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JUSTICE IS IN THE EYE OF THE BEHOLDER AND CLOUDED BY HIS/HER SIGHT DEFICIENCY

 MAY JUSTICE ALWAYS PREVAIL 	
<small>ABN 37144320620</small>	
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THE MORALS OF A SOCIETY CAN BE MEASURED AS TO HOW IT LOOKS AFTER THE DISABLED	
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Constitutionalist & Paralegal Independent Consultant & Author	INSPECTOR-RIKATI ® Series of books on certain constitutional and other legal issues

Financial System Inquiry
fsi@fsi.gov.au

25-7-2014

Ref: 20140725-G. H. Schorel-Hlavka O.W.B. to [Financial System Inquiry](#)

NOT RESTRICTED FOR PUBLICATION

Submission Stability - Addressing too-big-to-fail

Sir,

Because the stability of banks (and any possible “bail in” including the taking of old age pensions paid in by the Commonwealth of Australia I will for this commence with relates also to the question is who really owns the entitlement of the monies that the Federal Government deposit into my and my wife’s pension account held with the bank?

I write “entitlement” because to my understanding the monies such as dollar bills and coins are property of the Commonwealth of Australia and the value expressed upon them gives the holder the entitlement to exchange this for goods, etc. As such, when the Commonwealth of Australia transfers a certain amount of monies to a bank being it electronically or otherwise payable to my wife and myself as age pensioners, then it is my position the bank doesn’t own the monies nor the entitlement but merely can use the monies provided to it by the Commonwealth of Australia albeit obligated to always have monies available to my wife and myself equal to the amount of monies the Commonwealth of Australia deposited into our accounts. I have quoted below an email which purports a certain scenario, however it is my view that while a customer depositing say certain \$20 bills into a bank never had nor ever gained ownership of those particular \$20 bills he is and remains entitled to withdraw the equal entitlement to what he deposited.

It would be absurd that a person depositing certain dollar bills into the branch of one bank could then attend another branch and demand the same dollar bills with the same serial number to be returned to him/her.

However, while the bank may use the monies of the value of the monies the bank at all times must be held liable to hand over on demand of the entitled account holder (and/or any agent) all and any monies when requested to do so. As such, when a bank “A” request on behalf of an account holder to pay out a cheque that was provided to its account holder then Bank “B” would be obligated to do so as the customer of Bank “B” by issuing the cheque made the customer of Bank “A” an “authorised agent”. We have to consider that the Commonwealth of Australia insisted to recipients of age and other welfare payments that they had to obtain a bank account for direct transfer of monies and that the bank would not be able to charge fees in regard of withdrawing those monies. As such, I view the Commonwealth of Australia is bound to ensure that no kind of so called “Bail-in” can be used to rob age pensioners and/or other welfare beneficiaries of their entitlements because the monies are paid for a particular purpose to which the banks themselves have no legal entitlements. Age pensioners are no more but effectively paid back part of their monies paid as part of taxation for pensions, and therefore where the commonwealth of Australia periodically refund such monies then it cannot and never can be deemed intended to transfer entitlement of those monies to any bank.

I will use an example:

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Denning L.J. in Entores Ltd v. Miles Far East Corporation [1955] 2 Q.B. 327.

QUOTE

When a contract is made by post it is clear law throughout the common law countries that the acceptance is complete as soon as the letter of acceptance is put into the post box, and that is the place where the contract is made. But there is no clear rule about contracts made by telephone or by Telex.

END QUOTE

Denning L.J. in Entores Ltd v. Miles Far East Corporation [1955] 2 Q.B. 327.

QUOTE

My conclusion is that the rule about instantaneous communications between the parties is different from the rule about the post. The contract is only completed when the acceptance is received by the offeror: and the contract is made at the place where the acceptance is received."

END QUOTE

It should be understood that there are ample of authorities on foot that the post master carries the mail for both the sender and the receiver.

Therefore, the bank (AS LIKE THE POST MASTER) **ACTS NO MORE THEN AS AN AGENT FOR BOTH** the Commonwealth of Australia and the account holder and never true gains ownership of the value of monies, to which the account holder is entitled.

I will now quote the email I received merely as to point out the misconception that exist by many, albeit I do not agree with the content therein. It relates to a USA matter but nevertheless worth to consider its argument regardless if one agrees or disagree with it. Identities of the senders/receivers has been deleted.

QUOTE

From:	
To:	undisclosed-recipients
Cc:	
Date:	Thursday, July 24, 2014 10:51 am
Subject:	Fw: The Bank legally owns your deposit as an unsecured debt.

This could lead to confiscation of the money.

----- Original Message -----

Subject: Re: Fwd: finance: Your deposited funds are legally OWNED by the bank; more bank confiscations planned
Date: Wed, 23 Jul 2014 17:05:49 -0500
From:
To:

The legal relationship between a bank and its depositors is that of debtor/creditor, with the bank, in reference to deposits, being the debtor and the account holder/customer being the creditor. When you take a check to a bank and deposit it into your account, you have assigned that unsecured claim against a different bank to your bank. At that point, the bank owes you the amount of the check, which it credits to your account and it possesses a claim against the bank on which the check is drawn. The same happens when you deposit cash into your account: the bank takes that negotiable instrument and it becomes its asset, and credits your account for the amount of the cash.

But then again, cash, FRNs, are dishonored payment obligations of the Fed Reserve Banks. Most people would call that pure credit.

We use as our medium of exchange ("money" in colloquial terms) credit claims against banks. We swap them back and forth via checks.

"There should be a law" making bank depositors SECURED creditors to the amount of the deposits of the bank, so that the aggregate deposits are secured claims against the assets of the banks. However, banks don't

like this idea and they fund political campaigns. Hence, bank depositors are lowly unsecured creditors.

5

----- Original Message -----

Subject: finance: Your deposited funds are legally OWNED by the bank; more bank confiscations planned

Date: Wed, 23 Jul 2014 13:11:39 -0700

From:

10

[PP NOTE: Banks are NOT your friends. Your deposited funds are legally OWNED by the bank, making you an unsecured creditor holding bank IOU's. The banks are NOT obligated to honor your requests for cash on demand.]

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finance: Your deposited funds are legally OWNED by the bank; more bank confiscations planned

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A joint paper by the U.S. Federal Deposit Insurance Corporation (FDIC) and the Bank of England dated December 10, 2012, shows that these plans have been long in the making; that they originated with the G20 Financial Stability Board in Basel, Switzerland (discussed earlier here); and that the result will be to deliver clear title to the banks of depositor funds. New Zealand has a similar directive, discussed earlier here.

25

30

Few depositors realize that legally, the bank owns the depositor's funds as soon as they are put in the bank. Our money becomes the bank's, and we become unsecured creditors holding IOUs. (See here and here.) But until now, the bank has been obligated to pay the money back as cash on demand. Under the FDIC-BOE plan, our IOUs will be converted into "bank equity." The bank will get the money and we will get stock in the bank. With any luck we may be able to sell the stock to someone else, but when and at what price? Most people keep a deposit account so they can have ready cash to pay the bills.

35

http://www.huffingtonpost.com/ellen-brown/banks-confiscation_b_2957937.html

40

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END QUOTE

45

It is important that the Commonwealth of Australia clarifies this not only to my wife and myself but in general and also to the banks that they cannot rot the system as if there is no tomorrow because they will be liable for all and any monies that is transferred to its account holders by the Commonwealth of Australia as to be available when requested on demand by such account holders and/or its authorised agents.

50

In my view appropriate legislation should be in place to ensure that account holders are and remain secure creditors (if that can be deemed to be the appropriate term for it) and their entitlement is guaranteed 100% by the Commonwealth of Australia where it transferred such monies into the bank accounts.

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As such, where a bank fails to honour any demand of payment then the monies owned by the value of the monies in the account holders account becomes a **Debt to the Commonwealth**, this while the Commonwealth of Australia immediately re-issue the value of those monies to the account holder in the appropriate manner the account holder request it.

5 Obviously the Commonwealth of Australia should put in place that where a bank defaults on its obligation to pay upon demand to an account holder and/or its authorised agents monies otherwise entitled upon then this may constitute FRAUD, and bank staff can be charges with embezzlement, fraud, etc, and risk confiscation of all and any personal ownership of goods and chattel to recover any value of monies that the bank is coming short to honour its obligations.

10 *Commonwealth of Australia Constitution Act 1900 (UK)*

QUOTE

115 States not to coin money

A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts.

15 END QUOTE

This too is a major issue because States assign authorities to all kinds of entities which demands payments in other form than gold and silver, and where then a person like myself as a **CONSTITUTIONALIST** refuses to act in violation of the constitution (our principle law) then interest and other charges are added. Clearly this conduct to pursue a person to act in violation to constitutional prohibitions cannot be tolerated and the Commonwealth must act against this blatant disregard by the States and its agencies against constitutional provisions.

25 I may also add that I wrote to my bank objecting, some weeks ago, having to use a pin number for my credit card but didn't even receive any response. This, even so the media report that one can be provided with a signature card that one doesn't need to use a pin number.

When I use the credit card I actually insist that the person at the Cash register to check my signature (as at times they try to not bother with it) as it is in my own interest.

30 The banks themselves do not lose any monies when monies are defrauded, because they recoup the losses by charging higher fees and/or to reduce the profit of shareholders. By this the real culprits the managers of the banks are implementing systems that purported to be cheaper but really is dearer to the customers/shareholders and also undermines employment of Australians while nothing has effectively been done to make banks more secure. By this the Commonwealth of Australia unconstitutionally was providing a bank guarantee while the board members award themselves even more monies and go on a spending spree. As such "bail-in" is to ensure they can continue to do so as there is no responsibility or incentive upon the board members to avoid any financial disasters.

40 Hence, make board members personally liable may even result to them taking more care to avoid any financial disaster. The banks are a private organization and taxpayers monies cannot be used for non-public matters.

Hansard 21-1-1898 Constitution Convention Debates

QUOTE Mr. HOWE:

45 They show that the thrift practised by the people of Australia is unparalleled in the history of the world. But there is another side to this question, and a very gloomy and sorrowful side indeed. **There are records of bankruptcy, of reckless, and in some instances corrupt, management, when the hard earnings of the people and the savings of a lifetime have been swept away-have melted away like snow before the noonday sun. Through this reckless and corrupt management men who thought they had provided for their old and declining age found themselves stranded on the cheerless shores of charity, and many of them have had to accept even amongst ourselves the pauper's lot. The pauper's lot in Australia or in any other country is to the deserving poor one of the saddest and darkest blots on our civilization.**

50 END QUOTE

After more than 11 decades of Federation somehow the Commonwealth of Australia has done nothing to address this appropriately, as banks still are in that regard unscrupulous against customers and by reckless and corrupt management undermine the financial stabilities of banks. If therefore banks are to big too fail then the federal government must have appropriate legislation in place to prevent such failure in the first place. This is a far better solution then to let banks squander monies of others and one day even with a purported “bail in” may still not be able to be saved, hence preventing it is better than some ill-conceived cure.

Banks should have their security increased so that they have always a financial backing and not that blatant incompetence allow them to squander every cent and then there is nothing for the innocent persons (customers/shareholders) to retrieve, but likely bank managers will have been aware in advance of a likely financial disaster and beforehand transferred their monies overseas. Meaning legislation should be in place to prevent bank managers to transfer monies out of the Commonwealth of Australia without government approval, to their own overseas accounts or place any monies in a trust. Also, where a bank ended up in financial problems than all and any monies the bank transferred during the term of any employee/manager to off shore accounts and/or in trust funds will be deemed to be property of the bank and must be returned to the bank forthwith.

I may add also that during the GFC many municipal/shire councils lost huge amounts of moneys they had invested, this even so they are not a body as such to do so. They are charging rates allegedly to be able to run council matters but the mere fact they are investing millions of dollars in overseas risky investments may underlines they are as like the banks ignoring any personal responsibility as to how they are dealing with other peoples monies.

It is therefore also in the interest of the Commonwealth of Australia that it ensures banks are not engaging in irresponsible conduct, as after all, where customers/shareholders were to lose their monies as result then they may become dependent upon Commonwealth of Australia pensions which wholly or partly self-funded retirees clearly are to some extend to avoid.

This correspondence is not intended and neither must be perceived to contain legal advice nor to refer to all issues/details.

MAY JUSTICE ALWAYS PREVAIL®

(Our name is our motto!)

Awaiting your response,



G. H. Schorel-Hlavka O. W. B. (Friends call me **Gerrit**)