

CHAPTER XIII

THE SLAYING OF THEMIS

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“Justice, sir, is the great interest of man on earth.”

Daniel Webster 1782-1852

And he hit the target, dead centre. But try pursuing justice when the delivery of it is subjected to countless weaknesses within human nature; weaknesses that all too often ambush the direction of innocent lives. And how in God’s name are we able to see around corners, particularly those that hide the flawed characters which society has deemed responsible for the enforcement and application of law?

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

It has long been said that:

“Arrogance and intellect will forever be in conflict; each having the power to overrule the other. And in some, that conflict will so often spawn dishonesty; certainly when arrogance claims a glorious victory.”

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

But take a closer look at Marcus Einfeld’s dishonesty. There were no victims. Although, some may say that he was a victim of his own lies; lies that punished him twice. The first being the destruction of his reputation built upon a lifetime of genuine, distinguished achievements. And the second penalty was his incarceration; a penalty incurred by wilfully destroying that reputation, and of course, the reputation of the Australian Judiciary. Undoubtedly the latter did him the most damage.

Now compare the suicidal arrogance of this retired federal court judge – retired voluntarily in April 2001, five years before the lying that jailed him – with the arrogance of Jeff Spender, still a Justice of the Federal Court of Australia. The point I’m

making is that lies which emanate from the Bench create **real** victims. In Justice Spender’s case he brought down a judgment which openly published **eight** outright lies and **fourteen** false statements based on incompetence and negligence – so he would have us think. But make no mistake; these fourteen are very thinly-disguised lies.

So here’s where I’m heading. A retired federal court judge who lies four times under oath commits two crimes for which only he is the victim – other than the precious reputation of the Australian judiciary... of course – tut, tut. And for these offences he is sentenced to a total non-parole period of imprisonment of two years. Now take a look at the conduct of a judge of the federal court who very effectively lies twenty-two times from the Bench committing twenty-two criminal acts of judicial corruption for which there are **five victims – all killed by those offences**. Would a life sentence for each death be fair, with the words, “Never to be Released”, stamped on his file?

And if you did grant him clemency, would it be on the grounds that his few remaining years will be spent suffering the pain and indignity of a life and reputation ruined by his own dishonesty and arrogance? **And there is no greater form of arrogance than to believe that you can flagrantly abuse your office by issuing a warrant for the deaths of innocent people as a means of protecting yourself and preserving the reputations of government agencies.**

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

Citing Brutality

“There is no crueller tyranny than that which is perpetrated under the shield of law and in the name of justice.”

Charles de Montesquieu, 1689-1755

I am going to concentrate solely on the abuses that distort our criminal justice system and leave the civil justice system alone. I have dealt with that enough in my book; a book, if in volume form, could fill libraries across the globe if all I did was write about the abuses which are so easily perpetrated when only the balance of probabilities need be the focus of procedural fairness and judicial proceedings. Slaying Themis is a far less exacting science in civil matters.

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

- Lindy Chamberlain

It was a winter's night in the desert of central Australia. A group of tourists – among them Lindy and Michael Chamberlain – stood around a camp fire barbecue at the foot of Ayers Rock – now known as Uluru. Lindy had just put her 9-week-old daughter, Azaria, to bed and joined her husband. Their tent was only a few metres away and well within the glow of the open fire.

As all mothers do, Lindy would turn her attention to the tent repeatedly, alert to any cry for nurture. Only a matter of minutes had passed when again she turned. But this time, the turn became a race to the tent as she screamed: “A dingo's got my baby!!” Michael and others from the group ran with her but the dingo had disappeared into the darkness of that cruel night on 17 August 1980.

Then why was Lindy Chamberlain convicted of the murder of Azaria? Why was she forced to endure the birth of her last child, Kahlia, in a prison hospital? – a child conceived in the months of grieving which followed the Chamberlain's loss. She was never allowed to keep the child with her. And why did a nation turn on her with an increasingly vicious heart as she unflinchingly held her faith in God? These questions are the manifestation of witnessing years of abuse against an innocent family; and before I answer them I will touch briefly on the procedural fairness which was not simply breached but totally disregarded – and again, why?

Ayers Rock is situated in the south-western corner of Australia's Northern Territory (NT), and although the initial investigation was handled by police in the Chamberlain's home city of Mount Isa in the State of Queensland, matters would eventually be transferred to NT police. But even so, in both jurisdictions their handling of the investigation was alarmingly brutal as their presumption of Lindy's guilt was not leaked but broadcast to the media.

It puzzled many that police made every effort to portray her as guilty. This was highlighted at the inquest when Coroner Dennis Barritt became scathingly critical of their shoddy investigation. I remember thinking at the time that the coroner had not done the Chamberlains any favours. There was no way that police would back down after being humiliated as they were. And yet, it was not just the coroner's disciplinary remarks that caused police to intensify their attack, as I originally thought. However, it would be some years before I became aware of the underlying motive.

Senior officials within government began to shuffle police investigators when the Chamberlains hadn't been criminally charged on the recommendations of the coroner. The police officer who originally interviewed Lindy and Michael was replaced by his

junior officer. He had been told that he didn't get the result that was wanted. It would take the career-hungry, or should I say, the power-hungry efforts of a younger officer to get the result pleasing to his superiors.

Something had to be done about the honesty of the original forensic findings. It would be Joy Kuhl, who later became the Director of the Northern Territory Forensic Science Unit, who provided police with the forensic results they needed. Her predecessor wasn't prepared to bend his ethics one iota, let alone put Lindy away for a lifetime. **The NT government had now taken out its cheque book to ensure a conviction.**

Kuhl immediately identified a General Motors sound deadening agent inside the Chamberlain's car as foetal blood. This quickly became the famed Arterial Spray, said to have sprayed from the baby's cut throat. She then wilfully destroyed the slides she had used in this false forensic testing – just to cover her tracks.

The so-called foetal blood was the evidence police needed to charge, convict and jail Lindy, circumstantially – Azaria's body was never found. The media were actively cultivated as more and more evidence was fabricated or destroyed.

- Dingo prints on Azaria's blanket curiously disappeared once in police possession.
- A miniature coffin used by Pastor Michael Chamberlain in his anti-smoking campaigns was seized by police and held out as a ritualistic symbol used to reinforce the theory of sacrificial murder. In truth, Lindy and Michael's lives were dedicated to Christian activity within their church.
- The name "Azaria" was heavily publicised by the media as meaning, "sacrifice in the wilderness". Police urged the publishing of such notoriety. It was absolute nonsense. In truth, it meant, "Blessed of God".
- Cartoonists within the media and elsewhere began to mock the 'death of Azaria by dingo'. T-shirts displayed the mocking in graphic detail and were sold in the court grounds to spectators attending Lindy's court appearances – and elsewhere throughout Australia; even in the laneway next to the site of the Royal Commission which was eventually held.
- From the outset, a nation had begun to join in as the media conducted its own trial throughout the length and breadth of our country.
- Coroner Dennis Barritt was shuffled sideways, never to be promoted.

The charge of murder against Lindy Chamberlain finally came to trial. It was a stitch-up from beginning to end.

- The NT government, police and media had done their job well. At the time of trial the jury was hostile against the Chamberlains, and in the main, so was our nation.
- Dingo teeth marks in the baby's jumpsuit were said to be cuts from a pair of scissors, but there was no murder weapon found. And unfortunately it was impossible to detect if there were any fine traces of dingo saliva on the garments worn beneath Azaria's missing matinee jacket.
- Lindy had emphatically told police that Azaria was wearing a matinee jacket over her jumpsuit. But only the jumpsuit and undergarments were found a week after the baby's disappearance. Had the matinee jacket been found, then dingo saliva would have been clearly evident, proving the Chamberlains' innocence.
- Evidence of aboriginal trackers who followed the dingo's footprints, and drag marks made by the baby, from inside the tent to a distance well-outside the camp site was tendered in written form, as was the evidence of other Aborigines who were familiar with the habits of dingos. The prosecution blocked the defence from calling these people as witnesses. The voir dices continued. And as far as their written evidence was concerned, one of the jurors admitted after the trial that none of them realised that they were allowed to read it. Juries are often kept in the dark. It's a flawed system.
- Eyewitnesses at the camp site who were called to give evidence were whistled through the witness box with lightening speed during the first day and a half of trial. For the next six weeks the jury were mesmerised with forensic evidence – all false.
- Joy Kuhl, the expert forensic witness, went on to foul up the evidence again and again, like a bloody hand print on the back of Azaria's jumpsuit that turned out to be an embedded sand stain. That part of Australia is not called 'the red centre' for nothing.

Lindy and Michael had exhausted their own financial resources and were relying on the Seventh Day Adventist Church to fund their defence. And a fighting fund was also set up by their lawyers; a fund into which many Australians contributed, but far too few.

Michael Chamberlain was never jailed – three years suspended sentence. Lindy bore the full brunt of a corrupt legal system – life sentence, hard labour, no parole. Appeals through to the High Court of Australia failed to offer her justice. She was subjected to the most horrific indignities. I often wonder what I would do if I saw one of the judges hearing my case **quietly fall asleep** while proceedings continued in his conscious

absence. It would take the sort of restraint that only the strength of Lindy's faith could give. And it was that faith that saw her through the years of brutal treatment.

I have only touched on the anguish which tore her marriage apart, and the animalistic savagery of human nature that tore at her children and those who stood with her throughout all the public 'floggings'. She was emptied out. But what the NT government, police and forensic experts could not drain from her, was once again, her faith. Lindy would stand ramrod straight and never show an ounce of weakness as she held tightly to her trust in God. Regrettably, it was this resolute trust that brought out the bloodlust in journalists and the public, and the maliciousness in police. She took comfort in these words:

Isaiah 26:

“Hide thyself as it were for a moment, until the indignation be overpast; for behold, the Lord cometh out of his place to punish the inhabitants of the earth for their iniquity.”

Then came the breakthrough that Lindy desperately needed. The matinee jacket worn by Azaria had been found. It lay buried close to dingo lairs some 150 metres from the site where the jumpsuit had been found five years earlier. A British tourist, seen climbing Ayres Rock at dusk, had presumably fallen to his death. The discovery of his body had caused police to cordon off the area in search of possible evidence of foul play. It was then that the matinee jacket was inadvertently found.

News of this vital piece of evidence was leaked to a well-known local journalist who immediately applied pressure to Ian Tuxworth – a Chief Minister reluctant to act. However, the threat of exposing the NT government's willingness to conceal this evidence forced his hand. Lindy was released from prison in February 1986. But she was still a convicted murderer who had served just over three years behind bars.

Finally, the Justice Morling Royal Commission report was adopted by the Court of Criminal Appeal. Lindy and Michael were pardoned in September 1988 – all convictions quashed – and four years later Lindy was awarded \$900,000 compensation. Michael received \$400,000. These amounts combined were less than the legal costs which had been paid by the church. It took a massive effort to get there. Thirty-one scientists, twenty-five of them members of the Australian Society for Immunology had signed an open letter protesting against the conclusions of the forensic expert witness, Joy Kuhl.

And during the year-long inquiry conducted by Justice Trevor Morling he examined 278 lay witnesses and 65 experts. This time there was no jury floating around in a sea of bewilderment, and Morling J **didn't** fall asleep.

Further evidence which had been suppressed by the NT government and police also came to light:

- A Russian diplomat had been attacked and bitten by a dingo only months before Azaria was taken. The incident was covered up.
- The Cranwell family came forward and described how a dingo at Ayers Rock had dragged their child from their car eight weeks before Azaria's death – another cover-up.
- The senior ranger at Ayers Rock, Derek Roff, had written to Chief Minister Everingham and others on a number of occasions warning of the danger problems of wild dingos in the area. And in one of these warning letters sent less than a month before the Chamberlain tragedy he clearly stated that “there will be some definite harm and maybe a child or possibly a baby will be killed if we don't do something.” But Everingham continued to cover-up the problem.

In fact, the NT government kept a tight control over the possibility of information leaking concerning dangerous dingos. You see, there was only a small population in the Northern Territory and one of their major revenue streams was tourism.

Now I remember where I was heading. I had begun this story with questions as to why the cover-ups, why the false forensic reports, why the shuffling of police investigators, why the cultivation of media, and why the necessity to make Lindy Chamberlain out to be a religious zealot capable of killing her own child in a sacrificial ritual.

Ayers Rock was one of Australia's iconic and best known international tourist destinations. Just tell the world that Lindy is a lying murderer and in doing so any thought of there being a dingo danger simply won't arise and the tourist dollars will keep flowing. That was part, but only part of the reason for such intense international media coverage.

Now, we all know how creative advertising people are. So I would like readers to join me in the boardroom of the Minister for Tourism, NT. Around the boardroom table are a number of executives from an advertising agency which specialises in tourism promotion. The minister and his key staff are also present. **The following is a fictitious meeting** – maybe.

Stimulating the influx of international tourist dollars is the main topic. The meeting has bogged down. All of the standard promotional techniques have been canvassed. One among them breaks the mould and emerges with something highly imaginative – tongue in cheek, of course.

“How good is this?!”

He gets to his feet. His hands now move through the air as he writes the copy.

“Baby sacrificed at Ayers Rock.”

He pauses as his mind seizes on words that will keep international tourists spellbound.

“Tell the world that the baby’s name means ‘sacrifice in the wilderness’... We could build a sacrificial altar and cordon off a small area at the foot of Ayers Rock.”

Again he pauses before his hands sweep deliberately through the air.

“Travel agencies worldwide would have our brochures. ‘Tours to Australia’s sacrificial site’.”

The minister finishes yawning then interjects.

“Great story, great tourist puller. But where do we get the baby from and who’s going to carry out the sacrifice?”

“I’m still working on that.”

There’s a chuckle around the table before the minister takes control.

“Yes, well, standing on the site of a recently murdered child would certainly create a massive cult following if nothing else, but we don’t have the luxury of such a sacrificial event, so let’s keep our feet on the ground.”

Although such a meeting never took place prior to the disappearance of Azaria Chamberlain, it is a fact that the Ayers Rock Resort development at Yalara had just moved from the planning stage to construction, and the airstrip – first step in the construction of the Ayers Rock Airport – had been freshly graded and sealed less than two weeks before that tragic event.

About a dozen of the Territory’s most prominent families had invested millions of dollars in the venture along with a reported \$20million from a major Australian bank. Avarice was about to deliver a crippling blow to the Chamberlain family.

And although a ‘sacrificial site complete with altar’ was never physically built, the media certainly built it in the minds of tourism operators worldwide and in the minds of a sensation-hungry public. Lindy, Michael and Azaria were the answer to a tourism promoter’s prayer – a gift. And Chief Minister, Paul Everingham, wasn’t about to let this golden opportunity go.

Less than two years into Lindy’s incarceration, Paul Everingham left that office for greener pastures and was replaced by Ian Tuxworth, a man also lacking sympathy for the Chamberlains and equally as anxious to promote the Northern Territory as an international tourist destination.

Irrespective of a full pardon, public apologies (not government) and a handful of dollars comparatively; **Everingham, his key staff, investors in the Ayers Rock Resort, NT police, media, the Australian Judiciary, and our nation, will carry the eternal shame.**

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