

## CHAPTER III

### LETHAL BLOWS

1994–1996

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If I allowed my heart to guide me, I would take a break from the corruption that exists within international commerce and within the courts of our nation, and cut straight to that railway station I spoke of earlier. But the disciplines that lie entrenched within my mind do not allow me to leave certain ends untied. And so I am compelled to temporarily override my heart; a heart still young and often stirred by emotive thoughts of how a young boy's deep love was strong enough to alter the direction of his life and the lives of others.

For now... those untied ends.

It had been a lean Christmas season as the dawn of 1994 broke. The bitterness of watching the collapse of Parktec and the associated helplessness we felt had begun to subside, and the challenge of overcoming adversity had begun to well-up in all of us. There is something about oppression which causes us to reach deeper into that reservoir of untapped strength which lies dormant within most, if not all of us. There is almost an excitement that takes hold; the excitement of overcoming.

----- [Excerpt] -----

[In this next excerpt I have amplified the often undignified and highly damaging conduct of the Australian Judiciary; conduct that is well beneath the propriety expected of a judge – or put another way, beneath the Bench.]

III – LETHAL BLOWS

**Killer Blow Presiding**

However, the manner in which the wheels are configured to ensure load-sharing or the way the cubicles are stabilised when negotiating the tracks, and so it goes on... that's the Europark technology. We referred to it as the drive system. All of this was well-established knowledge before I subjected myself to the inane questioning of Hack and the judge.

And on the subject of inane, at one point Hack had begun questioning me on how World Bank funding had contributed to the development of the Europark technology. His questions were poorly phrased and the matter had begun to drone on almost meaninglessly. Certainly to a point where I would not concede to his ridiculous assertions. During the course of this exchange the judge had sat back on his chair looking pensive. I had no idea where his mind was.

When an impasse had been reached, Hack decided to change the subject and move on. But before he could do so the judge tagged him and entered the ring with a totally unrelated line of questioning.

HIS HONOUR: Before we do that, would you agree, Mr Eaton, that a drive mechanism for a mechanical car parking system is not a mechanical car parking system?

The judge was stating the obvious in question form. So obvious, in fact, that I looked puzzled, almost confused. He tried again.

HIS HONOUR: It is not a car parking system, is it? The drive mechanism for a car parking system is not a car parking system?

MR EATON: I see where you're coming from...

Hack then tagged the judge.

MR HACK: Mr Eaton, have you ever bought a motor car?

MR EATON: Yes, Mr Hack.

MR HACK: Or did you buy just the drive system for the motor car?

MR EATON: I've had a few replaced, but---

I hadn't fully locked into the question and my answer was incomplete when cut short.

MR HACK: Well, when you bought a motor car, did you buy just the engine, or all the bits that go with it?

Although still unaware of the direction in which this duo was heading, I had no choice but to get into their sand pit.

MR EATON: All the bits that go with it.

The judge immediately rocked forward hunching over one elbow as he looked straight at Hack. And without losing momentum or eye contact he then viciously bellowed the following few words, startling everyone in court.

[HIS HONOUR: **That’s got to be the killer blow!!**]

Like others, I was in shock.

“Thou hast seen a farmer’s dog bark at a beggar,  
And the creature run from the cur:  
There, thou might’st behold the great image of authority;  
A dog’s obeyed in office.”

Shakespeare – *King Lear*, Act IV, Sc. 6

I have put the judge’s words in brackets because they are not to be found in the transcript of trial, and that’s not uncommon in Australia. The judge has a mute button beneath the Bench so that he can be as offensive as he likes without it ever being on record. He also has the right to alter the dialogue in a transcript if there’s confusion created by the recording of indistinct words, particularly his own. Needless to say that this gives the judge some latitude in directing matters to suit his purposes.

**But Spender J can mute or alter whatever he likes, for he will never mute or alter the memories of those Europark souls who sat silently in court trying to come to terms with the maliciousness that had beset their lives.**

Whatever the judge had in his mind remains a mystery to all of us to this day. And I noticed that an equally surprised barrister was quick to divorce himself from this abysmal episode by getting back to the line of questioning he had in mind before being taken off track. I would just add here that no mention whatsoever was made of the judge’s killer blow revelation in his Reasons for Judgment. The lightning bolt which so briefly and so violently illuminated our pensive judge may have possibly been induced by a scotch or three in his chambers during lunch – who knows.

----- [Excerpt] -----

[In this excerpt I am exposing the criminal mischief contrived by the ACCC (formerly TPC) in order to reinforce their impending federal court action against myself, my directors, franchisees, investors, staff, agents and whomsoever.

John Stephen McCarthy, journalist with *The Courier-Mail* newspaper, Queensland, and

Others were subsequently charged under section 42 of the Commonwealth Crimes Act 1914 – Conspiracy to Defeat Justice (as defined in the 1990s). This section dealt with the publishing of material which would knowingly be used to influence the outcome of a future trial.

A fortnight prior to the return date of 9:30AM on 14 April 1998 I advised the Magistrate, Gribbon SM, that these charges would be dropped. I realized that although John had acted criminally he had also acted naively. Unfortunately, his naivety, which was used criminally by the ACCC, precipitated the worst possible damage – the murder of Willem Van Der Horst and the suicide of one of our investors; not to mention the illnesses created by the denial of justice.]

I have used the terms ‘set-ups’ and ‘hijinks’ in the hope of not overdoing the word, “corruption”. It can quickly get to the stage where overuse of a word causes its meaning to diminish. Overuse could also imply that all government officers are corrupt and this is certainly not the case; nor is it the case that all politicians are liars, or that all judges are bent, or that all lawyers are... (you’ll have to help me out here)...

Anyway, if Guthrie was ever going to succeed in running a federal court action against us – and it was certainly shaping up that way – he would need to dig deep into his bag of unlawful tricks. But then, he carried it with him at all times and no trick would be left to gather dust as the torturous months rolled by.

Even with his authority as Assistant Director of the TPC at his disposal, he was still going to need backup. The last thing this man needed was to be caught out blatantly abusing his authority. Early retirement was looming and with it all of the benefits accruing to him. Guthrie was going to step very carefully. He had a lot to lose.

“I know what I’ll do,” he must have thought. “I’ll give my mate John McCarthy a call. He’s a well-known journo for *The Courier-Mail*. He’ll print what I need him to print.” The conversation with McCarthy possibly went something like this:

“John, it’s Terry Guthrie, TPC. How are you, mate?”

“Fine Terry, and yourself?”

“Good, mate, good. Listen, I need a favour. Well... drop the word favour.”

“No problems, Terry. (still chuckling) Consider the word unsaid. How can I help?”

This conversation undoubtedly culminated in a meeting being set up at which Guthrie primed McCarthy with as much damning, false information as possible. The rest was up to McCarthy. The TPC needed to give myself the worst possible character reference and have it published well before court proceedings were instigated against us. Once

proceedings commence, even the toughest journo wouldn't go to print with a story that may influence the outcome of a trial and John McCarthy was far too smart to put his career at risk. No... his damaging article needed to be published now and not once court proceedings had begun.

McCarthy was colourful, one sided and eager to sensationalise; not one to let the truth get in the way of a good story – as they say of most journalists.

Before writing his story, he phoned me. Reception was unattended at the time, and so I personally took the call. I was in a meeting and advised McCarthy that I couldn't speak to him at that particular moment. I offered to phone him back but his insistence was difficult to sidestep. He fired a number of quick questions, most of which were answered by saying: "I'll need to discuss that matter in full, John, but really, I can't speak at the moment." He just kept moving. In hindsight, all he was doing was making a record of having spoken to me. The content of the discussion was of no importance to him. He knew exactly what to write as a favour to Guthrie.

At 8 o'clock in the morning on Friday, 17 June 1994, my wife took a call from one of our investors. He needed to speak with me urgently. He began by reading the headlines in the business section of *The Courier-Mail*.

#### "EATON – GUNS, WRITS, LIQUIDATION AND POLITICS"

The entire article damned me as an undesirable character who was little more than a back-street thug running around the streets of central Europe armed and in the company of crims. McCarthy then went on to say: "...and his latest idea, selling a mechanised parking system neither he nor his company owns." I knew that this false statement was designed to adversely influence a judge, but I couldn't recall which section of the Commonwealth Crimes Act 1914 was relevant. One thing I did know, however; I was being set-up. The TPC was, without question, intent on forcing me to trial in a federal court.

The balance of the article slammed me time and time again. At one stage it referred to an application which awarded Parktec the maximum EMDG available through Austrade, a division of the Australian Trade Commission. A spokeswoman was quoted as saying: "But Austrade did say it did not believe Eaton, or his company [referring to Parktec] was the holder of the relevant industrial rights to the technology advertised in *The Australian* and its lawyers were trying to recover the funds from the wreckage of Parktec." A highly discrediting story which was little more than a furphy. I'll explain shortly. We now had the journalist's skilful attempt to adversely influence a judge being backed up by what should be a credible government agency. Guthrie was marshalling

his forces, but he was still far from maximum strength; that would happen in time.

----- [Excerpt] -----

I left court with my son, sickened by the comments of the judge, yet knowing that I could not share those comments with others. Some of us were only just hanging in there, incapable of coming to terms with the viciousness of the attacks against us. Fortunately, none of our franchisees, staff or investors had turned up at court on this final day. Those who were in court for the “killer blow” episode the day before had decided to stay away. There is a limit to the amount of undeserved punishment decent people can take.

As time passed I couldn’t help but muse over the hostility of the judge. All manner of circumstances went through my mind. It had even been suggested that he had taken offence to my political interests. I was Federal President of the Federal Party of Australia, a conservative political party which was registered on 4 November 1991. He knew of this party from the newspaper article which had been written by John McCarthy. And if not from this article then from the numerous full page newspaper advertisements I had taken out around Australia at the time of my party’s launch. Although, I did admit that I felt that this was a poor reason for him to show such antagonism against me.

Of course, my presidency within the NCT was against me from the beginning. Not to mention a pompous style of speech which had overcome me during the climactic height of cross-examining VDH. And I’ve almost failed to add to this summary any mention of my comprehensive report to the Australian Federal Police just six months before trial. You will recall that this report in complaint form concerned the conduct of officers within the ACCC (then TPC) and AGS which, in no small part, embroiled the judge himself; none of which should directly or indirectly affect justice or the expectation of it. But then, at the time of lodging my complaint I didn’t know that Spender J would have the effrontery to accept the appointment as trial judge.

----- [Excerpt] -----