

Mick's war

WHY DID THIS MAN WAGE A 25-YEAR BATTLE AGAINST COPS, LAWYERS, DRUGS AND THE ESTABLISHMENT?

By Hall Greenland

Life can turn ugly and sometimes a person can look back and pinpoint the precise time and place when the wheel turned. Mehmed "Mick" Skrijel is one of those people. It was a clear day in March 1978, not long after his 37th birthday. It was at sea, 20km south of the Australian continental landmass. Skrijel was enjoying life as a crayfisherman, working out of the South Australian coastal village of Southend.

For someone who had started life as an orphan in wartime Yugoslavia, his parents killed by the invading Germans, times were good. As he hauled his crayfish pots on board he glanced across 200m of open water to a neighbour's boat. They were grappling on board a buoy with a drum attached. He pointed it out to his deck-hand who, Skrijel claims, told him it was common knowledge that other Southend fishermen were picking up heroin drops from passing ships.

Skrijel (pronounced Skreel) says he hates drugs and his hawkish Turkish face clouds over with disgust as he tells you this. He reported his sighting to police. And waited for action. None came. He went to the police repeatedly to ask what was happening. *Sorry Mick, we've investigated and can find nothing ... Now, Mick, don't get so excited.*

► Mick Skrijel at bay: 'It was cowardly; they wouldn't give me the chance to clear myself up'

But he did. He knew what was going on and he was convinced the police did too and were covering up. He took his suspicions about drug corruption far and wide – writing and visiting local, state and federal politicians and senior police officers in Adelaide and Melbourne.

Things started to happen – to Mick Skrijel. In the next few years his boat Belgrade I was burned to the waterline. His crayfish pots were damaged and his catches stolen. He and his children were bashed outside a local football ground. His house torched. No one any longer denies these events happened, the dispute is over who caused them.

By 1984, Skrijel was desperate for a saviour and he thought he'd found one in the Costigan royal commission. That inquisition, which had started as an investigation into corruption in the Melbourne branch of the ship painters' and dockers' union, had branched out into tax rorting and drug rings. Costigan took the Skrijel affair seriously but only preliminary inquiries could be made before the free-wheeling commission was wound up by a worried federal government.

The Skrijel file was flicked to the new National Crime Authority (now the Australian Crime Commission) – and Skrijel's misfortunes took a new turn.

In February 1985, Carl Mengler was appointed the NCA's chief investigator in

Melbourne. Mengler had a distinguished police record. He had been in charge of the investigations that led to convictions in the biggest drug-related crimes of the 1980s: the murders of Douglas and Isobel Wilson, the disappearance of Griffith anti-drug campaigner Donald McKay and the Mr Asia drug ring. He was awarded the Australian Police Medal.

The Skrijel-Southend file was one of the first to land on Mengler's desk, along with a recommendation from a Costigan counsel that the matter required some undercover investigation. Mengler pursued Operation Southend by sending two detectives to the area and they worked openly asking scores of people questions. For Skrijel, Operation Southend was about as subtle as a fire engine on its way to a blaze. He complained. Mengler dismissed him as a pest – "full of delusions about everything", as he told the Victorian Supreme Court.

What then happened in the last few months of 1985 forms the kernel of a legal saga that wound up in the Victorian Supreme Court in 2003 with Skrijel suing Mengler, another police officer and the federal and Victorian governments for malicious prosecution. In the case, which began in April and concluded in May, Skrijel represented himself and he faced a table of QCs and SCs, their juniors and teams of solicitors and clerks – all paid for by taxpayers. "I honestly don't expect to

win, but what else could I do?" Skrijel says.

What he did back in September 12, 1985, in response to Operation Southend, the supreme court heard, was to set up a one-man picket outside the NCA headquarters in Melbourne and give out inflammatory leaflets naming Mengler and entitled "The National Crimes Cover-up Authority". And he stayed for a month. He was unemployed, having sold his boat – he had built a replacement for Belgrade I with his own hands, this time out of steel and aluminium – and surrendered his fishing licence earlier that year. He was now loud in the land full-time.

In October 1985, Mengler decided to act. In evidence before the court, Mengler claimed that by this stage police had information that Skrijel was a marijuana grower and potential cop killer. Mengler's "firemen" had, for instance, been told by a local farmer that Skrijel had been seen in a yard near a marijuana plantation in the Weecurra state forest which is 16km from his hobby farm in Digby, western Victoria.

Other informants from Southend, as Mengler's senior sergeant told the court, claimed that Skrijel had threatened to shoot police. In cross-examination, Mengler also cited Skrijel's version of his life before he came to Australia in 1962 – a deserter from the Yugoslav army, a stint with the French Foreign Legion fighting rebels in Algeria – as confirmation that he knew how to do harm.

On October 8 that year, Mengler sent a team of Victorian police to set up a stake-out around the clearing in Weecurra forest. Lying in wait for Skrijel in the bracken was lonely (and uncomfortable) work – only three vehicles passed that way in the next eight days, according to one of the watchers – and the only regular intruders were the leeches.

On October 14, Skrijel lifted his picket on the NCA offices and drove to Digby to mow the grass. On the morning of October 15, the police ended the stake-out at the plantation and raided Skrijel. It was a strange procedure: a stake-out at

the plantation when the suspect was in Melbourne then, when he came close, the stake-out was lifted. (Mengler later testified it was the result of the leeches, as well as the "reasonable" suspicions the police already had about Skrijel.)

Nevertheless, the raid on Skrijel's property was successful. In the middle of Skrijel's shed the police found a cardboard box and, close by, a plastic barrel, containing 5kg of marijuana leaf. On the bench next to the kif was a sawn-off Winchester Cooley .22 rifle – it was unlicensed.

Later that morning, Skrijel was charged with possession, trafficking and cultivation of marijuana, although there was little evidence at that stage to tie him to "the plantation", which contained 127 seedlings weighing 230 grams. While there is some dispute over this, police claim they also charged him over the Cooley. A few days later, as Mengler told the Supreme Court, a Victoria Police fingerprint man, Sergeant Gary Cook, rang Mengler to tell him he'd found Skrijel's thumb print on the Cooley and his palm print on the lid of the plastic drum. For these "discoveries" (Skrijel disputes them, claiming the palm print was taken from a coffee canister lid) Cook was to find himself in court alongside Mengler in Skrijel's long legal battle against the NCA and the Victorian police.

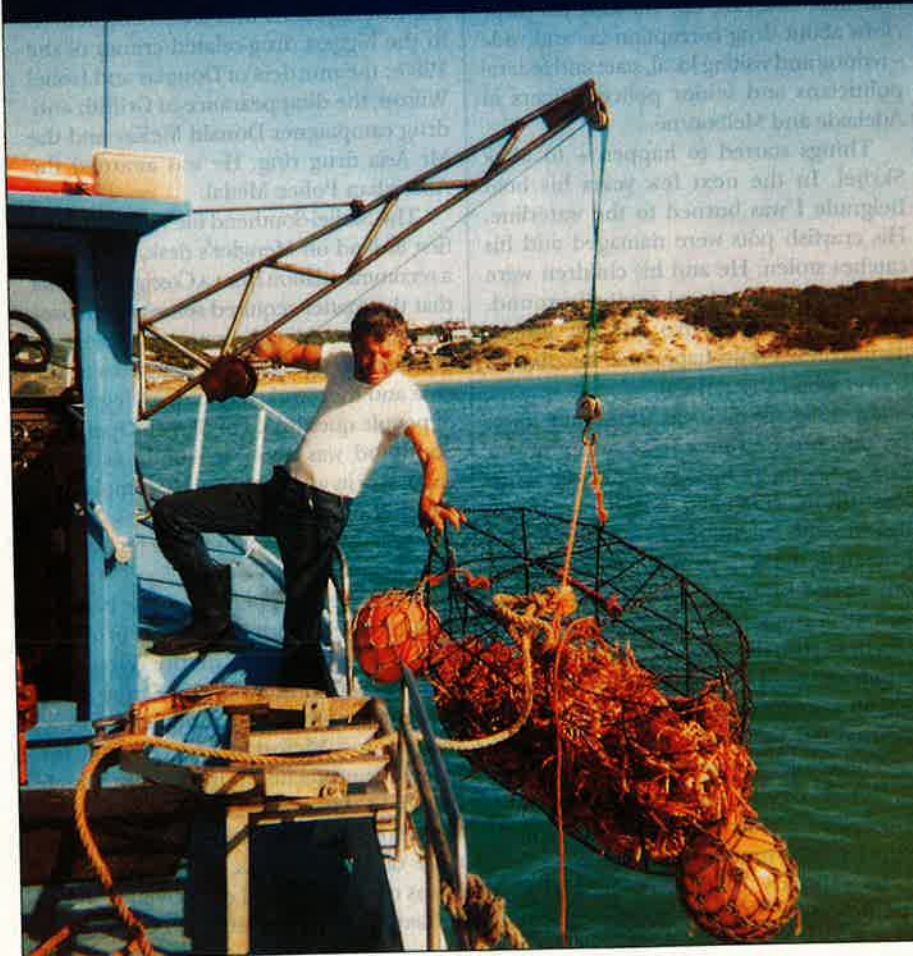
On October 31, the case against the troublesome fisherman got even worse. Police forensic found the plastic barrel also contained 26 sticks of gelnite, 118 detonators, three electric igniters and 20m of fuse – the makings of a bomb. On November 7, Skrijel was charged over possession of the explosives "without a lawful purpose".

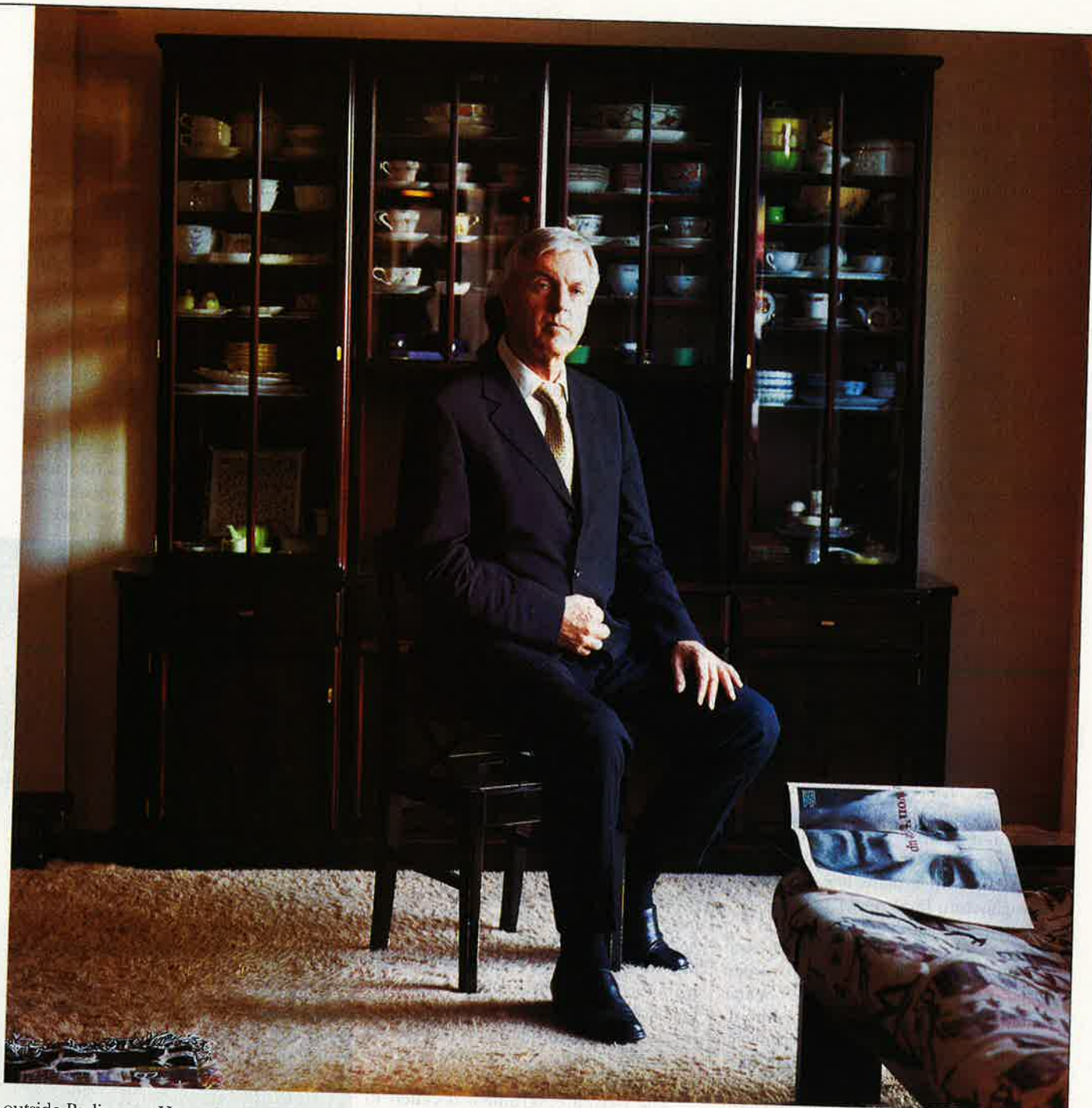
Considering the Mengler view of Skrijel, it is one of the stranger aspects of the case that Skrijel was allowed bail on his own recognisance. Certainly, in the months to come, as Mengler admitted in cross-examination before the Supreme Court, he otherwise treated him as a dangerous man: he circulated a warning about Skrijel to all Victorian and South Australian police; he informed his superiors that he had information linking Skrijel to "more major marijuana activities"; and when a bomb tore through the Russell Street police station in central Melbourne in March 1986, he immediately phoned his Victorian colleagues to name Skrijel as a suspect.

Ironically, Skrijel was at that point embarking on a campaign modelled on the tactics of that great apostle of non-violence, Mahatma Gandhi. In March, he camped

► Skrijel working the craypots on Belgrade II: his first boat was burned to the waterline in 1978

**'I was born under fascism,
lived under communism, but it's democracy
that is killing me' – Mick Skrijel**





outside Parliament House in the national capital and began a 127-day hunger strike in support of his call for an inquiry into the NCA and his claimed "frame-up".

That was when he met David Berthelsen, then working as an auditor in Canberra. Berthelsen was driving past Parliament House in 1986 and saw Skrijel on his hunger strike. He stopped and heard Skrijel's account of what had happened to him and decided to help. "I said, 'When you've finished your hunger strike, come around to my place for dinner'."

With that incongruous invitation, a fortuitous friendship was formed. Skrijel cannot write English and Berthelsen became his scribe, and when Skrijel broke down on

April 23 this year and could no longer continue to represent himself in his court action, Berthelsen became his advocate. He shares Skrijel's jaundiced view of the NCA. But it is his energy that is his major contribution. In court, with his long face, bushy eyebrows and lank, greying hair, he is like a serious border collie as he scurries around marshalling facts and harrying witnesses.

When the marijuana-growing and explosives charges came to trial in 1987 in Hamilton, Victoria, a jury found Skrijel guilty on all charges. Skrijel was sentenced to two years and served five months before he was released. (It is typical of the man that he kept on campaigning even in prison, leafleting his fellow prisoners with an

► **David Berthelsen: Skrijel's friend and advocate who met him in 1986 during a hunger strike in Canberra**

account of his case. Equally typical, the NCA hailed his conviction, as they had his arrest, as a triumph in their war on drugs.)

Skrijel, being Skrijel, appealed against his convictions and the Victorian Supreme Court quashed all of them and acceded to his demand not for acquittal but for a retrial. At the original trial, the judge had done a Fidel Castro, addressing the jury for more than five hours. Nevertheless, appeal judges found the trial judge had not given enough weight to key considerations which would have favoured the accused. They

found the fingerprint evidence of doubtful value and the presiding judge thought it was reasonable to suspect that the evidence against Skrijel could have been planted because his shed was easily entered and Skrijel was absent from his property for long periods.

The clock could have stopped there with a retrial. It didn't because the director of public prosecutions declined to re-try the case – on the grounds that it would be a waste of time and money as Skrijel had already served his sentence. Putting this apparent contempt for the Appeal Court and the rights of the accused to one side, this decision left the man that Skrijel is out of account. Everyone makes dramas out of their lives but few see it in terms of a Greek or Shakespearean tragedy. Skrijel does. One of his first pamphlets carried the title: "To live as a slave or die as a man." Even in 1989 it did not take much perspicacity to see that Skrijel was not a man who would go away.

The DPP's decision left him further embittered. "It was cowardly; they wouldn't give me the chance to clear myself up," he says in his sometimes mangled English. Cheated of a retrial, he switched his focus to call for a federal inquiry into the NCA. By then, he had his favourite line: "I was born under fascism, lived under communism, but it is democracy that is killing me."

Two events eventually forced the federal government's hand. In 1992, that same Cooney .22 (serial number 022019) confiscated by the police in 1985 turned up in Skrijel's house in Digby. Skrijel claims he had rigged up a detection system and, when he went to the house on November 18, he says he noticed the system had been tripped. He searched the house from top to bottom and found the gun in the kitchen ceiling. The reappearance of that pistol – forfeited to the police in 1985 – has never been explained, but Skrijel now believed he had the smoking gun to reinforce doubts about the NCA.

The second catalyst was his initiation of a damages case for malicious prosecution against Mengler, Cook and the federal and Victorian police in April 1993 – the case that came to court this year. In that same month in 1993, the federal government finally agreed to an independent inquiry of the Skrijel case by Adelaide QC David Quick.

Quick found Skrijel difficult to deal with, although that is not unusual – for lawyers.

'Whatever happens in this case, he [Skrijel] will leave this court with a hundred demons in his head'

– Carl Mengler in court

possibility Skrijel had been framed with fabricated evidence in 1985 – although he failed to nominate any suspects for the fit-up. Nor did he find Skrijel's account of falsified fingerprint evidence convincing. On the other hand, he forcefully rejected the NCA's submission that Skrijel was deranged.

Quick's main difficulty was that he lacked resources and coercive powers. This situation led to Quick's major recommendation: that an inquiry equipped with the powers of a royal commission be set up to investigate the possible frame-up of Skrijel in the mid-1980s.

In a still-unreleased confidential volume, he set out the lines a future inquiry with adequate powers might take. *The Bulletin* now has a copy of that volume in which Quick lays out the steps for the fully fledged inquiry, including an investigation of the informants in Southend who first alerted police to Skrijel's supposed marijuana ambitions. The ultimate historical irony in this case would be that neither Skrijel nor the police are guilty but some third force – a possibility raised by both the presiding appeal judge and Quick. While there were no Skrijel fingerprints found at the marijuana plantation, Cook did find three other sets of as yet unidentified prints there.

The federal government declined to establish a mini-royal commission on the grounds of cost, instead flicking Skrijel's complaints to what Skrijel described as "the powerless" Victorian deputy ombudsman. To make matters worse, then justice minister Duncan Kerr and senior officials wrote to Skrijel supporters explaining their decision and claiming that Skrijel had a criminal record. As a result, in one of those byways this affair is replete in, Skrijel took and settled a defamation action against the minister and officials which cost taxpayers thousands of dollars.

▶ Carl Mengler: as NCA chief investigator he co-ordinated the Southend Operation

Capable of great charm, Skrijel also has a reputation for being exacting – and for sacking his legal advisers. In the lead-up to the current case, for instance, he dispensed with not one but two legal teams. Nevertheless, Quick did find that there was a strong

For all the suspicions the prickly Skrijel voiced against him, Quick was moved by his suffering. He went out of his way to warn that Skrijel's civil action had "minuscule" chances of success, because it would be an unequal battle.

When Skrijel eventually succeeded in getting his action into court in February this year, he was representing himself. The presiding judge Geoffrey Nettle was concerned enough to adjourn it for a month to give the Bar Council time to find a counsel for the fisherman – the Bar Council had intervened "after an anonymous phone call", its president told *The Bulletin*. No one stepped forward to take the brief and so the David and Goliath contest proceeded with first Skrijel and then Berthelsen wrestling with arcane legal rules and conventions as they tried to prove, on the balance of probabilities, that Skrijel was maliciously prosecuted.



Absenting himself from the second half of the trial could not have counted in Skrijel's favour. Equally damaging – and the judge made this clear – was his earlier refusal to go into the witness box on the grounds that to submit to cross-examination would be like “swimming with sharks”. Skrijel and Berthelsen decided that Skrijel's bad memory for dates and excitability would count against him.

Under cross-examination, Mengler was combative and unshakable. He's no fan of Skrijel's but told the court he is not angry at him. Instead, he says he pities Skrijel. “He will never be happy,” he said. “Whatever happens in this case, he will leave this court with a hundred demons in his head and he will never get rid of them as long as he lives.” (Mengler was advised by his lawyers not to speak to *The Bulletin* before the judgment.)

Mengler's barrister, Michael Tovey, QC,

showed no such pity. In his final address, he ridiculed Skrijel's and Berthelsen's more far-out conspiracy theories, dwelt on the inconsistencies in Skrijel's stories and tore into his explanations for “losing” vital evidence.

Tovey also reprised the longstanding NCA response to Skrijel's claim of a frame-up: it would have involved so many people and so many twists as to be utterly incredible. But Tovey himself was not immune to the fantastic, suggesting that Skrijel may have stolen the reappearing Cooley from the police and planted it himself.

In the end, Tovey decided attack was the best form of defence, charging in court that Skrijel had manufactured a crucial piece of evidence himself and then, when it was clear his ruse was up, made up a far-fetched story about losing it.

The Skrijel team believe they were successful with the fingerprint evidence – the

major probative evidence against Skrijel in the 1985 bust. The thumb print on the Cooley was not canvassed in the 1988 appeal but the photo taken by police in 1985 does appear to be Skrijel's print on a wooden stock of a rifle, Berthelsen argued to the court. The trouble is that the sawn-off Cooley doesn't have such a stock, although Skrijel's legal Gevarm .22 does. Berthelsen submitted to the court that the attempt by the police to show in the courtroom how they got the fingerprint photo – Skrijel supplied the reappearing Cooley for the test – was a failure. Cook's lawyers strongly disputed this.

THESE DAYS, SKRIJEL is no longer the whipper-thin, wiry fighter he once was. He's filled out and his burning anger is mixed with other emotions. Sitting in their kitchen in Melbourne's western suburbs, his wife Loryn is answering the question about how Mick's five months in jail affected the family. She tells the story of how, after the first visit to see her father in Pentridge, their daughter Fatima, then 13, woke the next morning concerned about her dad's complaint that he was cold at night. Fatima insisted on ringing the jail governor to ask for more blankets. To Loryn's surprise, the governor took the call and later that day delivered more bedding to Mick. Turn back to Mick, and the Man Who Will Not Give Up has tears in his eyes. Tears of appreciation, regret and pride.

Tears are the last thing you expect to pass across the impassive face of Mick Skrijel. Only a man inured to suffering could have come through the travail of 25 years of seemingly ceaseless war with powerful police forces – and still be fighting: for reasons of space, the house raids and two unsuccessful prosecutions of Skrijel since 1988 have not been reported here. A large part of Skrijel knows that his case in the Victorian Supreme Court is his last hurrah, and if he was to think otherwise, Loryn is there to remind him. “It's taken enough of our lives,” she says in what must be the understatement of the century. She adds: “I'm 55 and Mick's 62. We need to get on with our lives.”

She wishes. Sad to say, the transformation of Skrijel from hunter into quarry may be about to happen again. At the end of his final submission, Tovey urged the judge to refer this case to the DPP to charge Skrijel with a conspiracy to pervert the course of justice. For Mick Skrijel the wheel turns, and turns, and turns.

● *The Skrijel case finished in the Victorian Supreme Court on May 16. The judge reserved his decision.*

