

CHAPTER I

SIGNING THE WARRANT

1997

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As the judge’s associate began handing out the Reasons for Judgment I felt strangely uneasy and it wasn’t nervousness. It was a feeling of foreboding, as if something was about to alter the direction of my life and not for the immediate better. I couldn’t help but reflect on some of the stories I had heard about the judge. His career was seemingly shrouded in dishonesty and intrigue, but could the severity of the accusations be true of a federal court judge? His conduct had pervaded the conversations of legal practitioners. One mention of the name Justice Spender was enough to involve myself in a discourse well worth listening to. And I wanted to listen. I had been through a shocking ordeal during trial only ten months earlier.

There was something about Spender J’s overall demeanour that was out of kilter with my impressions of federal court judges. And as National President of the National Corruption Tribunal I had, over many years, investigated numerous complaints against judges within all jurisdictions yet no single judge drew as much criticism nor fitted the almost caricature profile of *this* judge.

I’ll take a brief moment to share just one of the stories which will serve to typify the cavalier arrogance of Spender J. It’s a matter which occurred in the early 1980s. He was a prominent barrister acting for the Crown Solicitors Office (now ODPP) as Crown prosecutor in what was known as the Russell Island conspiracy case. This matter involved sixteen defendants at the commencement of committal proceedings during the course of which seven were freed on the grounds that a *prima facie* case had not been established.

Needless to say that those released were lawyers and persons of political and social standing who had been involved in profiteering from Russell Island land sales; thirty percent of which land, I will add, was tidal. That’s a polite word for ‘subject to flooding’ even at low tide. A whole range of misleading statements had been employed to attract buyers; many buying the land ‘sight unseen’. And many of those who did visit the properties (estates) were shown land which was not the land they were purchasing – anything to get buyers on contract.

The scams went on for a decade much to the eventual delight of Jeff Spender. *His* method of unlawful profiteering would end up making the fraudulent efforts of the accused look ineffectual and puerile. None of the property developers, lawyers, surveyors, sales staff, and high profile public servants he was prosecuting could possibly have matched his own dishonesty. He took the act of ‘cost building’ to its highest possible plane. That is, instead of taking the shortest most feasible and inexpensive route, he took the longest, most difficult and financially draining, for the State. He then seized on every possible argument and point of law to zigzag his conspiracy case into the annals of Australian criminal case history. It ran for over twenty months. In all, a record 316 sitting (court) days and millions of taxpayers’ dollars of which a healthy slice went into the pocket of one, Jeff Spender. I’ll take just a brief moment to qualify my remarks.

It was argued by defence counsel at the outset of this trial that if the charge of conspiracy against the remaining nine defendants was dropped and fresh charges of ‘false pretences’ were laid against them, then the individual trials would have had a combined life expectancy of no more than three months. And the reason was straight forward. The conspiracy charge embroiled the conduct of all nine defendants variously over a period of ten years. Some of them didn’t even know each other, particularly in the instances where some were alleged to have acted unlawfully in the late 1960s and others throughout the 1970s. Linking them all to a conspiracy, irrespective of their individual acts being similar or the same, is an almost impossible task.

So why did the Crown prosecutor, Jeffrey Ernest John Spender, become notoriously synonymous with the Russell Island conspiracy case?.. Because, by refusing to alter the charges to false pretences – and he had all the authority to do so – he was able to rapaciously milk the cow for the duration of that marathon twenty months, not a paltry three. And milk it he did. He was not a government employee working for the Crown Solicitors Office as an in-house prosecutor. He had been commissioned by the State government from the private Bar. Or put another way, he was in private practice as a barrister and was paid generously for his services in the role of Crown prosecutor.

Many years later I had occasion to speak with one of the defence counsel (barrister), Jim Barbeler, who told me that “Jeff Spender was passionately in favour of the conspiracy charge.” And why wouldn’t he be! But then Jim did admit that Jeff’s obstinacy had a rewarding spin-off for himself. The length of the trial also prospered him as one of the defence counsel and as a result he was able to renovate his home. At the time of speaking to Jim he still referred to one section of his home as the “Russell Island wing”.

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