' - the related matter of 'money' generally, but particularly that form known as 'legal tender'

On these matters, again suffice to say here that on the first matter, that of 'Executive Government', not only did I confirm to my satisfaction the point made above that there 'was no office of Prime Minister mentioned in the *Constitution*', but also, and perhaps far more importantly, **THERE WAS NO BODY designated as 'CABINET' RECOGNISED THEREIN EITHER.**

Upon reflecting on these matters in the light of a series of points made in the second text - when taken together with the point I had 'picked up elsewhere' relating to interpretation of *The Constitution*, to the effect that 'if powers are not specifically assigned to the Commonwealth in that instrument, then they do not exist'

- I came to the conclusion that there were much larger 'problems' here and that the only real way for these to be addressed - and hopefully resolved - would be for legal action to be brought, suitably framed to put such matters centrally in issue. It was on this basis that my initial action cited above was brought.

When the judgment was given, however, I must say I was utterly dismayed by it, in that although the historical background and use of precedent was 'interesting' the way that precedent was invoked effectively 'missed the point' of my application. In particular, while there can be no objection to the writ of *quo warranto* not being able to be invoked against the office itself **IF THAT OFFICE IS CONSTITUTIONALLY ESTABLISHED** such a 'bar' surely does not apply to offices not so established; indeed if that is so then surely the whole point of the writ, as set out by Blackstone and cited in the judgment is thereby thwarted utterly. Since the 'Office' of 'Cabinet' is plainly not so recognised, **AT LEAST IN THE COMMONWEALTH CONSTITUTION**, then surely it is 'unconstitutional' and so may be quite properly challenged by that writ.

That my application was not upheld was therefore plainly an error of law and as a consequence, since that judgment is still allowed to stand, it necessarily 'subverts' the whole system of government in this country. Re a challenge to same, shall I just say here that while I did contemplate bringing such a challenge to it 'by appeal' to the Full High Court of Australia 'in the normal manner' at the time, on balance I opted not to take that course, not least, because in the absence of a comprehensive challenge being brought to the 'related' matter - ie. the whole basis for operation of the entire 'financial' system in this country which showed not only where 'the system', as currently implemented, was 'in error' but also and far more importantly, what the detail of the alternative 'structure' was which would overcome those 'defects' - there really was no point in taking such action since such an brought in such circumstances would surely 'fail', as had my initial application.

Accordingly I directed my endeavours to addressing that second matter, the upshot of which, after taking matters up the 'lower' Courts of the Commonwealth was my second application to the High Court of Australia, initiated towards the end of 1984. Here again, however, as a consequence of the invocation by the Court authorities of the same approach as was adopted for the hearing my initial application - ie the 'vexatious litigation' provisions of *HCR O.58 r.4(3)* - that endeavour also was to be 'subverted' and as a result the aim of my endeavour was thwarted even before I set foot in the Court to argue my case. Although I did opt to 'appeal' that judgment to the Full High Court, in the event, and as a consequence of the operation of this 'subverted system' it too was 'lost'.

The result has been that, because the legal fraternity at large seem to operate on the basis that 'if the case was lost', and particularly on appeal, then that really is 'the end of the matter' and accordingly if pursued further such action is deemed to be 'vexatious'. The upshot has been, therefore, that YET AGAIN a spurious judgment strictly legally has been allowed to stand, and as a result the whole 'system' continues on the basis that it has 'for decades, if not centuries' ie. as though the entire 'structure' is legally sound in every respect when the strict 'cold hard legal reality' is very much otherwise, ie. as contended at the outset in this presentation, since the whole place truly does 'run on pretence' it really is 'a house of cards' which could be 'blown over by the slightest puff of wind' were such ever to be directed at it.

**Approaches whereby these might be corrected and
the official response to such efforts on my part**

Surely the approach to be adopted to 'correct' - by the formal processes of the law, as traditionally known under the imported 'white man's law' which came with the 'British Raj' - this situation, which is surely highly unacceptable from the standpoint of the citizenry at large of this nation, be they 'indigenous or 'immigrant' and from what ever land of origin, is to invoke those processes in their 'correct' form traditionally, and not in the 'highly distorted' form which has been used against me in my endeavours to date. In this context it is therefore worth 'taking another look' at the applications in the form in which I initially made them and before they were 'got at' by the Court authorities in a way which allowed my whole endeavour to be very effectively 'subverted utterly'.

To facilitate such a process I therefore provide the documentation which I presented initially, followed by the additions sought by the Court following that presentation, and pursuant to which the matters were actually heard. Accordingly 'Attachment 3' comprises such documentation for *Re Skyring's Application* (No.1), & 'Attachment 4' comprises like documentation for *Re Skyring's Application* (No.2)

As becomes immediately apparent from these presentations, ALL hearings were actually conducted under conditions whereby the matters had been effectively 'pre-judged' by the Court as being 'vexatious' - ie. of 'no intrinsic merit' - even before I set foot in the Court to argue my case. Although this is not immediately clear in respect of my first application, there can be no doubt about that point in the second, given the wording placed on the drafts of writs which I sought to have issued in respect of it, and as was mentioned in 'that judgment' per Deane J. at first instance included in 'Attachment 2' herewith. That being the case, the strict legal reality under a properly run system is that, as such hearings do NOT constitute a proper trial of the matters in issue, the proceedings were effectively null and void as a matter of law, accordingly the judgments cannot therefore be lawfully enforced against me. Further, if any attempt is made by the party in whose favour such judgments were given to have them enforced then such action provides the party against whom they were given - ie. in these instances myself - a basis for action to have them set aside *ex debito justitiae*, as set out in *Brennan -v- Brennan* (1953) 89 CLR 129 at 134.

Since such 'enforcement' action has been taken on many occasions since, there CAN BE NO DOUBT that I have proper cause of action to have these judgments set aside *ex debito justitiae*. Although I strenuously resisted such action on each occasion in the past, those endeavours have were effectively 'overwhelmed' by the sheer might of the campaigns mounted against me, which situation was then seriously aggravated by the 'lack of spine' of the members of the judiciary who have heard such matters, to take the appropriate action in such circumstances. In more recent time my 'problem' has been to settle on an approach legally which will have sufficient 'clout' to produce the sought result in a system which has become so utterly corrupted as to allow such miscarriages of process to occur in the first place. Suffice to say here that, although I have made many attempts, none has been 'successful', in the sense that it has 'produced the goods' and resulted in an order which has set those judgments aside on that basis. In the following sections I give the particulars of my most recent attempts to this end.

The first, which has significance in respect of the 2004 Federal General Election, was that alluded to by Mr Gunter in his submission although not detailed therein ie. my approach to the Governor-General at the time of the calling of the election to ~~take a~~ spot of action as was appropriate in his circumstances as could bring a spot of real law and order to the situation then prevailing. Copies of my correspondence re same are appended hereto as 'Attachment 5'. Although that effort clearly did not 'cut as much ice' as I hoped 'in my wilder dreams' it might, nevertheless a 'delay' was introduced in the election process which Mr Gunter then made good use of to try to have action taken on his still uncompleted legal action arising from the 2001 Federal General Election. Sadly that effort also in the event was to 'come to nothing', insofar as stopping the whole process before it had 'gone too far' was concerned.

Nevertheless others also 'not too impressed' with 'government' activities in the lead up to that 2001 General Election 'took a hand in proceedings' in that same 'gap' and instituted Senate Committee proceedings which it was hoped might produce an outcome which could influence the outcome of the 2004 General Election by then in train. Having followed those developments 'with some interest', and perhaps yet again 'like a drowning man clutching at straws' I made some quite comprehensive submissions to that re-constituted committee in which I brought forward some much deeper issues which, in my view at least, 'underlay' the 'surface' matters of concern to them, in the hope that the necessary 'connections' could be made and action taken accordingly.

As events were to turn again, however, 'nothing useful' was to come of that endeavour either, in that immediately the election was over that Committee brought down its report which was essentially based on a 'very narrow' reading of its 'Terms of Reference'. For the record 'Attachment 6' hereto comprises copies of the correspondence which I forwarded at that time but without any of the very extensive attachments which went with it. Although perhaps not immediately relevant to the aims of that Committee of Inquiry, it seems to me that they are of real significance in the present context - in that the documentation then presented gives in very great detail the background to my present situation and therefore to this presentation - and therefore should be 'called up' as part of this presentation. I therefore ask that the 5 full sets of that documentation, all 4 kilograms of each set - which was sent Express Post to each of the five senators who constituted that Committee at their Electorate Offices viz. Senators Brandis (Q'ld), Ferguson (S.A.), Ray (Vic), Faulkner (NSW) and Bartlett (Q'ld) be 'collected internally' by appropriate means and be made available to this Committee as part of its 'Reference Data' for its activities.

My next contribution was made after the Election and in the form of a Notice of Motion with supporting affidavit and a full set of exhibits which I presented to the Court of Disputed Returns on 10th December 2004 - in my capacity as a party who had entered an appearance to the proceedings on Mr Gunter's Election Petition - by which I sought, as I am entitled to, to have his Petition brought on for hearing in accordance with the Requirements of *HCR* 0.68 r.10 relating to Election Petitions. 'Attachment 7' hereto comprises a copy of that Notice of Motion and supporting affidavit, but without any of the extensive exhibits thereto. Here again however, like Mr Gunter with his like endeavours on the 6th December 2004, when I too 'ran into considerable difficulties' in having this application even filed, let alone 'actioned in the normal manner', it soon became apparent that I was going to have to take some action in respect of my own previous action since it was clear that it was these which were 'causing the log-jam' which had 'hung up the whole show'.

After having 'failed utterly' to achieve this end by seeking to have activated an application which I had made to the High Court of Australia in mid 2004 - to have set aside *ex debito justitiae* the whole series of judgments which had been given in a variety of actions which had been taken against me over the years and founded ultimately on the spurious judgments given in *Re Skyring's Applications (Nos 1 & 2)* cited above, a copy of the cardinal documentation in respect of which application is appended hereto as 'Attachment 8' - I realised, if

belatedly, that IF EVER I was going to 'cut any ice' concerning these matters, the only way this could now be done was for me to bring an application in respect of the action which brought me formally into the legal system in this country in the first place in 1983, and in which all of these matters had been initially raised BUT NEVER 'FINALLY DETERMINED', legally, at that time - ie. *Skyring -v- Commissioner of Taxation of the Commonwealth of Australia (1983)* (unreported).

Copies of the cardinal items of documentation from that application - which I collated and presented for filing in the Federal Court of Australia, District Registry in Brisbane on 28th February 2005 - are appended hereto as 'Attachment 9'. Here again however this application - like all others I have presented in recent time for filing in the 'Courts of the Commonwealth' - also 'drew a hot reception' whereby it was made very plain to me that such documentation would not be filed unless I made an application for 'leave to proceed' - on the basis that as the judgment per Sackville J of 6 July 1999 whereby I was 'declared' to be a 'vexatious litigant' in that Court still stood, the Registry had no option but to abide in their 'dealings' with me.

My response to that impost was to point up that as these proceedings relate to matters which preceded all action upon which the 'declaration' was ostensibly made against me - and was indeed never taken into account in any of those proceedings - the very attempt to enforce such a judgment on me - given that it is based on a fundamental miscarriage of process arising from the failure of 'the system' to properly determine these matters when first raised - of itself provides me with a basis for action to have that order set aside. Notwithstanding this, my arguments 'cut no ice' whatsoever with the Registry, whereupon a few days later - and in accordance with a practice adopted by the High Court of Australia and used against both Mr Gunter and myself on many occasions now - my documentation was returned to me in the mail. Being none too impressed with such an approach - for what it means is that, quite literally, **the Court 'has nothing in its hands' from me and therefore has no basis upon which to taken any action concerning such matters** - there was no option I could see but to correct that situation by annotating the envelope in which it arrived appropriately and returning it to the Registry unopened. This I did that same day by personally delivering it to the Registry and refusing to accept it back when proffered to me. 'Attachment 10' is a copy of the annotated envelope in which that documentation arrived and was returned to the Registry.

Having thereby, by action, had my documentation refused for filing I saw no option but to bring a challenge to the Registrar's decision which underlay that action and accordingly I framed and presented for filing 'in short order' just such an application. As events were to turn, this application also was to be dealt with in a similar manner., 'Attachment 11' comprises a copy of that application together with the envelope in which the 3 copies of it, which I presented to the Registry for filing were sent back to me and subsequently returned personally by myself to the Registry on 18 March 2005. Although there was a 'phone call for me from Register Ramsey later that day - which I was not able to take at the time as I was out and did not return home till too late that day to return that call, but did so as soon as I could (21st inst.) - the upshot at time of dispatch of this submission is that that documentation has still been **NEITHER FILED NOR ISSUED**. Accordingly, this submission is now concluded in the manner it is.

Against the background provided by the foregoing material - and having due regard for the 'difficulties' which I too have encountered in my endeavours over the years with 'the authorities' collectively in having the matters I have sought to raise properly dealt with as matters of law - **it seems to me appropriate that I reiterate very specifically the points made by Mr Gunter in his presentation:**

. You ALL have a particular duty of care to administer my complaints against 'the system' correctly as a matter of law, given not only the circumstances under which they came to be made but also the social importance of the matters in issue in this instance which have given rise to them;

. You are ALL 'Officers of the Crown in right of the Commonwealth of Australia' and as such are duty bound to serve the public faithfully in the discharge of the duties of those Offices;

. Your Offices require you ALL to properly administer matters which come before you, howsoever that may occur;

. Upon review of ALL that has occurred since I first made contact formally with the High Court of Australia in mid 1984, with a view to having 'finally determined' as matters of law by that Court, the matters which initially brought me into the legal system in Queensland in early 1983 - when I challenged the ultimate legality, constitutionally of the practices of the day for the 'funding of the Crown's purposes' - that has just not occurred; the sequel to that 'abject failure' on the part of all Courts of this land with which I have become embroiled over the years since, as I have tried to have these matters properly determined as matters of law, is the action I have now taken and in respect of which, sadly, I too like Mr Gunter, continue to draw effectively the same 'totally unacceptable' responses;

. As a consequence I now take the whole matter up directly with your goodselves, as 'Officers of the Commonwealth' who are in a position to be able to take such action as is necessary to properly remedy, legally, the present situation which is surely 'most unsatisfactory' FROM EVERYONE'S POINT OF VIEW;

. Having had these matters brought to your attention in this way - my aim in so doing being to have the requisite action taken to have this quite appalling situation remedied by proper and lawful means - IF you ALL do not now act in a prompt and proper manner, as properly befits your respective 'offices', to have this situation remedied, then you too shall be in breach of your duties of your Offices by so acting.

ACCORDINGLY I hereby serve notice on ALL MEMBERS OF THIS COMMITTEE that;

. IF, WITHIN SEVEN (7) DAYS OF THE RECEIPT OF THIS SUBMISSION it has not been 'assessed' and formal advice given to me in writing, to the general effect that;

I am to be called before it at its sittings in Brisbane - to be held at the end of March 2005, as I understand from my conversations with Mr Gunter - to be questioned on the matters raised herein, thereby allowing me also to establish very publicly the veracity of my contentions; and also that

All officers of the Brisbane and Canberra Offices of the Registry of the High Court of Australia and also of the Queensland District Registry of the Federal Court of Australia in Brisbane who have been involved in any capacity in the 'processing' of my various applications also referred to above are also to be called before it then and at subsequent sittings in Canberra as convenient to be questioned on their role in these proceedings and in the process to 'give account of themselves' as to their justification of the stance they have seen fit to take to same over the years

- THEREBY SETTING A PROCESS IN TRAIN WHICH WILL ULTIMATELY ALLOW THE SERIES OF TORTS WHICH HAVE BEEN PERPETRATED AGAINST MYSELF, AMONG MANY OTHERS, UNCONSCIONABLY AND OVER MANY YEARS BY THE COMMONWEALTH AUTHORITIES, AMONG OTHERS, TO BE PROPERLY REMEDIED AT LAW - IT WILL BE TAKEN THAT YOU ALL ACCEPT THAT COLLECTIVELY YOU ARE ALL ACTING INCORRECTLY IN RESPECT OF THE DISCHARGE OF YOUR OFFICIAL DUTIES;


. IF, WITHIN A FURTHER SEVEN (7) DAYS OF THAT DATE, THE REQUISITE ACTION HAS NOT BEEN TAKEN TO COMPLY COMPLETELY, IT WILL BE TAKEN THAT YOU ALL ACCEPT THAT YOU MUST RESIGN FROM OFFICE OR BE SUMMARILY REMOVED FROM OFFICE BY PROPER AND APPROPRIATE MEANS LEGALLY;

As a counterpart to the statement of the basis for Mr Gunter's action made at the conclusion of his presentation, I too declare mine, albeit of a different nature. Copies of documentation pertinent to this and which has formed the basis for my action in this arena for upwards of 20 years now are provided as 'Attachment 12'. From a perusal of these items I trust the rationale for it will quickly become apparent.

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In conclusion shall I just observe - in the light of the way in which the whole scene now seems to be 'shaping up' in respect of 'matters legal', not to mention 'matters political and financial', both locally and internationally as per press items copied as the final item herewith - that I shall indeed await 'with much interest' your response, not to mention everybody else's, to my approach to this topic as set out in this submission, to come however it/they will - but hopefully sooner rather than later in this instance - given the nature of matters that are the subject of this correspondence, the action hereby sought and what is 'at stake' for us all...

Dated this 21st day of March, 2005.



in my private capacity as Corporate Member of
the Institution of Engineers Aust., pursuant
to s.1 & 4j of the original and still current
1938 Royal Charter of Incorporation thereof.