

**LEGALLY ABUSED**

**PART 1 of 6**

"A TYRANT JUDGE"

**Screenplay**

**by**

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SPEC SCRIPT  
Final Draft

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**Duration:** 60 Minutes

## LEGALLY ABUSED

### MINISERIES SYNOPSIS

A True Crime, six-part Television Miniseries dedicated to exposing allegations of crippling 'Star Chamber' activity firmly entrenched within the Australian Competition and Consumer Commission (ACCC) and too often practised within the Australian Judiciary.

Millions of dollars invested... World Bank funding... A violent inventor... Corrupt government officers... Justice brutally denied in a Kangaroo Court... And if that wasn't enough, the worst was yet to come. So far Australia's most notorious federal court Judge had only issued the **death warrant**. He had yet to give the **order to kill**.

This is a compelling true crime story of identity falsification, criminal conspiracies, unlawful intervention, fabricated evidence... all of it underpinning judicial corruption, suicides and murder.

The story begins in a courtroom in February 1997. Garth Eaton walks from that courtroom clutching a document which is about to destroy the lives of 52 families. **But why?**

Eaton certainly recalls crossing swords with a Lawyer in the February of 1973. He was 26. His highly entrepreneurial nature had caused offence to many. As a result, his life would be damaged by an unknown event.

And when he finally became aware of what he had been facing, his hopes of getting answers from high-ranking government officers in the late 1980s were lost when the Judge in a district criminal court threw his matter out and dismissed the jury.

From that moment on, the legal abusiveness against him intensified. He immediately became sport for government agencies. And their 'Star Chamber' tactics over many years would prove lethal.

But it took the vendetta of a judicially corrupt Judge of the Federal Court of Australia to finally bring him down. Eventually, six lives are lost to illness, suicides and murder. And again, **why?**

# LEGALLY ABUSED

- PART 1 of 6 -  
"A TYRANT JUDGE"

## SYNOPSIS - Part 1

A man with the reputation of being Australia's most notorious federal court Judge has just wiped out "Europark"; an Australian mechanical carparking project.

Garth Eaton's Europark franchisees are now forced to accept that a false complaint made against them by a fraudulent inventor (and former employee) has caused them to be prevented from developing and selling their own technology.

Yet, Justice Spender knew that this complainant, his "decent and honest" witness, was about to be criminally charged by State police.

And to add to this, the Australian Competition and Consumer Commission, the ACCC, had engaged in the worst possible Star Chamber conduct to disguise their complainant's history of fraud and deception. But why?.. is the question asked by franchisees. And why were they now paying a price for the Judge's legal abusiveness against Garth Eaton.

For answers, there are a series of FLASHBACKS to the early 1970s; to a time when Eaton, a former underground miner, unwittingly crossed swords with a solicitor, Vic Moffatt, in the North-West Queensland mining town of Mt Isa.

As the search goes on to uncover why Eaton had become a target, franchisees become engrossed in the ability of Justice Spender to avoid criminal prosecution for his conduct as Crown Prosecutor in the early 1980s.

At a 1984 FLASHBACK of a mock criminal trial, Jeffrey Ernest John Spender pleads not guilty to one charge of Attempting to Pervert Justice and 316 charges of Fraud.

Dr Ingrid Svenson, Criminologist and Clinical Psychologist, helps everyone to accept that Spender is "A TYRANT JUDGE" and that Garth Eaton possesses the flawed characteristics of so many entrepreneurs.

But this doesn't help as franchisees begin a rollercoaster journey through constant hope and disappointment until their fate is decided for them.

# LEGALLY ABUSED

- PART ONE -  
"A TYRANT JUDGE"

FADE IN:

EXT. BRISBANE FEDERAL COURT BUILDING. MORNING.

Establishing Shot.

INT. COURT 2. FEDERAL COURT. MORNING.

At the foot of the screen the text, "COURT 2 - FEDERAL COURT, February 1997", appears and fades.

To the right of the BAR TABLE sit PETER TOY, instructing solicitor for the ACCC and MR PHIL HACK, Counsel for the ACCC. They are facing the Bench and conferring quietly. To the left sit GARTH EATON (Respondent) and TERRY RICE (Former Detective Sergeant of Queensland police).

Three knocks are heard and the COURT OFFICER who has been standing quietly in the WELL of the Court immediately reacts.

COURT OFFICER  
Silence. All rise.

JUSTICE SPENDER enters the Court from a side door leading to his seat at the Bench. As he walks, the text, JUSTICE JEFFREY SPENDER, appears and fades. He pauses in front of his seat and bows his head. Those standing respond. He then sits and others follow when he is seated.

JUSTICE SPENDER  
Before I discuss my findings my  
Associate will distribute the Reasons  
for Judgment to the concerned parties.

The JUDGE'S ASSOCIATE rises and approaches the Bar Table with documents in hand and begins to distribute copies. Those at the Bar Table begin reading as the scene fades with Terry Rice flicking through the pages of Garth's copy.

MOMENTS LATER:

JUSTICE SPENDER (CONT'D)  
In closing, I need to say that in  
(MORE)

JUSTICE SPENDER (CONT'D)

finding for the ACCC I have made a number of personal remarks according to my assessment of the conduct and character of the Respondents, in particular, Garth Eaton. I would also add that I am preventing the Respondents from ever developing, manufacturing or marketing any mechanical carparking system similar to the Europark system. Thank you.

The Judge rises.

**FLASHBACK**

EXT. PARKTEC PROTOTYPE. VIDEO CLIP. DAY.

The prototype of a mechanical carpark is seen in operation.  
Duration - 7 seconds.

**BACK TO COURT 2**

COURT OFFICER

All rise.

As the door closes behind the Judge, Terry draws Garth's attention to the first of the notes he has made within the JUDGMENT. They sit as Terry begins to speak.

TERRY RICE

Garth, the ACCC hasn't just won, Justice Spender has literally flogged you. Here ... read this, and that's not all.

Terry then pushes the copy of the Reasons for Judgment in front of Garth with his finger emphatically indicating an offensive statement. Garth reads aloud quietly in his usual polished manner. The Court Officer is nearby.

GARTH EATON

(quietly)

What's this!? He's calling me a "glib grandiloquent rogue". I'll have to get

(MORE)

GARTH EATON (CONT'D)

my dictionary out when I get back to the office. And he's saying that Van Der Horst is a "decent and honest witness"? How the hell does he work that out. I've read the transcript of trial and have counted thirty-one of his lies under cross-examination.

(shaking his head)

Spare me.

TERRY RICE

Don't stop there, mate...

(indicating another passage)

it gets worse.

Garth continues to read quietly before speaking.

GARTH EATON

Now he doesn't believe that the tax deduction we offered the public is true?

(now looking at Terry)

I'll show you the transcript when we get back. I made it abundantly clear what that tax deduction was all about... it's for Prepaid Expenses. The Australian Tax Office has been offering prepaid expenses as a tax deduction since Adam was a boy. He might as well be telling everyone that I'm a conman.

TERRY RICE

(begins to stand)

Anyway... read the rest in the car and we can do a full post mortem over the next few days. But Spender can't get away with that... Judge or no Judge!

They begin walking towards the door.

INT. MAURER STREET HOME OFFICE. MIDDAY.

The text, "GARTH EATON'S HOME OFFICE, February 1997", appears and fades as they enter the office. Garth is still talking as they sit at the Boardroom table facing each

other. He is still holding the JUDGMENT in his hand.

GARTH EATON

This is horrific, Terry!

(shaking the Judgment)

How in God's name am I going to tell our franchisees that our franchising program is a scam?.. Spender has just crapped on the franchise agreements prepared by one of the most accredited intellectual property lawyers in Australia... Andrew Greenwood.

(pause)

Bloody buffoon!

(now flicking the Judgment across the table)

I regret having ever employed Van Der Horst... Nothing but a fraudster from beginning to end.

TERRY RICE

(beginning to stand)

Come on, mate... I'll shout you a counter lunch at the Tavern.

GARTH EATON

(also begins to stand)

Good idea. But I might just stick with liquids.

INT. OFFICE OF PRESENTER. BOARDROOM.

The Presenter walks to the head of the Boardroom table.

PRESENTER

My name's Adrian Knowling, and during the course of this six-part miniseries, Legally Abused, I'm going to uncover some of the most astounding Star Chamber conduct; that is, criminal conduct within government agencies... some of the worst forms of legal abuse imaginable. But it won't be just government bodies that will come in for some heavy scrutiny... I'll be very accurately exposing the abusive conduct

(MORE)

PRESENTER (CONT'D)

of Australia's most notorious federal court Judge, Jeffrey Ernest John Spender. And to do this effectively I will be drawing on the real life events of a man who started his life as an underground miner. And that man you have already met... It's Garth Eaton.

(long pause to sit)

Just a few moments ago you saw Garth walking from a federal court, or should I say a Kangaroo court, after losing a battle with the ACCC... that's the Australian Competition and Consumer Commission. It was a matter that should never have ended up in a courtroom. So, did Garth Eaton have enemies, and if so... why? We'll start by backtracking... to a time when he was young and no longer an underground miner but a highly entrepreneurial businessman. It's the early seventies... the city is Mt Isa in North-West Queensland.

### FLASHBACK

INT. OFFICES OF VR MOFFATT & ASSOCIATES. MORNING.

A 26-year-old Garth Eaton is standing in reception looking at the name, VR Moffatt & Associates, Solicitors, sign-written on the wall. The text, "VR MOFFATT & ASSOCIATES, MT ISA 1973" appears at the foot of the screen and fades. The RECEPTIONIST takes a call.

RECEPTIONIST

(into phone)

Mr Moffatt

(pauses to listen)

Will do.

(now looking up)

Mr Moffatt is ready. Please go through.

VIC MOFFATT

(now appears at door)

Mr Eaton... Please come in.



VIC MOFFATT then turns towards his desk to avoid having to shake hands at the same time indicating a client chair at his desk. Garth withdraws his half-outstretched hand and responds as he sits.

GARTH EATON

Mr Moffatt... thank you for granting me your time.

VIC MOFFATT

(abrupt)

That's fine... now, what is it you wanted?

GARTH EATON

(leaning forward)

I just wanted to clear up a matter which has caused some confusion in the mind of one of my clients.

VIC MOFFATT

(interjecting)

Who's that?

GARTH EATON

Noel White.

VIC MOFFATT

Oh yes, I remember him.

GARTH EATON

As I understand he recently came to see you regarding advice that he needed on the validity of put options.

VIC MOFFATT

Well I'm not going to sit here and discuss matters that are confidential. But I will say that put options can't be used in relation to property trading.

Garth then places a copy of his Handbook, *Breaking into Broking*, in front of Moffatt. It is opened at the chapter on Put Options.

GARTH EATON

(courteously)

Mr Moffatt... This section of my book, which I recently wrote, covers the use of put options in relation to share trading. But the mechanics of these options can also be applied to real estate which is the type of investment I was presenting to Noel White.

VIC MOFFATT

(raising his hand)

Alright... just hold it... You say this is your book?.. You wrote it?

GARTH EATON

That's correct... *Breaking into Broking*... It's being used by the Australian Securities Institute as a recommended first year text.

VIC MOFFATT

(dismissively)

Is that so.

Moffatt now reaches for one of his Law books on the shelf to his right. And after feigning deliberation he takes one of the volumes and places it on his lap. It is propped against the front of his desk making it impossible for Garth to see what he is reading. He then thumbs through the pages in an effort to convince Garth that he has arrived at a pertinent passage.

He looks at Garth as he SLAPS the book shut and emphatically says:

VIC MOFFATT (CONT'D)

No... There's nothing there to suggest that put options even exist in relation to property investment...

(now pushing the book at Garth)

regardless of what you've written.

GARTH EATON

(diplomatically)

Mr Moffatt, does this mean that if any of my clients approach you for advice

(MORE)

GARTH EATON (CONT'D)

on the validity of put options within property investment, they will be given the same advice that you gave Noel?

VIC MOFFATT

Mr Eaton, I will be staying with my original advice... This business of offering put options just isn't on... And tell me, what's this public company you're floating?

GARTH EATON

It's an investment company that will be investing and trading in equities on the Australian Stock Exchange. It will also be investing in high cash flow properties such as caravan parks.

VIC MOFFATT

I wouldn't have thought there was enough investment capital available in this town?

GARTH EATON

I've already engaged market researchers and I believe that the results of that research indicate our investment company should do well.

VIC MOFFATT

(begins to stand)

I've been here for many years and I just can't see that there is enough surplus capital to go around. Some of my clients are only just getting through as it is. Anyway, that's my position on the subject of put options.

(indicating the door)

Now if you would please.

As Garth also rises he is holding his book in his hand.

GARTH EATON

(naively)

I would be happy to leave my book with you if you wanted to reconsider?

VIC MOFFATT

That won't be necessary.

Garth then walks through the door being held open by Moffatt. They both walk through reception as Garth catches the receptionist's eye. He smiles courteously.

GARTH EATON

Thank you, bye.

RECEPTIONIST

Thank you, Mr Eaton, bye.

Moffatt follows Garth through the door and down the stairs. The atmosphere is tense.

EXT. GROUND FLOOR. FOOTPATH. LATE MORNING.

Moffatt slides the entrance door open and takes one pace onto the footpath allowing Garth to step past him. Garth acknowledges Moffatt, turning to him as he speaks. But his hand is not extended for fear of creating embarrassment.

GARTH EATON

Thank you very much for your time, Mr  
Moffatt.

Moffatt says nothing, but as Garth turns to walk to his car Moffatt responds.

VIC MOFFATT

When you phoned the other day, how long  
did you say you worked underground?

GARTH EATON

(turning back to Moffatt)  
About three and a half years... sixty-  
six to sixty-nine.

VIC MOFFATT

What level?

GARTH EATON

Fifteen

VIC MOFFATT

Who was your Shift Boss?

GARTH EATON  
(bemused)  
Snowy Cruikshank

And as if verifying the honesty of Garth's answer Moffatt responds convincingly.

VIC MOFFATT  
I know him.

These questions were answered without Moffatt once looking Garth in the eyes. His attention was focused on the brand new 280SE Mercedes Benz parked on the street just four metres in front of him. Again, Garth turns towards his Mercedes. And as he does so, text appears at the foot of the screen: "FEBRUARY 1973" and fades. Moffatt keeps glaring until the car leaves, then turns.

INT. OFFICES OF CSL. RECEPTION. LATE MORNING.

The text, "GARTH EATON'S MT ISA OFFICES, February 1973" appears and fades. Garth is returning from his meeting with Moffatt. He addresses LEANNE, his receptionist and Personal Assistant, as he picks up mail from her desk.

GARTH EATON  
Thanks for holding the fort, Leanne.  
Anything of importance happen while I  
was gone?

LEANNE  
Not really. Just the usual clients  
asking for stock exchange price  
updates. How did you go?

GARTH EATON  
Not good. There's no way Moffatt's  
going to see reason. He just won't  
listen... He actually looked straight  
at me and told me that put options  
cannot be applied to property. I doubt  
that he even understands put options.

LEANNE  
(in disbelief)  
What?!

GARTH EATON

I mean, we've just been through one of the greatest share market booms in the history of our country, and he can't see the multiple applications of put options? Shares?... property?... it's all the same. Leave me alone!

(shaking his head)

I think I'm in for a bumpy ride. We now have a powerful enemy.

Garth begins to walk away and then pauses turning back to Leanne.

GARTH EATON

(rhetorical)

What is it about the intellectual dishonesty of lawyers?

(now to himself)

Everyone else is a fool.

#### **BACK TO PRESENTER**

The Presenter is seated at the head of the Boardroom table.

PRESENTER

But at that stage in February 1973 Garth Eaton only thought he had made an enemy. These were the early days of the Joh Bjelke-Petersen government in Queensland. Premier Joh was a master at dealing with his opponents in both the political and business arenas. And you didn't have to cross him to end up being on the end of his wrath. Just being a competitor was enough.

(pause)

Joh had set up his own division within the Queensland Police Force known as 'Special Branch'. It was well-known for doing the Premier's dirty work.

(pause)

The term they used was "emptying out". It meant the act of doing whatever was needed to put your competitors out of action... to leave your competitor with

(MORE)

PRESENTER (CONT'D)

absolutely nothing except the prospect of bankruptcy. His aim was to force his opponents out of the State. It was cruel... but Special Branch worked their craft exceptionally well. And the problem is... that when that form of corruption is accepted at the top, it doesn't take long for others to assume that it's legitimate practice. If the Premier can do it... then who's going to stop anyone else from doing it? These corrupt practices soon cascade down. And Garth Eaton was right when he said, "I think I'm in for a bumpy ride". But he didn't know how bumpy. It would become a destructive nightmare.

(pause)

And what was *this* phone call all about?

**FLASHBACK**

INT. OFFICES OF VR MOFFATT & ASSOCIATES. DAY.

The text, "VR MOFFATT & ASSOCIATES, MT ISA 1973" appears and fades. Moffatt walks back into his reception area. He is visibly annoyed as he addresses his receptionist.

VIC MOFFATT

Would you get me Corporate Affairs, please. I need to speak to a senior investigator... and now!

RECEPTIONIST

Yes, Mr Moffatt.

As Moffatt walks towards his office door he mumbles:

VIC MOFFATT

(facetiously)

You'd swear the man was out to own the town. And did you hear the way he speaks... like bloody Royalty. Some big shot author.

RECEPTIONIST

(interjecting)

And I've been told that his offices are very plush... very upmarket.

As Moffatt closes his door he makes one final comment.

VIC MOFFATT

Oh, are they now.

Moffatt then walks to his desk and sits. He's now fuming. A few moments later his phone rings.

VIC MOFFATT (CONT'D)

(into phone)

Yes... Put him through.

(pause)

Moffatt here.

IAN FREW V.O.

Mr Moffatt... Ian Frew... I'm a senior investigator with Corporate Affairs. How can I help?

VIC MOFFATT

(into phone)

Significantly I hope, Mr Frew. My complaint concerns the activities of a man who is floating a public company in Mt Isa. Do you have a few minutes?

**END FLASHBACK**

INT. MAURER STREET HOME OFFICE. EARLY AFTERNOON.

The text, "GARTH EATON'S HOME OFFICE, February 1997" appears and fades. Garth and Terry are entering Garth's office after a lunch. They walk to their chairs. Garth is still holding the Judgment.

GARTH EATON

So Terry, the way I see it... there are at least fifteen statements made by Spender that are outright lies... Just fabricated nonsense. I mean, he didn't even mention the written and oral

(MORE)



GARTH EATON (CONT'D)

testimonies of Dr de Jonge and Trevor Dredge. Firstly, they're probably the most eminent patent attorneys in Australia... and secondly, Dr de Jonge was a witness for the ACCC. But his testimony favoured us! And every fact they uttered from the witness box, every fact that supported our case, was challenged by Justice Spender.

**FLASHBACK**

INT. COURT 2. FEDERAL COURT. DAY.

The text, "COURT 2 - FEDERAL COURT, April 1996" appears and fades. TREVOR DREDGE, witness for the Respondents is sitting in the Witness Box being examined by Garth. Trevor is reading from a book.

TREVOR DREDGE

*... and if it has not yet served as a basis for claiming a right of priority, the previous application may not thereafter serve as a basis for claiming a right of priority.*

(now looking up at the Judge)

Now what this means is that application number PM8186 can still be refiled and serve as the basis of a right of priority to ...

At that moment the Judge suddenly leans to his right looking straight into the witness's eyes as he interjects abruptly in an intimidatory manner.

JUSTICE SPENDER

(loudly)

But surely that can't be right, can it?

Trevor immediately replies without breaking eye contact. He is standing his ground.

TREVOR DREDGE

That's true. In all of those.. in all of those...

Spender remains on the attack. He again interjects abruptly by raising his right hand as he continues leaning to his right.

JUSTICE SPENDER

Just pause!.. Just pause!..

The witness refuses to allow Spender to override him.

TREVOR DREDGE

In all of those Convention countries.

Spender now reacts forcefully to Trevor's interruption. He continues to bully the witness. His hand is still raised as he lifts himself slightly from his seat still leaning to his right. He's not about to be overridden a second time.

JUSTICE SPENDER

(loudly)

Just pause... If, in fact, Mr Eaton sent a copy of the provisional patent to, for instance...

**END FLASHBACK**

INT. OFFICE OF PRESENTER. BOARDROOM.

The Presenter is seated at the head of the Boardroom table.

PRESENTER

But Justice Spender lost that argument as he lost every argument with both patent attorneys. He had injected himself into the trial... He was acting as Counsel for the ACCC. And this was the major reason why he couldn't mention anything in his Judgment concerning the facts they presented. He would have made a fool of himself... Better to bury both patent attorneys as if they never existed. By not even acknowledging their existence he could get away with protecting government officers and their agencies.

(pause)

And because we are going to raise the

(MORE)

PRESENTER (CONT'D)

many forms of abusiveness perpetrated by this Judge, I have invited an internationally known Criminologist and Clinical Psychologist to join me throughout this series. Dr Ingrid Svenson... thank you for joining us. Is there anything you would like to say at this early stage?

DR INGRID SVENSON

Thank you, Adrian. And hi. It's obvious that Garth and his franchisees were facing an abusive Judge... Justice Spender saw himself as a Caesar in his own Rome.

The Presenter interjects, smiling.

PRESENTER

A Caesar in his own Rome? Like it.

DR INGRID SVENSON

Yes... He was the ultimate authority, and the power that went with it was about to be used to get his own way... As you rightfully said... He had already injected himself into the trial for the purpose of protecting corrupt government officers and the reputations of their agencies.

PRESENTER

We can only wait and see just how far he goes.

INT. MAURER STREET HOME OFFICE. EARLY AFTERNOON.

The text, "GARTH EATON'S HOME OFFICE, February 1997".  
Garth continues addressing Terry.

GARTH EATON

Problem was, when they didn't get what they wanted from Dr de Jonge at the outset, they went out and paid another patent attorney to give them exactly

(MORE)

GARTH EATON (CONT'D)

what they wanted... Highly paid witnesses should be bloody outlawed.

TERRY RICE

I don't think it's going to happen any time soon. I was a CIB detective for over fifteen years. If a forensic report wasn't good enough you went hunting for another expert no matter what the cost. And that's what the ACCC has done here. They've paid what's-his-name...

GARTH EATON

John Pizzey... patent attorney extraordinaire.

TERRY RICE

Yeah... and they've paid Pizzey well. That's the system. Look what happened to Lindy Chamberlain and that South Australian bloke... Henry Keogh. Highly paid expert witnesses screwed their lives.

GARTH EATON

And if over-paying Pizzy wasn't bad enough the ACCC made doubly sure of winning by ensuring that their trial Judge was the most notorious federal court Judge in Australia.

TERRY RICE

(showing surprise)

Who... Spender?

GARTH EATON

Yep! None other than Jeffrey Ernest John Spender...the 'go to' man. Before he became a Judge he defrauded the state of Queensland for millions of dollars. But I'll tell you about the Russell Island Land Fraud case later... and how he got away with a lot of that money for himself... For the moment, Terry, I need to begin phoning

(MORE)

Garth takes a moment to reflect.

GARTH EATON (CONT'D)

franchisees... not looking forward to it. They're going to be very upset. Four and a half years of development work... five and a half million dollars... World Bank funding of a million US... the highest possible export market development grant of two hundred and fifty thousand Australian dollars. All of it down the drain after being frozen to the spot in a federal court. And now we're blocked from ever becoming involved in mechanical carparking, for God's sake. It's insane.

TERRY RICE

Well... It's obvious that you've created a few enemies in your time.

GARTH EATON

Yes, but not willingly... And Bill Van Der Horst, the man I've asked you to investigate is a prime example of how enemies can be created.

(now counting on fingers)

One!.. He copies an expired American patent and passes it off to us as being his own work. Two!.. Then picks up income from ourselves. Three!.. Gets his key patent past examiners at the Australian Patents Office.

**BLACK SCREEN. WHITE TEXT.**

A THUD is heard like a muted beat of a DRUM. The text, "WILLEM VAN DER HORST - 49 CHARGES - FALSE PRETENCES - QUEENSLAND CRIMINAL CODE" appears for ten (10) seconds as the Presenter is heard saying:

PRESENTER V.O.

Willem Van Der Horst had committed forty-nine criminal acts of False Pretences under the Queensland Criminal Code while employed by Garth's company.

**BACK TO HOME OFFICE**

GARTH EATON (CONT'D)

And four!.. While he's under contract to my company, Parktec... and being paid... he's out successfully touting for other investors behind our backs.

**BLACK SCREEN. WHITE TEXT.**

A THUD is heard like a muted beat of a DRUM. The text, "WILLEM VAN DER HORST - ONE CHARGE - FRAUD - QUEENSLAND CRIMINAL CODE" appears for ten (10) seconds as the Presenter is heard saying:

PRESENTER V.O.

Willem Van Der Horst had committed the criminal act of Fraud under the Queensland Criminal Code by falsely holding out to investors that he had the right to raise investment capital while still under contract to Parktec.

**BACK TO HOME OFFICE**

GARTH EATON (CONT'D)

For me, that was the last straw. I had no option but to sack him for breaching our agreements a total of thirty-four times. It was Andrew Greenwood who drafted and served the notice of termination on him. Then he had the temerity to act with righteous indignation. But we won't leave it there... He and his solicitor mate then lodge a false complaint with the Trade Practices Commission, TPC, now ACCC, stating that my companies are franchising their technology.

**BLACK SCREEN. WHITE TEXT.**

A THUD is heard like a muted beat of a DRUM. The text, "WILLEM VAN DER HORST - ONE CHARGE - FRAUD - CRIMES ACT 1914" appears for ten (10) seconds as the Presenter says:

PRESENTER V.O.

Van Der Horst had committed another criminal act of Fraud under the Commonwealth Crimes Act 1914 when he laid a false complaint with the TPC.

**BACK TO HOME OFFICE**

Garth is now becoming far more emphatic.

GARTH EATON (CONT'D)

They had no technology for God's sake!.. nothing! All they had was technology that Van Der Horst had copied from a 1957 expired American patent. And that meant that his two patents which we were supposed to be infringing were worthless.

(pause)

And thanks to that piece of fraud, and the damage it created for us, he forced us to cobble together little more than a handful of patentable features at the last minute just to keep going... But we certainly had more than he had in those invalid patents, which in truth, and here's the kicker, were owned by the liquidators of Parktec. Yet, in full knowledge of that fact, the TPC aided and abetted him... The entire trial was an outrageous fraud.

**BLACK SCREEN. WHITE TEXT.**

A THUD is heard like a muted beat of a DRUM. The text, "ALAN RAYMOND DUCRET - ONE CHARGE - AIDING AND ABETTING - CRIMES ACT 1914" appears for ten (10) seconds as:

PRESENTER V.O.

Alan Raymond Ducret was Regional Director of the TPC. He had now committed the criminal act of Aiding and Abetting under the Commonwealth Crimes Act 1914. And he was already an Accessory after the Fact to Van Der Horst's fraudulent complaint.

**BACK TO HOME OFFICE**

At this stage Garth is on his feet and raising his voice demonstrably. He then begins staring at infinity.

GARTH EATON (CONT'D)

You know, Terry... He always told my staff...

**FLASHBACK**

INT. BRISBANE CBD OFFICES OF PARKTEC. DAY.

The text, "PARKTEC MECHANICAL CARPARKING OFFICES - 1991" appears at the foot of the screen as a short stocky man, WILLEM (BILL) VAN DER HORST, storms into an open plan office packed with ENGINEERS and DRAFTSMEN sitting at their desks. He then stands still with his legs astride, head cocked high, and speaking with a raised voice in a heavy Dutch accent. He is noticeably upset.

VAN DER HORST

I want everyone to listen to me... I have told you before and I say it again... I live to break Eaton and Parktec.

DRAFTSMAN

But if you do break him, Bill... What about us... our jobs?

VAN DER HORST

(emphatically)

Then you fellas can come and work for me.

DRAFTSMAN

You think... Bill Van Der Horst?

This facetious remark draws a faint chuckle from staff. Van Der Horst turns to walk away still noticeably upset and shaking his head.

**BACK TO HOME OFFICE**

Garth continues as he reaches for the Judgment.



GARTH EATON (CONT'D)

And now he's achieved what he said he'd do over six years ago.

Again, Garth begins raising his voice.

GARTH EATON (CONT'D)

And he hasn't just broken me... he's broken all of us with the cooperation of the criminal bloody antics of the TPC now the ACCC... Oh, and the backing of Australia's most notorious federal court Judge just to finish us off.

Terry attempts to calm him down. His hand is raised gently.

TERRY RICE

Calm down... calm down. Now, what's this about Van Der Horst's invalid patents being owned by the liquidators of Parktec?

Garth begins walking towards a filing cabinet to retrieve a document as he speaks.

GARTH EATON

As I said, he had breached our Vehicle Parking Technology Agreement, known as the VPTA, thirty-four times and had refused to remedy those breaches. That meant that under our VPTA...

Garth now hands the VPTA to Terry.

... all of the technology that had been developed by ourselves plus his original worthless patent became the property of Parktec International Pty Ltd. And that act of lawfully claiming ownership took place in December 1991.

TERRY RICE

(impatient)

And when Parktec went into liquidation two years later in December 1993 the liquidators effectively took control of

(MORE)

TERRY RICE (CONT'D)

those invalid patents which were still in the name of Van Der Horst but owned by Parktec. Is that correct?

GARTH EATON

Spot on. So, the sooner police can charge Van Der Horst with fraud, the better. All we need is one conviction against him... and then we stand a chance of overturning Spender's muck... Anyway, I'd better start phoning franchisees with the bad news.

TERRY RICE

But did you try telling the Trade Practices Commission, the TPC, that their complainant, Van Der Horst, didn't even hold the patents you were supposed to be infringing?

GARTH EATON

Sure did... I held a meeting with Terence Guthrie, the Assistant Regional Director of the TPC and one of his staff in June 1994. I let them know in no uncertain terms that their complainant had defrauded us repeatedly and because of that, under our VPTA all of the Mechanical carparking technology had become the property of Parktec which had gone into liquidation. I then advised him that, in reality, the liquidators, Ernst & Young, held that technology and not Van Der Horst... Van Der Horst had no rights whatsoever.

TERRY RICE

And how did Guthrie react to that?

GARTH EATON

Couldn't have cared less... His attitude, as was confirmed later, was that I was simply trying to scam Van Der Horst when we terminated the VPTA. I couldn't win... So I was forced to focus on proving one thing and one

(MORE)

GARTH EATON (CONT'D)

thing only. We were not infringing the technology in patents 606728 or 639347 still in the name of Van Der Horst.

TERRY RICE

It's a wonder that the Australian Government Solicitor didn't pick up on the fact that those patents were the property of Ernst & Young.

GARTH EATON

The AGS?... That's a laugh... Ridgeway, Toy and Ziukelis cared even less. They all had their teeth in and weren't about to let go.

TERRY RICE

Incredible... Anyway, I need to prepare some notes and then call Detective Sergeant McIlwain. He'll be keen to know how you went in court this morning.

(pause)

Are you going to get your franchisees in for a group briefing?

GARTH EATON

Yes, I'll split the investors and franchisees into three groups and hold the first meeting early this evening.

Terry smiles sympathetically and turns towards his desk.

LATER:

Terry finishes writing up his notes and dials a number.

PETER McILWAIN V.O.

McIlwain

TERRY RICE

(into phone)

Yeah, Peter it's Terry. I've got some bad news regarding this morning's events in court. Spender has completely wiped Garth Eaton out...

(MORE)

TERRY RICE (CONT'D)  
along with his investors and franchisees. He's ruled that Garth's conduct has been misleading and deceptive.

INT. ACACIA RIDGE DETECTIVES. EARLY AFTERNOON.

The text, "DETECTIVE SERGEANT PETER MCILWAIN" is now onscreen. He is seated at his desk.

PETER MCILWAIN  
(into phone)  
How the hell did that happen? It was Van Der Horst and his solicitor mate who engaged in misleading and deceptive conduct... And I thought the Judge knew that Van Der Horst was facing fraud charges?

INTERCUT:

TERRY RICE  
(into phone)  
He did, but he refused to allow that information to be entered into evidence... simple as that. Just turned a blind eye. But then, he stepped over every bit of evidence that was favourable to Garth's group... even the written and oral testimony of Dr Ian de Jonge who was the original patent attorney commissioned by the ACCC.

PETER MCILWAIN  
(into phone)  
What the...?

TERRY RICE  
(into phone)  
What he's very effectively done is to prevent Garth and his franchisees from suing the ACCC for damages. And also, there's now no chance that federal police will bring criminal charges  
(MORE)

TERRY RICE (CONT'D)

against officers within the ACCC and the Australian Government Solicitor. And that complaint was made to federal police well before trial.

PETER McILWAIN

(into phone)

It's a bloody shame that Spender got to know about it before trial.

TERRY RICE

(into phone)

They would have made sure he got to know about it. And if not federal police then ACCC officers would have gone out of their way to get that information to him... they were the ones facing criminal charges. Anyway, the point of this call is to see if I can catch up with you tomorrow sometime. It's now imperative that we get Van Der Horst charged.

PETER McILWAIN

(into phone)

Sure thing. I'll be free from eleven if that suits?

TERRY RICE

(into phone)

Eleven's fine, I'll be there, sharp. Bye now.

(hangs up)

LATER. EARLY EVENING.

The text, "EUROPARK FRANCHISEES' MEETING, February 1997" appears and fades. Many FRANCHISEES are standing shoulder to shoulder and some are forced to stand outside the wide glass entrance doors. All are listening intently.

GARTH EATON

Before we start, I've had to split these Europark Franchisee meetings into three groups. Regrettably, with our

(MORE)

GARTH EATON (CONT'D)

city offices closed we've been forced to use my home office as a temporary measure.

FIRST FRANCHISEE

(curtly interrupting)

I don't know about the word, "temporary", Garth. I've just finished reading the Reasons for Judgment. The Judge has stitched us up every which way... As it stands, none of us can ever again become involved in the development, manufacturing or marketing of any mechanical carkarking system... and wait for it... mechanical carparking system similar to

(now emphatically)

our Europark system.

(now shaking his head)

Every form of mechanical carparking is similar... Lord!... why would we need larger offices? We had those up until three years ago before we were dragged into a federal court by those crims.

Those gathered nod and murmur in agreement.

SECOND FRANCHISEE

(cutting in)

My concern is not that, Alan. My concern is why the Judge has stepped into a gutter by calling Garth a glib grandiloquent rogue?

(now to Garth)

It appears to me that we're paying a massive price because of some grievance the Judge has against you. Is there anything we should know? I've got a quarter of a million dollars in this.

THIRD FRANCHISEE

And you're not the only one, Ian. Do you have any answers, Garth?

GARTH EATON

Justice Spender took enormous exception  
(MORE)

GARTH EATON (CONT'D)

to the fact that I was given leave by Justice Drummond to represent all of us. He made it very clear during trial that he disliked self representation. But he also knew of our intentions to have certain government officers criminally prosecuted following trial... and our intention to sue the ACCC for damages.

THIRD FRANCHISEE

OK, but that still doesn't answer Ian's question... glib grandiloquent rogue? What's that about?

(looking around)

And does anyone know what "grandiloquent" means?

GARTH EATON

(taking over quickly)

The first thing I did when I got back from court was to grab an Oxford Advanced Learner's Encyclopaedic Dictionary. Apparently it means "pompous of speech... using words that ordinary people don't understand".

(now smiling)

I guess that makes the Judge grandiloquent.

(group chuckles)

But I will admit that during the course of cross-examining Van Der Horst it became more and more euphoric to hear him repeatedly lie. And I did get a tad pompous towards the end.

(pause)

But hell, he had gotten away with his fraud and lies for six and a half years prior to trial and that was my first opportunity to nail him once and for all. So, please excuse me for getting a little high-handed.

THIRD FRANCHISEE

I don't think any of us could blame you for that. I would have hurdled the

(MORE)

THIRD FRANCHISEE (CONT'D)  
witness box and punched his lights  
out... he's a mongrel of a man. Has  
anyone else met him?

Two in the group chuckle and nod. Others shake their  
heads.

GARTH EATON  
(chuckling with others)  
OK, I think we'd all like to punch his  
lights out... Anyway, that's  
'grandiloquent' out of the way. The  
Judge also had a poor understanding of  
intellectual property matters, in  
particular, patenting. So, when I used  
the term, "mechanical advantage" when  
referring to the development of  
mechanical technology...

**FLASHBACK**

INT. COURT 2. FEDERAL COURT. DAY.

The text, "COURT 2 - FEDERAL COURT, April 1996" appears  
and fades. Garth is cross-examining VAN DER HORST.

GARTH EATON  
Mr Van Der Horst, you are an engineer?

VAN DER HORST  
Yes.

GARTH EATON  
And you are aware that it is common  
practice for a lot of engineering shops  
to investigate the substance of various  
patents for the purpose of designing  
their way around them, that is to find  
a mechanical advantage?

VAN DER HORST  
Yes.



GARTH EATON

And that is called technology development, isn't it, Mr Van Der Horst?

VAN DER HORST

Yes. And then it gets searched in the patent office all over the world and they will not be able to patent it.

Spender is not accepting Van Der Horst's belief that a development can't be patented. He quickly interjects.

JUSTICE SPENDER

(turning to witness)

You can patent a better mousetrap, can't you?... If it is significantly different from another mousetrap, yes.

Van Der Horst is looking confused and pauses. Garth then foolishly takes the opportunity to qualify the Judge's remark.

GARTH EATON

And it has a mechanical advantage, Mr Van Der Horst?

Spender becomes infuriated with Garth's qualification of his term, "better mousetrap" and viciously barks the following words at Garth.

JUSTICE SPENDER

Well, mechanical advantage is a glib phrase!

**END FLASHBACK**

INT. OFFICE OF PRESENTER. BOARDROOM.

The Presenter is seated.

PRESENTER

I don't know about you, but I would have thought that the conventional patent attorney's term, 'mechanical advantage' was far from smooth talking, shallow or insincere?

**BACK TO HOME OFFICE**

The text, "EUROPARK FRANCHISEES' MEETING, February 1997" appears and fades as Garth turns to pick up a sheet of A4 paper and turns back to the group. He addresses Terry.

GARTH EATON

Terry, I'm about to show everyone that old patent attorney joke about the competence of judges reading patent drawings. You're the patent attorney and I'm the Judge. You have just handed me the specifications of a patent.

Garth studies the A4 sheet of paper making considered noises such as MMMM... Yes Yes... Terry then steps forward and turns the specifications around the right way.

GARTH EATON

Oh, yes... yes. MMMM... yes of course.  
(pause for laughter)

The problem is, that they sit in judgment on our lives regarding matters... of which at times, they have little or no understanding.

THIRD FRANCHISEE

(smiling)  
And rogue?

GARTH EATON

And rogue?  
(hands turned palms up)  
I still think it's a case of the pot calling the kettle black...  
(group chuckles)  
except that this kettle  
(pointing to himself)  
isn't black. In fact, I promised to tell Terry  
(turning to Terry)  
this story some days ago. So, here it is. If you want to know where the word rogue comes from the following facts will explain. Jeffrey Ernest John Spender, the Judge's full name, was a barrister before his appointment in May  
(MORE)

GARTH EATON (CONT'D)

1984 as a Judge of the Federal Court of Australia. And while he was a barrister he was commissioned by the Queensland government to act as Crown prosecutor in the Russell Island Land Fraud case.

The Third Franchisee now recalls the case and interjects.

THIRD FRANCHISEE

Ahh, yes. I seem to remember that most of the land being sold was tidal, and some of it was still underwater at low tide. And developers were making a fortune selling allotments to buyers, sight unseen.

GARTH EATON

(taking over)

Which is understandable when you consider that most of the buyers were from overseas. And those who did inspect their investments were often shown the wrong land on higher ground.

(pause)

So, the Queensland Fraud Squad ended up charging sixteen individuals with 'conspiracy to defraud the public'.

(pause)

There were real estate agents, surveyors, salesmen, one lawyer, one politician. But the moment Jeffrey became Crown prosecutor he was quick to release the lawyer, the politician and five others.

(pause)

He had released those with reasonable social influence. Oh, and he eventually released an eighth defendant who was on the brink of a Papal Knighthood... good catholic boy, our Jeffrey Spender.

(more chuckles)

The other eight weren't so lucky... they were very ordinary individuals with no real influence in life...

(MORE)

GARTH EATON (CONT'D)

They became the accused and were about to be put through a harrowing ordeal... not that I have any sympathy for them.

FIRST FRANCHISEE

(now smiling)

Is this the trial that went for almost two years at enormous cost to taxpayers?

GARTH EATON

That's the one. More accurately, 316 trial days over a twenty-month period. At the end of which our Jeffrey entered court and declared 'nolle prosequi'. Which means that the accused are free to go... the trial is over. He used the suspected mental illness of one of the jurors as his excuse to close down the trial. In reality it was only a ruse. He had been offered an appointment to the Bench of the recently formed Federal Court of Australia... And he was in a hurry to get there.

FIRST FRANCHISEE

But that doesn't answer why the trial went so long?

INT. OFFICE OF PRESENTER. BOARDROOM.

The Presenter is seated at the head of the Boardroom table.

PRESENTER

I might just take this question, if that's OK Garth?

He then touches his ear piece, listens, nods and smiles.

PRESENTER (CONT'D)

Thank you... Like Garth, I'm very familiar with the facts as to why the trial ran for a record-breaking twenty months. So here's why.

(MORE)

## PRESENTER (CONT'D)

Barristers who were representing the accused had asked Spender to change the charges from 'conspiracy to defraud the public' to individual 'false pretences' charges. By charging each of the eight accused with false pretences the individual trials would have been over within three months... Jurors would not be unduly inconvenienced... there would be certainty in securing convictions, and the expense to taxpayers would have been far, far less. But Spender had dug his heels in. He knew that conspiracy would be almost impossible to prove knowing that some of the accused had never done business together. By staying with conspiracy he could rape the public purse for as long as he wished... He had just given himself full access to the volts of the Queensland Treasury.

**BACK TO HOME OFFICE**

Garth continues.

## GARTH EATON

In fact, I recently spoke to Jim Barbeler who was one of the barristers who represented three of the accused. He told me that "Jeff's unwillingness to alter the charges was also highly lucrative for the Defence barristers".

The group is audible as they shake their heads and chuckle.

## GARTH EATON (CONT'D)

But the bottom line is this. By stretching the trial out by wilfully using the wrong charges... Spender had been able to defraud the State of Queensland for just over three million dollars... a substantial slice of which went into his own pocket.

(MORE)

GARTH EATON (CONT'D)

But as Jim Barbeler said, "Everyone profited".

The group is expressing disbelief as the FOURTH FRANCHISEE speaks out.

FOURTH FRANCHISEE

I was a young solicitor at the time and I remember that he rocked the legal profession in Queensland. But no charges were ever laid.

GARTH EATON

If it had been any one of us we would be facing fraud charges under the Queensland Criminal Code. These days he would be jailed for up to twenty years under section 408(C)- Fraud. But as we know... the legal profession plays by a different set of rules.

FOURTH FRANCHISEE

(interjecting)

I can also recall two of the partners of the law firm I worked for mentioning that Spender should have been charged with Attempting to Pervert Justice... as well.

GARTH EATON

There's another seven years.

(long pause)

In truth, this... is what should have happened.

## **MOCK TRIAL**

INT. BRISBANE DISTRICT CRIMINAL COURT. MORNING 1984.

The text, "BRISBANE DISTRICT CRIMINAL COURT 1984", appears and fades at the foot of the screen. (This is a MOCK TRIAL and only some of the names are real.) The public gallery of the court is PACKED. There are THREE KNOCKS at the side door. The BAILIFF speaks.

BAILIFF

Silence. All stand for His Honour  
Judge Athendon in the District Court of  
Queensland.

Everyone in court stands as the Judge enters. He then  
stands in front of his seat and bows his head before  
sitting. Others bow their heads in response and also sit.  
The Judge speaks.

JUDGE ATHENDON

(to his Associate)

Call the matter.

JUDGE'S ASSOCIATE

The Queen against Jeffrey Ernest John  
Spender in the District Court of  
Queensland.

CROWN PROSECUTOR

If it please the court, my name is  
Johnson and I appear on behalf of the  
Crown instructed by the Office of the  
Director of Public Prosecutions.

DEFENCE COUNSEL

If it please the court, my name is  
Brown and I appear on behalf of the  
accused, Jeffrey Spender.

JUDGE ATHENDON

Yes, Mr Johnson.

CROWN PROSECUTOR

I present two indictments charging the  
accused with one count of Attempting to  
Pervert Justice... and three hundred  
and sixteen counts of Fraud. I ask  
that he be arraigned upon those  
indictments.

JUDGE ATHENDON

Stand up, Jeffrey Spender.  
(now turning to his Associate)  
Arraign the accused.

The accused, JEFFREY SPENDER, stands in the DOCK and faces  
the BENCH.

## JUDGE'S ASSOCIATE

Jeffrey Ernest John Spender, you stand charged that between the first of October 1979 and the ninth of March 1983 in the Brisbane District Court, in the state of Queensland, you did wilfully protract the duration of the Russell Island Land Fraud trial by not amending the charges against the eight accused from 'Conspiracy to defraud the public' to individual 'False Pretences' charges, and in so doing you attempted to pervert justice.

(pause)

You also stand charged that by attempting to pervert justice you were knowingly able to dishonestly obtain a financial benefit from the Queensland Treasury... for yourself and four Defence Counsel... Jeffrey Spender, do you consent to having the charges of Attempting to Pervert Justice... and Fraud... tried contemporaneously.

## ACCUSED

I do.

## JUDGE'S ASSOCIATE

Jeffrey Spender, how do you plead, guilty or not guilty?

## ACCUSED

Not guilty.

## JUDGE'S ASSOCIATE

(to the Judge)

Not guilty, Your Honour

## JUDGE ATHENDON

(to his Associate)

Inform the accused of his rights of challenge.

## JUDGE'S ASSOCIATE

Jeffrey Ernest John Spender, these representatives of the community whom you will now hear called, may become

(MORE)



JUDGE'S ASSOCIATE (CONT'D)  
the jurors who are to decide between  
the Crown and you on your trial...

MOMENTS LATER:

CROWN PROSECUTOR  
Ladies and gentlemen, the prosecution  
will be calling the following  
witnesses. Detective Sergeant Vince  
Mahoney... Mr Tom Burns, Deputy Leader  
of the Opposition... Mr Hugh Nichols,  
property developer... Mr Michael Noud,  
Assistant Prosecutor at the Russell  
Island Land Fraud trial and the four  
Defence Counsel during that trial...  
Mr Des Sturgess QC... Mr Brian Hoath...  
Mr Don Muller and Mr Jim Barbeler.

The Judge now turns to the group of prospective JURORS.

JUDGE ATHENDON  
Having heard those names, does anyone  
for any reason feel unable to sit as a  
juror on this case?  
(there is no answer)  
Then we will commence the jury  
selection process.

INT. OFFICE OF PRESENTER. BOARDROOM.

The Presenter is seated at the head of the Boardroom table.

PRESENTER  
As the potential jurors are called, the  
prosecutor and the Defence Counsel will  
have the opportunity to object to that  
person being a juror... Such an  
objection means that the person called  
to take the oath or affirmation is  
prevented from becoming a juror... for  
whatever reason. However, the Jury has  
just been selected.

**BACK TO MOCK TRIAL**

The Jury are now empanelled.

JUDGE ATHENDON

Mr Johnson, you may now commence your case.

CROWN PROSECUTOR

Thank you, Your Honour.

(now turning to the Jury)

It is the prosecution's duty to prove that the accused, Mr Jeffrey Spender, committed the offences of Attempting to Pervert Justice and Fraud during the course of being entrusted by the Crown with the prosecution of the Russell Island Land Fraud case. This burden must be met to a very strict standard of proof and that means being satisfied that the accused is guilty beyond reasonable doubt.

(pause)

The prosecution will prove that Jeffrey Spender had full authority to ensure that the trial of the eight accused would be conducted in a timely fashion. And further, that the trial would be conducted at minimal cost to the Queensland Treasury.

MOMENTS LATER:

CROWN PROSECUTOR (CONT'D)

I now call Mr James Barbeler, Defence Counsel in the Russell Island Land Fraud trial.

DISSOLVE TO:

BAILIFF

(to the witness)

... shall be the truth, the whole truth and nothing but the truth, 'So help you God'.

MR JAMES BARBELER

So help me God.

CROWN PROSECUTOR

Mr Barbeler, did you defend three accused during the Russell Island Land Fraud trial?

MR JAMES BARBELER

Yes, I did. I was one of four Defence Counsel.

CROWN PROSECUTOR

And given your experience in criminal law, did you ever have reason to question the charge of 'conspiracy to defraud the public', and I emphasise the word 'conspiracy'?

MR JAMES BARBELER

Firstly, Jeff Spender, the accused in this trial didn't determine the nature of the charge. That charge was laid by the Queensland Fraud Squad. But I did have cause to query the charge in the early stages of judicial proceedings.

CROWN PROSECUTOR

May I ask why?

MR JAMES BARBELER

It became patently clear that some of the accused were not known to each other in a business capacity. Their interests in developing and or selling Russell Island land had extended as far back as the late nineteen sixties and others through to the late seventies... Most of them acting independently.

CROWN PROSECUTOR

So, what was your specific query to the conspiracy charges?

MR JAMES BARBELER

Each of the elements of the charge had to be proved. And there was no way that the critical element relating to 'conspiracy' could possibly be proved. There had been no obvious or logical

(MORE)

MR JAMES BARBELER (CONT'D)  
reason to assume that the accused as a  
group had colluded at any stage.

(pensive)

The Queensland Fraud Squad had gotten  
it wrong.

CROWN PROSECUTOR

In your considered opinion,  
Mr Barbeler, what did you believe the  
charges should have been?

MR JAMES BARBELER

Each of the eight accused should have  
been charged with individual False  
Pretences charges.

CROWN PROSECUTOR

Did you ever approach the prosecutor  
with a recommendation to alter the  
charges?

MR JAMES BARBELER

Yes, I did.

CROWN PROSECUTOR

And what did Jeffrey Spender say?

MR JAMES BARBELER

(turning to accused)

Sorry Jeff...

CROWN PROSECUTOR

(quickly interjecting)

Well, never mind the 'sorry'. You know  
better than to do that. Just answer my  
question... When you recommended that  
the charges be altered to eight  
individual charges of False Pretences,  
what did the accused say?

MR JAMES BARBELER

He showed reluctance. He was  
dismissive.

CROWN PROSECUTOR

Did you urge him to reconsider?

MR JAMES BARBELER

Yes... I emphasised that the conspiracy charges had little likelihood of sticking and that all of the eight accused would go free... I further emphasised the enormous cost to Queensland taxpayers, and that by taking my recommendation the individual trials could be over and done with within say three months at a comparatively minimal cost.

CROWN PROSECUTOR

So, did any of the other Defence Counsel take the accused aside and urge him to shorten the trial period by altering the charges to False Pretences?

MR JAMES BARBELER

Yes, we all did.

CROWN PROSECUTOR

And what did the accused say?

MR JAMES BARBELER

Just wouldn't budge.

CROWN PROSECUTOR

Mr Barbeler, do I take it then that you weren't the only one to complain to Jeff Spender about the nature of the conspiracy charges?

MR JAMES BARBELER

'Complain' might not be the right word, but as I've already indicated, we all made our concerns quite clear.

CROWN PROSECUTOR

And did you discuss the accused's reaction among yourselves?

MR JAMES BARBELER

Oh Yes. We agreed that Jeff was not going to shift his view. He was passionate about the conspiracy charge.

(MORE)

MR JAMES BARBELER (CONT'D)

And we all agreed that a protracted trial could have enormous financial benefits for ourselves as well as Jeff... In truth, we didn't press the issue too hard. Anyway, it was Jeff's call, not ours. And if the gravy train was going on a long and prosperous journey we might as well be on it than off it.

(head back and laughing)

In fact, my wife and I still refer to an extension to our home as the Russell Island wing.

CROWN PROSECUTOR

There will be no further questions from me, Your Honour.

JUDGE ATHENDON

Yes, Ms Brown.

DEFENCE COUNSEL

I have nothing, Your Honour.

INT. OFFICE OF PRESENTER. BOARDROOM.

The Presenter is seated at the head of the Boardroom table.

PRESENTER

No wonder the accused's Defence Counsel had nothing to say. What could she say. Jeff Spender had been sitting in the dock listening to how Defence Counsel in the Russell Island trial benefited because of his dogged unwillingness to do the right thing and shorten the trial. But now, let's take just a few moments to hear what he has to say in his defence during cross-examination.

**BACK TO MOCK TRIAL**

CROWN PROSECUTOR

But it is true, isn't it, Mr Spender, that you had the authority to alter the charge from 'conspiracy' to individual charges of 'false pretences'... thus shortening the trial by some seventeen months?

ACCUSED

Oh yes, I was Crown prosecutor.

CROWN PROSECUTOR

As I understand it, that trial went for 316 sitting days. Is that true?

ACCUSED

Yes.

CROWN PROSECUTOR

I also understand that from the time the defendants were charged to the end of trial was around three and a half years. Is that correct?

ACCUSED

Yes.

CROWN PROSECUTOR

And committal alone went for three months?

ACCUSED

Yes.

CROWN PROSECUTOR

If I told you that the all up cost to Queensland taxpayers was around three million dollars, would that surprise you?

ACCUSED

No.

CROWN PROSECUTOR

So, why didn't you attempt to shorten the trial?

## ACCUSED

I believed that the conspiracy charges would secure convictions.

## CROWN PROSECUTOR

Or was it that conspiracy would earn you enough to refurbish your home at Hill End... have a magnificent internal staircase installed... lavish your family with luxuries and expensive vacations... and give you the financial prosperity and publicity you craved as a young barrister?

The scene ends with the camera focusing on Spender and holding. He has still not answered when the camera cuts to the Presenter.

INT. OFFICE OF PRESENTER. BOARDROOM.

The Presenter is seated at the head of the Boardroom table.

## PRESENTER

The summing up by the Crown Prosecutor and the Defence Counsel will now take place followed by the jury retiring to consider its verdict. But let's skip that and cut straight to the Judge's Associate being addressed by the Foreperson of the jury. And I need to remind you that we're talking about the criminal character of a Crown prosecutor, Jeffrey Spender... who went on to become a federal court Judge.

**BACK TO MOCK TRIAL**

The FOREPERSON is answering a question from the Judge's Associate.

## FOREPERSON

Guilty of Attempting to Pervert Justice.



JUDGE'S ASSOCIATE

(to the Judge)

Guilty your Honour.

(now turning to the  
Foreperson)

Do you find the defendant, Jeffrey Ernest John Spender, guilty or not guilty of three hundred and sixteen charges of wilfully defrauding the Queensland Treasury?

FOREPERSON

Guilty of wilfully defrauding the Queensland Treasury.

JUDGE'S ASSOCIATE

(to the Judge)

Guilty your Honour.

(now turning to the jury)

So say your speaker, so say you all?

JURY

Yes

JUDGE ATHENDON

Thank you members of the jury, you are discharged.

**BLACK SCREEN. WHITE TEXT.**

An audible THUD is heard like a muted beat of a DRUM. The text, "JEFFREY SPENDER - ONE CHARGE - ATTEMPTING TO PERVERT JUSTICE - QUEENSLAND CRIMINAL CODE" appears for ten (10) seconds as the Presenter is heard saying:

PRESENTER V.O.

Jeffrey Spender had knowingly committed the criminal act of Attempting to Pervert Justice by wilfully protracting the trial. The Queensland Criminal Code describes this crime.

THEN:

A second THUD is heard. The text, "JEFFREY SPENDER - 316 CHARGES - FRAUD - QUEENSLAND CRIMINAL CODE" appears for ten (10) seconds as the Presenter is heard saying:

PRESENTER V.O.

Jeffrey Spender had wilfully committed 316 criminal acts of Fraud as he continued to unlawfully siphon millions from the Queensland Treasury; much of it for himself and four Defence Barristers... all buddies.

**END MOCK TRIAL**

INT. OFFICE OF PRESENTER. BOARDROOM.

The Presenter is seated at the head of the Boardroom table.

PRESENTER

All that's left is for the Judge to sentence Jeff Spender. He now faces up to seven years jail for Attempting to Pervert Justice. And he could get up to ten years for Fraud... But the sentences will run concurrently. So, he'll serve around eight years in total before being granted parole. Remember, it was the early 1980s when he committed those crimes. These days he would have faced up to twenty years alone, for defrauding the Queensland Treasury.

(pause)

But the truth of the matter is this...

The screen turns black as the Presenter continues speaking. His words are in sync with the white text which appears on the screen.

PRESENTER V.O.

Jeffrey Ernest John Spender was never convicted of any crime and nor was he charged. Instead, he had succeeded in evading a long prison sentence and was appointed to the Bench of the Federal Court of Australia where he spent the next twenty-six prestigious years as a federal court Judge. Crime does pay... for some.

**BACK TO HOME OFFICE**

The text, "EUROPARK FRANCHISEES' MEETING, February 1997" appears and fades. The Europark franchisees and investors are listening intently. The Fourth Franchisee has a mobile phone in his hand. He holds it high indicating to Garth that he has a call to make as he leaves the room. Garth nods in recognition.

## THIRD FRANCHISEE

(incensed)

Fuckin' hell... And that fuckin' crim has the hide to destroy years of our work and millions of our dollars. Didn't Van Der Horst do us enough damage! Someone should put a fuckin' thirty-eight through Spender's head.

## SECOND FRANCHISEE

No point in getting close, John. I've got a high powered two seventy with a scope... and your certainly welcome to use that if my shot misses.

## THIRD FRANCHISEE

Thanks, Ian, but I'd rather shoot that arsehole at close quarters. Then I'll know he's dead.... Jesus Christ!

(now looking at Garth)

And the bludger has just ruled that you and Europark have engaged in misleading and deceptive conduct?... Where the hell does he get off. He should never have been allowed to sit as trial Judge. In fact, he shouldn't even be a fuckin' Judge.

## GARTH EATON

I agree... But ironically, it was his dishonesty and audacity that made him the perfect 'go to' Judge for any government agency like the ACCC. Very few, if any, other judges would do the bidding of corrupt government officers. No... he was so bent that he was solid gold... and the ACCC knew it.

SECOND FRANCHISEE

And Terry was telling us before the meeting that Van Der Horst lied thirty-one times under cross-examination?

GARTH EATON

Sure did... and twenty of those lies constituted Giving False Testimony, which is the same as perjury.

**BLACK SCREEN. WHITE TEXT.**

A THUD is heard like a muted beat of a drum. The text, "WILLEM VAN DER HORST - 20 CHARGES - GIVING FALSE TESTIMONY - CRIMES ACT 1914" appears for ten (10) seconds as the Presenter is heard saying:

PRESENTER V.O.

Willem Van Der Horst had now compounded his crimes by committing twenty criminal acts of Giving False Testimony under the Commonwealth Crimes Act 1914.

**BACK TO HOME OFFICE**

Everyone is in disbelief.

SECOND FRANCHISEE

And yet the Judge referred to him as a decent and honest witness?

GARTH EATON

Yep... they don't come any more bent than Spender. But keep remembering... He had to protect the reputations of two government agencies. He was anxious at every turn during trial to bring us down.

(looking around)

And who was in court when I was being cross-examined?

Three franchisees raise their hands.

GARTH EATON (CONT'D)

Then I'm sure you will remember this well. It's just one of the many examples of judicial thuggery exercised by Spender during trial.

**FLASHBACK**

INT. COURT 2. FEDERAL COURT. DAY.

The text, "COURT 2 - FEDERAL COURT, April 1996" appears and fades. Mr Phil Hack, Counsel for the ACCC is cross-examining Garth. Spender is looking pensive.

PHIL HACK

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

GARTH EATON

(facetiously)

All the bits that go with it.

Spender now rocks forward hunching over one elbow as he looks straight at Hack and viciously BELLOWS the following words, STARTLING everyone in court.

JUSTICE SPENDER

(bellowing)

That's gotta be the killer blow!

Garth, investors and franchisees visibly FLINCH.

EXT. OPEN FIELD. DAY.

Before the Presenter appears on screen there is a four (4) second clip of a VICIOUS DOG with teeth bared barking and snapping at a BEGGAR who is cringing and running in FEAR.

**END FLASHBACK**

INT. OFFICE OF PRESENTER. BOARDROOM.

The Presenter is seated at the head of his Boardroom table.

PRESENTER

"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." That was from Shakespeare. Mr Hack, Counsel for the ACCC couldn't take over fast enough in his effort to cover the embarrassment created by the Judge, and the enormous upset for the Europark franchisees who were in court that day... No one knew where the Judge was coming from.

(pause)

But just before we get back to the meeting of Europark investors and franchisees, I'd like to get Dr Svenson's take on the Judge's conduct.

Now turning to Ingrid.

DR INGRID SVENSON

Thank you, Adrian. Hi again. Because this Judge has survived being jailed... he must now believe that he is immune to criminal prosecution. His prior malfeasances have gone totally unchallenged. No amount of official misconduct on his part would even register with him at this stage of his career. Some Judges engage in judicial bullying and harassment, but this Judge has now crossed that line. This form of abuse from the Bench is an extreme form of intimidation. I would now classify him as a Tyrant Judge.

PRESENTER

(turning to Ingrid)

A Tyrant Judge?.. You're certainly not holding back, Doctor. But let's get back to that meeting of damaged franchisees and investors.

**BACK TO HOME OFFICE**

The franchisees are showing signs of despondency and anger.

FIRST FRANCHISEE

(interjecting abruptly)

Alright, but I still want to know why we are paying a price for what seems to be a grievance against you, Garth?

GARTH EATON

Possibly I need to summarise it like this. Firstly, he didn't like me representing all of you in his court... I'm not a lawyer, and that gets up the noses of many judges. But more importantly... if he had ruled in our favour... and it was obvious that he should have... then he would have left the door open for us to sue the ACCC and bring criminal charges against the offending officers. And that's it in a nutshell.

The group murmur their disgust.

SECOND FRANCHISEE

(agitated)

OK, I think we all got that the first time around. But how did our fraudulent inventor and his solicitor get away with their false complaint. And how did we end up being dragged into court based on their proven lies?

(looking at Garth)

It wrecks of a witch hunt against yourself.

GARTH EATON

Well its no secret that the guns were trained on me. So, I need to explain.

SECOND FRANCHISEE

(now very concerned)

And we need to hear it, Garth.

Everyone audibly agrees. The room quietens as Garth continues.

GARTH EATON

Many years ago I subpoenaed the  
(MORE)

GARTH EATON (CONT'D)

Commissioner for Corporate Affairs to appear as a witness in a District Criminal Court trial here in Brisbane. I also subpoenaed one of his investigators, Ian Frew. I had just learned, a matter of months before, that my identity had been falsified in the early seventies, and I desperately wanted answers.

SECOND FRANCHISEE

So, when was this criminal trial?

GARTH EATON

It was July 1989.

SECOND FRANCHISEE

And why?

GARTH EATON

I had refused to pay a hotel bill, for good reason. I then provoked my arrest and was charged with 'Wilfully false promise'. Now before anyone here jumps to false conclusions I need to say that Judge Kimmins suspected what I was up to on the first day of trial... and immediately dismissed the jury.

(pause)

And to answer why I took this risk you'll need to be patient while I give you both barrels.

SECOND FRANCHISEE

You've got my attention, shoot.

Others agree emphatically.

GARTH EATON

Again, I'll need to take you right back to my time in Mt Isa... As you now know I became an underground miner, but that was just after marrying at nineteen. Following that, I came back to Brisbane after three and a half years underground and began working for a

(MORE)



GARTH EATON (CONT'D)

Brisbane Stockbroker. It was then that I wrote a hand book on the mechanics of share trading and decided to return to Mt Isa to establish myself in business.

INT. OFFICE OF PRESENTER. BOARDROOM.

The Presenter, Ingrid and MR NOEL ATHENDON QC are seated.

PRESENTER

You will recall that it was February, 1973 when Garth approached his client's solicitor in Mt Isa. And he did so very diplomatically, to explain the validity of the put options he was using within share and real estate trading... and how that solicitor, Vic Moffatt, refused to accept anything Garth had to say. Well... Garth had unwittingly crossed swords with Moffatt... and his life was about to be redirected for the worse. Not that Garth ever wilfully picked up a sword. It was all one-sided.

(pause)

His very directional nature caused him to become unaware of how he was continuing to get Vic Moffatt more and more offside. And this solicitor would not be the only one. Garth's entrepreneurial skills and high profile projects would eventually get a powerful minority very antagonistic.

(now turning to Ingrid)

And on the subject of entrepreneurs, Dr Svenson, you have some very interesting observations.

DR INGRID SVENSON

Yes, thank you, Adrian. And even though I haven't witnessed the full extent of Garth's entrepreneurial nature, I have seen enough to know that he fits a specific mould. He's outgoing... He doesn't fear risk,

(MORE)

DR INGRID SVENSON (CONT'D)

financial or otherwise... He's blinkered... focused to the point of  
(hands at sides of eyes)  
being blind to the ramifications of his achievements... He begins to implement his plans intuitively first before formally committing them to paper. And the bottom line is... he creates male jealousies. Garth's the perfect target... He is his own worst enemy... by no means a tall poppy, but heading in that direction at a very early age.

PRESENTER

Thank you, Ingrid. You know, I'm still shocked by the criminal history of Justice Spender. And instead of doing jail he's given a federal court Bench appointment. They make him a Judge?.. Anyway, throughout this series there will be more of the reasons why Garth became a target and why he provoked his own arrest. We will also be exposing more of the Judge's tyrannous Star Chamber conduct; a Judge who wouldn't even allow evidence, concerning the impending criminal charges against Van Der Horst, to be entered into trial. He objected to hearing anything that would discredit his "decent and honest witness"; the man he had to protect at all costs if he was going to protect ACCC and AGS staff from impending criminal prosecution.

(pause)

But at this stage I'd like to hear what Mr Noel Athendon QC has to say.

The Presenter now turns to his guest.

PRESENTER (CONT'D)

Mr Athendon, good evening.

MR ATHENDON QC

Thank you, Adrian. Good evening.

PRESENTER

Did you like the fact that we gave the Judge in Spender's mock fraud trial the same surname as yourself?

MR ATHENDON QC

I was flattered. In fact, it would have been my pleasure to sit as trial judge. I would have given Mr Spender the maximum sentence allowable.

PRESENTER

Absolutely... Now, it's my understanding that you have taken a keen interest in the Europark trial, so what's your take on Justice Spender's handling of that trial.

MR ATHENDON QC

Only one word, appalling. And I'll be saying far more on the subject at the end of this series. But for now, his refusal to accept evidence which was vital to Europark's defence meant that Mr Eaton felt he was being constantly impeded and intimidated from the Bench. And the fear of being in contempt of court caused him to be timid in asserting his arguments.

PRESENTER

(interjecting)

Could you give us an example of that?

MR ATHENDON QC

Yes, certainly. Justice Spender must have known that the trial had been founded on a fraud, just hot air... no substance whatsoever. He had a copy of the Vehicle Parking Technology Agreement, the VPTA, between Van Der Horst and Parktec in front of him... and must have read clause thirteen, Default Arrangements, which allowed Parktec to lawfully claim ownership of the Van Der Horst patents 606728 and 639347 in the event of the VPTA being

(MORE)

MR ATHENDON QC (CONT'D)  
breached by Van Der Horst.

PRESENTER  
(interjecting)  
And excuse me for interrupting,  
Mr Athendon, but as I understand it  
Parktec was simply taking back the  
technology that it had developed under  
the fraudulent guidance of Van Der  
Horst... It was totally unnecessary  
development work and at enormous cost  
to Parktec's investors and franchisees.  
All Van Der Horst was doing was  
fraudulently copying that expired 1957  
South Carolina patent which he had  
cunningly tucked away... That is,  
hidden from Garth and Parktec staff.

MR ATHENDON QC  
Absolutely correct.

PRESENTER  
And they were totally invalid patents  
because of the existence of that  
expired 1957 patent... so, they were  
worthless to Parktec anyway... or  
anyone else for that matter.

MR ATHENDON QC  
Correct! And to add to the fact that  
the Judge knew that Van Der Horst owned  
no patents, invalid or otherwise, he  
had also heard Ross Duus of Ernst &  
Young in the witness box acting as a  
witness for the ACCC; and Duus was the  
senior liquidator of Parktec.  
Furthermore, the Judge had not only  
read but had heard a scurrilous comment  
from John Kingston Pizzey, patent  
attorney, concerning the termination of  
the VPTA. So, in light of all that  
information a five-year-old could have  
concluded that those two invalid  
patents had become the property of  
Ernst & Young when Parktec went into  
liquidation some two and a half years

(MORE)

MR ATHENDON QC (CONT'D)

before trial... and more importantly, those invalid patents were certainly not the property of Van Der Horst, the ACCC's complainant.

(pause)

But here it is... Mr Eaton was too fearful of being in contempt to spell it out... He had already witnessed how Spender had abruptly thrown out every piece of evidence concerning Van Der Horst's criminal history. That was at the commencement of trial. And so, he hoped that all other facts before the Judge would speak for themselves.

PRESENTER

Spender must have known how he was intimidating Garth and his witnesses.

MR ATHENDON QC

Yes, his sole focus lay in the destruction of the Respondents' defence. And yet he knew that the entire trial lacked a bona fide complainant. There was no complainant. The trial was an outright sham and Spender was the right Judge to run it.

PRESENTER

Thank you, Mr Athendon... and yes, we'll certainly hear more from you at the end of the final episode of this series. Looking forward to it.

(pause)

Also throughout this series, more of the criminal conduct of Alan Ducret, former Regional Director of the TPC/ACCC will be exposed... And we'll begin introducing the criminality of Terence Guthrie, Ducret's Assistant Director... Peter Toy and Stephen Ridgeway from the office of the Australian Government Solicitor, AGS, along with Lesley Ziukelis, also AGS. She would become Lesley Ravell many years later.

(MORE)

PRESENTER (CONT'D)

Then there's Jamie Orchard... he would  
end up causing the suicide of one of  
the finest men in our nation.

EXT. HOME OF VAN DER HORST. MORNING. MAY 1997.

As the credits begin to roll we see a STOCKY SHORT MAN  
with a shock of WAVY greying hair being served papers by  
two plain clothes police officers. They return to their  
car as the aging man reads and then turns to CHASE the  
officers as they drive off. The driver is looking in the  
REAR VISION mirror. We see his POV as the car draws  
further and further away.

FADE OUT.

**THE END**