

William & Lonsdale – Lives in the Law

Ep 75. The Hon. Lex Lasry AM KC

Voiceover : [00:00:09] This is William and Lonsdale, a podcast about the legal ecosystem and the fascinating people who make it tick. Today, your host Michael Green speaks with the honorable justice Lex Lasry, former justice of the Supreme Court of Victoria and current justice of the Supreme Court of the Northern Territory. Lex is one of Australia's most recognisable criminal lawyers, a leading barrister at the Victorian bar before his appointment to the bench, and a longtime opponent of the death penalty. Even though his father was a solicitor, as a child, Lex had zero interest in becoming a lawyer. He was in fact set on being a dairy farmer. But despite that, and what he describes as a lackluster academic record at secondary school, Lex got into law at Monash. But he was still not particularly inspired or engaged. And after failing a couple of subjects in third year, the dean wondered if perhaps he should consider a different path.

Lex Lasry: [00:01:06] Now what happened was I'd had a very difficult third year. Unsurprisingly, even now, I failed jurisprudence and property. I was given two supplementary examinations in those two subjects. Enid Campbell, she was the professor in charge. So she pulled me up to the office after the exams and said, well, we're going to give you SUPs in property and jurisprudence - Lex, do you really think the law is for you? And I took that to mean what she meant it to mean, which is do something else. So I drove from the Monash Law School to the Brighton Police Station and got the application form. Went home, confronted my mother with the proposition, who became apoplectic at the prospect, and ultimately persuaded me to finish my degree if I passed the subs, which I did.

Michael Green: [00:02:16] Our guest this morning in Lives in the Law is His Honor Lex Lasry, retired judge of the Supreme Court of Victoria, and a judge of the Supreme Court of the Northern Territory. Good morning, Lex.

Lex Lasry: [00:02:27] Good morning, Michael. Thanks for having me.

Michael Green: [00:02:31] Great to have you. Back to the start, Lex, a boy in Healesville in the 1950s. Healesville at that stage, I guess, a small country town and your dad was a solicitor in that small country town.

Lex Lasry: [00:02:41] He was.

Michael Green: [00:02:42] Were you always gonna be a lawyer? Were you following in your dad's footsteps? No.

Lex Lasry: [00:02:45] No. In those days, the law meant absolutely nothing to me at all. It's just what he did. That was all I knew.

Michael Green: [00:02:51] Healesville was a bit of a hotbed of political controversy at the time. Allegedly some communist cell there.

Lex Lasry: [00:02:58] Yes. Well, I mean, you have to sort of put it in the context of the time. So it's the 1950s. There'd been the Labour split. There'd been the National Civic Council. There'd been Santa Maria and others that resulted in the DLP being set up, and anyone who was to the left of centre was part of that fractured situation at the time, and the other obsession in the 1950s was communists, and that arose during a dispute in the town.

Michael Green: [00:03:21] Why would they look at a small country town, a quiet country town East of Melbourne, and think it was a hot bit of communism?

Lex Lasry: [00:03:29] Well, it arose because a local doctor, a fellow called Arthur Deary, who was a Hungarian Jew refugee, and who was our family doctor, a most lovely man. He was on the, he was an honorary doctor or a visiting doctor at the Healesville Bush Nursing Hospital. And he was sacked because he was accused of carrying out abortions, which in the 1950s, late 1950s, early 60s was not a good thing to be doing. He denied that. So they sacked him and that really split the town because he had a very strong following amongst his patients. My father in effect became his lawyer and both Arthur Deerey, and Lasry were accused by many in that town of being communists.

Michael Green: [00:04:08] I was gonna say strange times, but maybe it's not that different from today, actually.

Lex Lasry: [00:04:12] No. The circle seems to have turned again, Michael, I think.

Michael Green: [00:04:15] It does seem to be heading in that direction. Moving on, Lex. School, were you a keen student at school or your kid who did well at school and topped his grade and that sort of thing?

Lex Lasry: [00:04:22] No, nothing like that. I was a good student at primary school. Healesville Primary School was a lovely part of my life, but secondary school was a lot different. And no, I wasn't a good student at all.

Michael Green: [00:04:32] And you boarded during summer of secondary school at least?

Lex Lasry: [00:04:35] Yeah. I boarded through the first three years of it.

Michael Green: [00:04:37] Did you enjoy boarding?

Lex Lasry: [00:04:38] No. As simple as that. Well, I was a spoiled only child, and I was 11, and the boarding school was a bit of a shock.

Michael Green: [00:04:47] You and I are the same age, Lex, and at the same age I went to boarding school too.

Michael Green: [00:04:51] Yeah. You probably did better than me.

Michael Green: [00:04:53] I don't know. Anyway, let's move on to Monash University in the late sixties, early seventies when you did your law degree. Monash at the time, of course, was the hotbed of political upheaval in Victoria at the time, maybe in Australia, actually.

Lex Lasry: [00:05:09] It was.

Michael Green: [00:05:09] Were you a part of it?

Lex Lasry: [00:05:11] Oh, a small part of it. I fraternised with Monash Labour Club, which was led by, in those days, Albert Langer and Mike Hyde, and they were the ones who were instrumental in the demonstrations that went on on the campus and in the city against the war in Vietnam, and I part of that.

Michael Green: [00:05:26] Was there also demonstrations against the death penalty after Ronald Ryan had been hanged?

Lex Lasry: [00:05:30] Yeah. There were a few, but I I actually don't recall going to any. So he was executed in 1967. There probably were, but I don't actually remember going to any demonstrations about that.

Michael Green: [00:05:39] No. I and I are contemporaries, and I remember the marches in the city

Lex Lasry: [00:05:43] There were marches in the city, yes.

Michael Green: [00:05:45] Against the Vietnam War.

Lex Lasry: [00:05:46] Oh, yes.

Michael Green: [00:05:47] But I can't think of anything to do with Ronald Ryan in terms of public displays.

Lex Lasry: [00:05:51] The great Barry Jones sort of mobilised people against the death penalty, but it did no good, of course, because Henry Baldy wasn't interested in according Ryan any clemency.

Michael Green: [00:06:01] Your law degree didn't seem to go that smoothly. There was a bump there where you thought about leaving Monash and your law degree and joining the police force. In fact, you even got the papers. Did you fill the papers out and No. File them?

Lex Lasry: [00:06:12] No. I wasn't allowed to fill them out. So No, what happened was I'd had a very difficult third year. Unsurprisingly, even now, I failed jurisprudence and property. I was given two supplementary examinations in those two subjects. Enid

Campbell, who I for some reason keep wanting to refer to as Dame Enid Campbell, but she wasn't a dame, but she acted like one. She was the professor in charge. So she pulled me up to the office after the exams and said, well, we're going to give you SUPs in property and jurisprudence. But look, Lex, do you really think the law is for you? And I took that to mean what she meant it to mean, which is do something else. So, I drove from the Monash Law School to the Brighton Police Station and got the application form. Went home, confronted my mother with the proposition who became apoplectic at the prospect and ultimately persuaded me to finish my degree if I passed the SUPs,

Michael Green: [00:07:04] Which I did. And did things pick up with your degree after that?

Lex Lasry: [00:07:07] No, I just did enough. Look, Michael, I just did enough to fall over the line. That was the best you could say.

Michael Green: [00:07:12] But can I say as contemporary of yours, most of us just fell over the line because there was no pressure about getting a job? Was jobs for everybody, and therefore you didn't need an honours degree or anything

Lex Lasry: [00:07:24] That's right.

Michael Green: [00:07:26] Yeah, so I think you're underplaying yourself a bit there, Lex. What about articles? In those days, you needed to get articles.

Lex Lasry: [00:07:31] Yeah, so going back to Hillsville, the lawyer who came in to look after our interests or my father's interests in the inquiry into the Hillsville hospital was Jim Hill, and he was the one of two senior partners at Slater and Gordon, and so he was persuaded to take me on as an article clerk.

Michael Green: [00:07:50] Do I remember that Jim Hill and his brother Ted Hill, I think is at the bar, were actually members of the Australian Communist Party?

Lex Lasry: [00:07:57] Yeah, significant communists.

Michael Green: [00:07:59] Yes, that was my recollection. Yeah. But so he gave you articles of Slater and Gordon. Yep. General articles or did you do a lot of personal injuries work at Slater and Gordon at that stage?

Lex Lasry: [00:08:07] Eventually, I spent the first three months doing conveyancing with Jonathan Rothfield, which was the most boring work. I don't know why I was put into that, but I was. Jonathan was a lovely bloke, but I didn't see myself as a conveyancer. So, yeah, a lot of common law. Mean, were a personal injuries firm and they ate up most of the unions, particularly the big unions and in particular the tramways. And they liked Jim and Ted's politics, I think.

Michael Green: [00:08:31] But you didn't stay there. No. You when you finished your article, went and worked for your dad for six months in his practice down in Brighton.

Lex Lasry: [00:08:37] Yeah. Which was a convincing practice, so it didn't last

Michael Green: [00:08:40] Conveyancing that and probate in those days. A bit of that. Yeah. Yeah. But you come to the bar almost six months with your dad and then you come to the bar. Had you always wanted to be a barrister? No. So why did you come to the bar?

Lex Lasry: [00:08:52] Well, because everyone else was doing it. Truly, my contemporaries at Monash who had gone this route had gone to the bar, Ian Sutherland and Peter Hayes, various others. So, it seemed to me that it would be worth a shot. I didn't fancy working in a large organisation. I didn't see myself as a sort of corporation man. So, that's what people were doing, so I joined joined the Q.

Michael Green: [00:09:17] In those days, there was no Readers Course? No, nothing. You came and sat in the chambers of your mentor, Master, yes. And hopefully you had a good master who taught you some of the skills of being a barrister.

Lex Lasry: [00:09:30] Yeah, yeah. Well, did have a good master. I liked him a lot, but he was a lot different from me. So I read with David Bennett, who was, among other things, very good mate of Andrew Peacocks. So we saw a bit of Liberal politicians in those days and I did articles in 1972 and you might remember Gough Whitlam had just

one government, they were pretty south faced people who tripped through David's chambers.

Michael Green: [00:09:54] Without a reader's course, how did you learn your skills?

Lex Lasry: [00:09:57] On the job, Michael, really. That was the only way. We had occasional lectures from senior barristers who would get up and give a talk and tell us that not to worry too much because most cases won and lost themselves. And a few hints here and a few hints there, no role was taken. I don't know that they were compulsory lectures, but no, there was no teaching of advocacy. And so

Michael Green: [00:10:21] In some ways it was trial and error.

Lex Lasry: [00:10:23] Very much so. With a lot of error.

Michael Green: [00:10:25] And pity on the poor clients.

Lex Lasry: [00:10:27] Yeah, most yes, that's true. I mean, look, it's true. Most cases, a lot of cases do win and lose themselves. But there were some disasters, yes.

Michael Green: [00:10:35] My recollection of those days was there was a predominance of crash and bash work in the magistrate's court for young barristers.

Lex Lasry: [00:10:41] Yep.

Michael Green: [00:10:42] Did you start with that sort Of work?

Lex Lasry: [00:10:43] Yeah. Yeah. I mean, it was more work than we could handle, so I was on the list of Jack Island, and his was very much a civil damages list. He saw me in the future as a civil jury, probably defendant's barrister. I didn't see that at all, but that's another story. But yes, we would go to the magistrate's court with three or four briefs each day and run a long list of crash and bash.

Michael Green: [00:11:08] And yet your long career in the law has been predominantly crime. How did you get to crime? I mean, I'm assuming it started early days at the bar.

Lex Lasry: [00:11:16] Oh, relatively. I mean, did, like everyone else, did crime in the magistrates court bits and pieces. A lot of crash and bash. In 1975, the Family Law Act was passed and I did a bit of work in the family court in the early days of that and hated it. Really things didn't develop until the late seventies, and I got a brief in a case that turned into a big Supreme Court trial, and that changed everything, really.

Michael Green: [00:11:39] And a brief like that just came through the clerk's office or

Lex Lasry: [00:11:42] Staff near you? Yeah. I think it did. I can't really remember. No. It was it was a public solicitor brief. So I think George Madden himself, who was the public solicitor in those days, was the man who delivered the brief. I'm not sure why he chose me, but I got the brief for the committal, I got a junior brief in the trial.

Michael Green: [00:12:04] Lex, for someone who's had a long and distinguished career in the law, you said that lack of confidence was a major issue for you. Early days, and maybe not just for the first year or two, but maybe for the first decade or so. I'm not sure. Have you ever been able to identify why you had such a lack of confidence, and what happened to change it? Or was it just an incremental thing, bit by bit you got confident?

Lex Lasry: [00:12:29] I was participating in a bar meeting and got up to speak and had a massive panic attack in the mid-70s. Just froze in front of the whole bar. And I thought there and then that was it, my career was over. And that incident haunted me for ten or fifteen years. And that was the primary reason why I sort of lacked the confidence that I should have had. How did you overcome it? Well, these things, in the end, I went through a cycle of speaking to psychologists and various other therapists to try to get back to where I'd been. And none of it really helped much. I ultimately took the view that the only way to deal with it was to turn and face it, and that's what I did. I just kept putting myself in situations where I just had to develop the confidence that I needed.

Michael Green: [00:13:16] And does this come under the heading that you've, the phrase you've used, fake it until you make it?

Lex Lasry: [00:13:21] Yeah. Something like that.

Michael Green: [00:13:22] And that's basically what you did? That's what

Lex Lasry: [00:13:24] I did. I look and those early days, when after that happened, I was absolutely devastated. And I from there on for the next few years, I avoided I mean, here I was, a barrister with a fear of public speaking. You just can't imagine a worse combination. So I sort of dodged situations where that might happen again and then gradually reestablished some confidence. I still don't really know why it happened, but it was an incident in my life that I've certainly never forgotten.

Michael Green: [00:13:51] You say that seeing in court a former president of the Court of Appeal, John Winnicke, seeing his performance in court, maybe gave you some sort of template for what you could aspire to be or how you could aspire to do it?

Lex Lasry: [00:14:03] Yeah. I mean, that brief that I got in the late seventies that became a Supreme Court trial, he was the prosecutor. And so I had the pleasure, displeasure, if you like, from my client's point of view of watching him prosecute that case. He had not long been appointed silk and Jack, anyone who knew him and saw him in court knows that he had the most magnificent command of language. He had a presence that I don't think anyone else that I've seen ever had. And he was simply someone I admired enormously. And I never tried to be him, but I watched what he did and tried to adopt some of the techniques that I saw him using.

Michael Green: [00:14:41] And I think you mentioned his ability to control the courtroom, control the judge, control the jury. And that was also something which you aspired to emulate. How do you control a courtroom?

Lex Lasry: [00:14:52] Well, it's gotta be by presence to a significant degree, I mean, I don't think I ever did it in anything like the way he did, but it's hard to describe Michael. It's He was a man who people weren't frightened of him, but they were in awe of his performance and his ability and to a degree intimidated by him. Certainly, counsel, senior counsel leading me in that case was no match for Jack. And it's just something that you try to do. I think we all try to do it. I don't whether I succeeded or not, I'd be the worst judge of that. But, you know, he just had that, I mean, I can remember watching him foot up on the chair, folder, notes, final address to the jury, speaking in that way that Jack had because, I mean, you'll identify with this. He played in Hawthorne's nineteen sixty one Premiership side and he had that common touch that footballers who have turned to the law had. And people loved him, and he'd laugh at our case, and the jury

would be giggling with him. It was just an amazing talent. I think he's I've said many times, he's the greatest advocate I've ever seen.

Michael Green: [00:15:57] Just skipping ahead a few decades, in sitting up there on the bench as a Supreme Court judge, did you see barristers who had that ability to control the courtroom? Were you aware that barristers were doing it and the good ones were doing it and actually did have control?

Lex Lasry: [00:16:11] Yeah, there were some who were able to do it. I don't think anyone did it to the level that he did it. But yeah, there were some barristers with the personality required to have control over what was going on and to always stand their ground to the point where if you were lucky, you could even intimidate the judge. And if you were the judge and you were lucky, you weren't intimidated by the barrister. So yes, I've seen people, but it's changed since those days. The sort of the colorful classical advocates don't seem to be quite as numerous as they used to be.

Michael Green: [00:16:42] Correct me if I'm wrong, Lex, but I think in those days, someone like a Jack Winnicke did civil work, did criminal work Did everything. Yeah. Did everything. Yeah. And therefore, did have sort of a control that fought for him. They were yeah. And and that's completely finished now. Yeah. No one does everything now.

Lex Lasry: [00:16:57] Yeah. I mean, another example who's still with us and still working is Phil Dunn. Phil Dunn has he's a beautiful advocate. He has that level of control over what's going on. And when he, you know, when he's taken the time to read the brief and think about the case, he does have that level of control over the case, but he's a specialist criminal lawyer, of course.

Michael Green: [00:17:17] So what you'd say is to any young barrister listening, if you get the chance, go and watch Phil Dunn.

Lex Lasry: [00:17:22] Yeah, watch Phil Dunn. Yeah, there's a few others. Unfortunately, there are few others who are now gone, but yeah, Phil's worth watching. So

Michael Green: [00:17:28] You had a lack of confidence, you were aware of it, you'd had that terrible panic attack, and you're working to overcome the lack of confidence. You must have overcome it, Lex, because you had many Yes, given your briefs in big

Lex Lasry: [00:17:40] That's true.

Michael Green: [00:17:41] A retrial of Clyde Bollard? I don't know that one.

Lex Lasry: [00:17:44] No, no. I was a reader. My master, he was prosecuting that case. Okay.

Michael Green: [00:17:49] Yeah. But you were junior to Phil Cummins, was later on the Supreme Court.

Lex Lasry: [00:17:53] Yes, true.

Michael Green: [00:17:53] In a murder trial with John Hassett? Yes. Think later on

Lex Lasry: [00:17:56] The county court. Yes. Later on county court.

Michael Green: [00:17:59] Do you remember those trials? Do you remember? Did you have a role to play as a junior? Did you have much input?

Lex Lasry: [00:18:07] Well, with Phil Cummins, he had a rule that basically his junior never did anything in court, which I found pretty unfortunate. John Hassett on the other hand had me, we divided the case in half basically and he did the main stuff, but I did a fair bit. Yes, I got it. And most, I always had a policy as a silk that my juniors could expect to perform in court because that's what they were there for.

Michael Green: [00:18:28] Yep. Yep. Yep. Yep. You were both prosecuting and defending

Lex Lasry: [00:18:31] Yes. As a junior? Yes. Did you have a preference? Probably defending.

Michael Green: [00:18:36] There's a nice phrase you used about prosecuting and defending. See if, can you remember exactly what it was?

Lex Lasry: [00:18:43] Yeah, when the case is over, the prosecutor's either won because there's been a conviction or he's presided over justice being done. If you're for the accused, you're either won or lost.

Michael Green: [00:18:54] And if you are for the accused and you've lost, does

Lex Lasry: [00:18:57] It knock you about? It can, it depends. I always found the highest pressure was in cases where I was convinced probably almost involuntarily because I tried not to think about it but where I was convinced the client deserved to be acquitted but they were innocent. That's really when the pressure was on. A great number of our clients in the criminal law aren't necessarily in that position so that when the case is over and the jury have said guilty, counsel can say to themselves, I I did the best I could, but the case was overwhelming. So it does depend on the the type of case.

Michael Green: [00:19:30] I read about you had a murder trial where your client said to

Lex Lasry: [00:19:33] You, I'm not giving you any instructions. Do your best. Yeah. He didn't actually say that. He knows terms, but it was the last murder trial I did at the bar. He just said I'm not he wouldn't answer any questions about what happened. So we adopted the putting the prosecution to its proof approach and had a lot of fun.

Michael Green: [00:19:50] Am I assuming that he was a experienced player of the criminal law system? Yeah. And therefore knew that

Lex Lasry: [00:19:57] Yeah, yeah. I mean, these days, that's all changed too because in these days, if you were confronted with a client like that, you'd be doing everything you could to persuade them to plead because the difference in sentence is significant. And by running the trial, give yourself another five or ten years.

Michael Green: [00:20:13] Yeah, yeah, yeah.

Lex Lasry: [00:20:14] It's really worth thinking about it.

Michael Green: [00:20:16] One of your trials, which I think you prosecuted, Lex, which interested me from a personal point of view because I actually briefed this guy, I reckon, in Crash and Bashes back in the early seventies, was the murder of a barrister

Lex Lasry: [00:20:27] Yes.

Michael Green: [00:20:27] Named Roger Wilson.

Lex Lasry: [00:20:28] Roger Wilson. Yes.

Michael Green: [00:20:29] I can't remember the details of it except I've a Porsche motor car in my mind somewhere. Yes. What was it?

Lex Lasry: [00:20:35] So that was the John Hassett case, Michael.

Michael Green: [00:20:37] Uh-huh. Okay.

Lex Lasry: [00:20:37] So John was a permanent prosecutor. I was his junior. On the 02/01/1980, Roger Wilson was driving home to his farmlet at Nunargurm when he was pulled over by what he thought was a police car. The car contained Chris Flannery and Kevin Williams. They were dressed as police, they handcuffed him, took him to a remote spot and killed him. Flannery said he emptied his clip and his gun into Wilson's head. And the case was basically about that murder being procured by a fellow by the name of Mark Alfred Clarkson over a commercial deal gone wrong where Wilson had been the lawyer in the commercial deal. But the thing about the case was that there was nobody. They never found Wilson. So that was three months of Berta trial, which ultimately ended in Berta's not guilty.

Michael Green: [00:21:24] Verdicts not guilty on the basis that the Crown couldn't prove his case beyond a reasonable doubt?

Lex Lasry: [00:21:29] Right. The defence, quite skilfully in many ways, raised an issue as to whether Wilson was actually dead and produced a witness who claimed to have seen him in a Greek island since the date of the murder. Look, it was an absolutely fascinating case. Was, you know, all the luminaries were in it. Norman O'Brien was the judge. Phil Cummins was in it. David Harper was in it. John Walker, Michael Rosines, Lex Lasry. It was a great case. The sort of Penj Bungalow murder type case. Sounds pretty gruesome.

Michael Green: [00:22:03] Moving on to the Costigan Royal Commission, that again, so that's late seventies, early eighties?

Lex Lasry: [00:22:09] No. It started in 1980.

Michael Green: [00:22:10] And it dominated the headlines for a long time to my recollection. It did. Can you tell us what the Costigan Royal Commission was about and what role you played in it?

Lex Lasry: [00:22:19] Well, Malcolm Fraser was looking for a union to inquire into, and the ships, painters and dockers were a perfect candidate because it was a refuge for criminals. There's no doubt about that. So the original allegations concerned ghosting on the wharves, that is adopting the identity of people who were dead or whatever to get money.

Michael Green: [00:22:38] To get their salary.

Lex Lasry: [00:22:39] To get their salary, yes. But as it developed, it soon became an inquiry into the painters and doctors roles in various crimes, including drugs, armed robberies and things of that kind. And the fun part of it was that every time we pulled the executive of the union into our hearing room, they would refuse to answer questions. So, we sent them off for a side of them for contempt and every now and again, we'd go through that process again. But the commission became a sort of de facto crime commission because it turned into an examination of what you might describe as organised crime. And in the latter half of the commission, there was a lot of that sort of work.

Michael Green: [00:23:18] And then you were junior to a Silk Inn then?

Lex Lasry: [00:23:21] Yes, so I was junior to Doug Maher. Rex Wilde was my also a junior. He was there from the start. I was brought in eighteen months or so after it started.

Michael Green: [00:23:29] And how long did it run for?

Lex Lasry: [00:23:31] It finished in 1982, and then I went to the National Crime Authority in a sort of transitional role.

Michael Green: [00:23:39] Can I just before we get to the National Crime Authority, did anything come out of that Royal Commission? You've been in you were in a lot of Royal Commissions, a lot of inquiries, and you have made a comment on one or two of them that they just get or the results just get put in the bottom drawer somewhere and nothing ever happens. And that and let's be fair, when we were all younger men in the law, royal commissions did have the they used to say about them, was the way of the government bearing an issue. Yeah. Call a royal commission and nothing ever happens. Did the Costigan Royal Commission lead to anything?

Lex Lasry: [00:24:08] Oh, well, it led to the formation of a National Crime Authority, which in turn led to the formation of other criminal investigation bodies at a federal level. The commission basically pioneered the money trail approach to investigating crime because that's what was done. It basically cleaned up the union. I suppose it really ended the union because the union couldn't survive. So all that ghosting on the waterfront all came to an I think it was worthwhile. I think it did produce long term results.

Michael Green: [00:24:37] And yet some of the Royal Commissions and inquiries you're involved in during your career, I'm assuming you would say didn't lead to anything.

Lex Lasry: [00:24:43] Yeah, yeah. I mean, well, most notably, I was the Royal Commissioner in the inquiry into the Metropolitan Ambulance Service and Indigraph at the turn of the century, literally. And that we did, we worked pretty hard for two years and that really led to nothing to the point where there were still arguments about Triple O, the Triple O service and its failures. We dealt with that in 2001.

Michael Green: [00:25:07] And it's still happening now.

Lex Lasry: [00:25:08] It's still happening.

Michael Green: [00:25:09] And they talk about that ramping business still going on now. Yeah.

Lex Lasry: [00:25:12] So I think that's a report that's probably sitting gathering dust somewhere.

Michael Green: [00:25:15] Moving on with your career. So after the Costigan Royal Commission, the National Crime Authority is set up. Yep. And you accept a permanent position there?

Lex Lasry: [00:25:22] Transitional. I was there I was there for another six months to a year. Sort of as a handler from Costigan to the NCA. But you didn't leave As council assistant. Yes.

Michael Green: [00:25:33] You didn't leave the bar to do it?

Lex Lasry: [00:25:34] No. I was already at the Costigan Commission. Yeah. So every when the Costigan Commission finished, everybody went back to the bar except me. I stayed on. Our premises became the National Crime Authority premises. I stayed on in a sort of handover capacity.

Michael Green: [00:25:47] But you were still a member of the Victorian bar in that handover I

Lex Lasry: [00:25:51] Was council assistant. Yes. Okay. I'm with you.

Michael Green: [00:25:52] I wonder whether you'd actually left the bar to do it. No. So when you come back, are you effectively away for about three years?

Lex Lasry: [00:25:59] Yeah. A couple of years at least, yes.

Michael Green: [00:26:00] Was there a time was there a handover time for you when you come back to the bar, you sit in your chambers, no one the phone's not ringing, restart arriving, And you've got to wait for some things to develop?

Lex Lasry: [00:26:12] Yeah. How long did it take It's a things typical to barrister's insecurity. Yeah. I took a couple of months, probably took two or three months, maybe a bit more. The state crown picked me up after I got back to the bar after that. I then started prosecuting cases fairly regularly.

Michael Green: [00:26:28] And that's straight into the Supreme Court prosecuting murder?

Lex Lasry: [00:26:30] No, County Court. County Court. Some Supreme Court, but mainly County Court. We're now talking about the sort of mid to late '80s.

Michael Green: [00:26:36] And so that's mid to late '80s. 1990, you take silk. Yes. Again, there's a transition there between having a junior practice as a junior barrack to a silk. Yep. Some people don't miss a beat and some people, of course, it takes time for them to pick up a silks practice and some people never pick up a silks practice.

Lex Lasry: [00:26:54] That's also true.

Michael Green: [00:26:55] How was that transition for you?

Lex Lasry: [00:26:57] Oh, well, was lucky. I'm in the didn't miss a beat category because I had a brief junior to Graham Morrish in the police shootings inquests, which went for another twelve months. So I just kept doing that, which was very helpful.

Michael Green: [00:27:12] The police shootings inquest, so we're talking back in the late eighties, early nineties.

Lex Lasry: [00:27:18] That's

Michael Green: [00:27:18] Right. What was the purpose of it? Were the police was there a plethora of police shootings?

Lex Lasry: [00:27:23] There were. There were a lot of shootings where members of the Victoria Police had shot people in the course of one thing or another, and so the coroner, Hal Hallandstone, at the time decided to put eight or so of those cases together and had one big inquest.

Michael Green: [00:27:38] So he decided? The politicians didn't decide?

Lex Lasry: [00:27:39] No, he decided. And so I was involved in that. Counsel Assisting was appointed. I was junior counsel, and we did the eight or nine inquests. Notable

among them were the Wall Street Inquest, Tyrone and An Air, the shooting of Graham Jensen by the armed robbery squad, which precipitated Wall Street. So it was it was pretty high level stuff.

Michael Green: [00:27:58] In fact, enough level for you to go to The US and look at what they do over there.

Michael Green: [00:28:04] A nice junket for for you.

Lex Lasry: [00:28:06] It was a lovely junket. Yeah. It's the only time I've been in a helicopter. The NYPD flew us around Manhattan in the helicopter. They saw when we got there and they saw Australians and we told them why we were there, they could see that they might get a trip out of it. So we got the royal treatment.

Michael Green: [00:28:23] And again, back to that issue of inquiries, inquests, what was the outcome of this? I mean, I must say, to what you have just told me, I think well done, Hal Hellenstein, and pretty courageous of him to do it. But did it have an effect?

Lex Lasry: [00:28:37] I like to think so. I mean, I think the approach, and I'm no expert on policing, so I preface what I'm about to say with that. But I think one of the things those hearings led to was the idea that the use of the firearm needed to be a last resort and there needed to be otherwise found to sort of lower the temperature in confrontations. And that's what the police from both NYPD and the FBI taught us. So, you know, example, in the case of a siege, there was a siege in with the Black Panthers in Los Angeles, think where the police decided they'd charge in. And as they came in the door, the people inside had an AK-forty seven lined up on the front door and just picked the coppers off as they entered. So, the thing was you gotta find a way to try to negotiate your way out of these situations rather than just pull a gun and fire it. One of the people we brought out was a hostage negotiator who was a really interesting, really interesting guy and he sort of took us through the techniques of hostage negotiating, negotiating generally with people who are armed and threatening to be violent with the arms they had.

Michael Green: [00:29:36] And the Victorian police took us on board?

Lex Lasry: [00:29:38] Yeah, I think they did. I mean, they hated us because we were very critical of what had happened. So it was a real standoff. Every day of the hearing, it was a standoff. But I think they realised that there's gotta be a better way to do this and I think they are much better at it now than they used to

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Michael Green: [00:30:20] So, Lex, at about the time that you take Silk, you also start picking up a lot of work in Canberra.

Lex Lasry: [00:30:26] Some work, yes. Well, got a, yeah, I got a, I was briefed to do a Commonwealth tax fraud case, that's what took me there in the first place, but other work followed.

Michael Green: [00:30:35] Did you spend a lot of time in Canberra? Was it something which, when I would've thought that Canberra mainly would've used Sydney Silks or Sydney Barrister?

Lex Lasry: [00:30:42] Yeah, they did. Yeah, they did. And they were hostile to see Melbourne barristers coming in to what they regarded as their provincial turf. And that trial went on for months, and then they got a retrial after an appeal, and so it went on for months again, phase two. So I was there over two years really, quite a bit.

Michael Green: [00:31:00] And so what about now, you famously is the right word, but you famously appeared in a bestselling book Yes. Called Jo Chinquay's Consolation Yes. Written by one of our former guests, the great Helen Garner.

Lex Lasry: [00:31:11] The great Helen Garner, yes.

Michael Green: [00:31:13] So where was that? So after that first two years on the tax case, you then were in the Joe Chinquay's case?

Lex Lasry: [00:31:20] Yes, was. Obviously a separate brief. So my brief was for Mana B. Rao, who was Anu Singh's friend, And what they had done was organised a so called dinner party, a farewell dinner party because Anu and her boyfriend, Jo Chinquay were departing this earth. They announced or she announced. So, she drugged his food or drink with Rohypnol. He passed out. She injected him with heroin with the intention of injecting herself as well. Somehow that second phase didn't happen and he died and she didn't. And Martavy was sort of her assistant. So she was charged on that basis and she was acquitted.

Michael Green: [00:32:00] Your client was acquitted? And what did Helen Garner have to say about you and your performance, Lex? Well,

Lex Lasry: [00:32:06] I didn't know Helen Garner very well at that stage. Helen, and she came into the case pretty late. She hadn't realised that there'd been an earlier phase but she was there when the judge, that was a judge alone trial. She was there when the judge announced Maudev's acquittal and she was sort of watched because it's an Italian family. The mother of Jo Chiquay was very, very agitated by the outcome. But she rang me up after sometime afterwards and said she was writing the book and told me that she was planning to refer to me in a sort of context of me being something like a cold blooded monster. And how did I feel about that? And I said, I'm probably not enthusiastic about that label. So But you

Michael Green: [00:32:48] Were just counsel on behalf of an accused person. Why would

Lex Lasry: [00:32:52] Helen would say herself if she were here. Maybe she said it when she did your podcast. She became very involved with her family. There was a certain lack of objectivity, I think Helen would admit. Anyhow, she didn't, in the book, I'm not a cold blooded monster, but I was described as being turgid and lackluster. Which would you have preferred? Cold blooded monster any day, yeah.

Michael Green: [00:33:15] And then just skipping ahead again, Helen has written several books about crimes and trials, particularly trials. One of them, This House of Grief, You were the presiding judge in.

Lex Lasry: [00:33:29] Yes, that was in the trial of Robert Farquharson for the murder of his children.

Michael Green: [00:33:30] Did you get a mention in that one?

Lex Lasry: [00:33:31] Oh yes, I got a mention, but there was nothing turgid or lacklustre about what I did in that case apparently.

Michael Green: [00:33:37] I actually realised I'd like to get to Robert Farquharson later because it's a very tragic case. So moving ahead now, so around this time, roughly, I mean around the Canberra time, guess, you were offered position on the county court?

Lex Lasry: [00:33:49] Oh no, that was much, it was a fair bit earlier. Was it? There was bit of a tactic back in those days. People were appointed silk and then within months were offered jobs as county court judges. And I always thought it was because the government were wanting to get you while you were insecure about your prospects. So it was in that context, but I said no without much hesitation.

Michael Green: [00:34:10] You had no interest? No. Okay, so we're moving on. An interesting case you did as a SILK, and particularly in the context of today of Bondi and terrorism, was a man who the media called Jihad Jack.

Lex Lasry: [00:34:23] Yeah. Jack Thomas.

Michael Green: [00:34:24] What was he charged with, and how did the whole thing progress and finish up?

Lex Lasry: [00:34:30] Well, was charged with, I think he was charged with receiving funds from terrorist organisation, about \$3,500 for a plane ticket. But Jack had, there's a context which is significant. Jack had been in Afghanistan after nineeleven, as had David Hicks. They both went to an Islamic camp called Al Faruk and Jack was reputed, I think he said himself, he shook hands with Osama bin Laden. So, he became in a sense the worst of the worst as far as the Australian government and the AFP were concerned. Fortunately for Jack, he was arrested in not in Afghanistan, but in Pakistan and then sent back to Australia whereas Hicks was arrested in Afghanistan and deported to Guantanamo Bay. So, he was charged with he was charged primarily, Jack

was charged on the basis of what he told police during the interviews in Pakistan. To the Pakistani police. To and Australians as well.

Michael Green: [00:35:27] Oh, yeah.

Lex Lasry: [00:35:27] He was being interviewed. And that was an interview that was completely inadmissible because he was completely overborne. And so the Court of Appeal found.

Michael Green: [00:35:35] So he was convicted at first instance?

Lex Lasry: [00:35:37] Convicted by the jury, yeah. Yeah. And then acquitted by the Court of Appeal.

Michael Green: [00:35:41] And no retrial?

Lex Lasry: [00:35:42] Well, there was a sort of a Well, there was some more charges because for whatever reason, his solicitor, who I won't name, suggested that he go on Four Corners and tell his story. And he went on Four Corners and told his story and the AFP found some stuff in what he said on television to justify some further charges. And so he, I think in the end he got dealt with for false passport or something like that. It was a relatively minor charge. He didn't go to jail, But in Jack's early days, he was a pariah as far as the Australian government was concerned. John Howard was prime minister and as far as John Howard was concerned, these people were to be locked up and the key thrown away.

Michael Green: [00:36:19] And they were very good politics for our government.

Lex Lasry: [00:36:21] They were at the time. I mean, John Howard said of David Hicks that he could stay in Guantanamo for the rest of his life as for all he cared, and that was in the days when Guantanamo was really just cages.

Michael Green: [00:36:32] So just to explain the David Hicks thing. So he's an Australian who's in Afghanistan. Yeah. Gets arrested.

Lex Lasry: [00:36:40] Yeah. So these both young, white Muslim converts. They've decided they want to convert to Islam. And young Muslim men taught that they should go and learn to fight for Islam. And so both Hicks and Thomas went to Afghanistan to learn how to fight for Islam. That's why they were there. I mean, they were just they were dunces, I thought. I saw a fair bit of both of them and they were not a threat to anyone really. They just had this view that they should do the right thing by being Muslim men and go and learn to fight.

Michael Green: [00:37:15] And so how did it work out for Hicks? Hicks goes to Guantanamo Bay, which from memory is in Cuba.

Lex Lasry: [00:37:20] It is, yes, on the Southeastern tip of Cuba.

Michael Green: [00:37:23] On the tip of Cuba there. The Americans have a prison camp there.

Lex Lasry: [00:37:27] They set up a make yesterday they have a it's really a naval structure in Guantanamo Bay, but they set up they set up a make believe criminal court with make believe rules. And the idea was that they would you can't just execute these people. These are all people who've been dragged out of Afghanistan straight after 09:11. I think if they had their drubbers, they would have just taken them out and shot them, no, there's gotta be a new process. So they created a criminal court, the idea of which was to find everybody guilty and execute them.

Michael Green: [00:37:54] And is that what happened to David Higgs?

Lex Lasry: [00:37:56] No, he's fired. Nobody's been executed as it turned out. He was gonna stand trial, defended by former Marine, Dan Morrie, and then ultimately they reached a plea deal and he was sentenced and then sent back to Australia.

Michael Green: [00:38:11] Lex, in view of what you saw of David Hixon, jihad Jack, and the training that they underwent in Asia to support their conversion to Islam, does it give you any insights or any, yeah, feeling about what happened at Bondi and and those, you know, the men at Bondi who murdered the 15 people?

Lex Lasry: [00:38:28] Well, neither Hicks and certainly not Thomas were in anywhere near the category that the Bondi offenders were in. There were neither of them I ever saw any sign were interested in violence, and certainly not a violence of that kind. I mean, in Jack's case, I think he was just looking for something. He was looking to improve his identity. He was looking for something, a change. But Jack was just, at times a fool. But the risk, I mean, Michael, during his just before his trial, the alleged terrorist had a part time job driving a milk truck, and he was delivering milk to the AFP building in La Trobe's truck. Did they know that? I I presume so. It was just absurd.

Michael Green: [00:39:06] Yeah. Does. Sounds Sounds like a fast, doesn't it? Moving on, another area that you worked a lot in, and I suspect you didn't get paid, was for people in Singapore and Indonesia who were on death row. Yep. And you seemed to have a great commitment to that work because of a belief that the death penalty is wrong and should not be imposed. How did you become involved? How did Amalgam Barry In that case. Yeah. Oh, well, in the whole anti death penalty movement, how did you become one of the people who?

Lex Lasry: [00:39:37] Oh, well, I'm a disciple of the great Barry Jones who led the campaign against Ryan's execution. He's great man, one of the great assets this country has. So I've always been against the death penalty, really, inspired by him.

Michael Green: [00:39:50] Can I just stop you there for a sec? Yep. Why are you against the death penalty? I mean, there are some people, I would assume, who are so terrible, do such terrible things, that it might be best for society if they were eliminated.

Lex Lasry: [00:40:02] Yeah, well, wouldn't be. What the death penalty does is lower the government of the country that imposes it to the level of the criminal. It's just judicial murder. So, as Richard Burke who has worked in death penalty cases in New Orleans for decades now says, I don't like it when governments kill people. It's just probably as simple as that. But apart from anything else, Michael, all the literature, all the research demonstrates that it doesn't work as a deterrent. So it's just, to me, it's just as I said during the course of the Van Nuen case, it's a grotesque way to deal with a member of your community.

Michael Green: [00:40:37] Who was Van Nguyen? So Van was

Lex Lasry: [00:40:39] A Vietnamese, well he was the son of a Vietnamese refugee, one of twins that his mother gave birth to after coming to Australia from Vietnam after the Vietnam War ended under Malcolm Fraser's encouragement. He was persuaded to do a run to Southeast Asia. He went, he was at the time 22, I think, picked up some drugs in Thailand, transited back through Singapore, had one packet strapped to his chest, another strapped to his back, went up to the Qantas lounge at Changi Airport in Singapore, took the one off the front and put it in his bag because it was uncomfortable, fell asleep, heard the call for his flight, ran down to gate C23, it's sort of emblazoned in my memory, went through the security and as he went through the security, the guard just really just ushering him through, put his hand on his back and felt the packet. And that was it. So, he was charged with trafficking in those drugs. The total was three ninety six grams of error.

Michael Green: [00:41:33] And I'm no expert, but that's a small amount.

Lex Lasry: [00:41:35] In relative terms, yes. But you can die for 15 grams in Singapore.

Michael Green: [00:41:41] And he did die?

Lex Lasry: [00:41:42] He did die.

Michael Green: [00:41:43] He made comment about his behaviour towards the end of his life.

Lex Lasry: [00:41:47] Yeah, well, it's one of those things that I think a lot of lawyers who've done a lot more of this work than I have would tell you that many of them die a pretty brave death, and Van, I mean, the last visit that Julian McMahon, who was my junior and I had with Van at Changi, he was comforting us. I mean, I wasn't coping very well with what was happening. He was fine. That's a silly thing to say. He wasn't fine, but he had found some comfort in religion. He'd been baptised a Catholic not long before he died. I think he really believed it. And so, yeah, he faced his death with quite surprising courage for a young man.

Michael Green: [00:42:26] And the Bali nine, you also were involved with them? For a time, yes. So, I also was doing

Lex Lasry: [00:42:32] The same work in that case until I was appointed to the Supreme Court and then I had to bail out of that. So, Myuran Sukumaran and Andrew Chan were the two principals in that whole operation in Bali. Before Van was executed, Myuran Sukumaran's brother rang me up and said, could you look after us as well? And we said we would. So that went on for ten years, and I only I was part of it for the first three or four

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Michael Green: [00:43:28] So, Lex, in 2007, you are offered position on the Supreme Court, and you accept it. Yes. Any particular reason why you had always wanted to be a judge at you?

Lex Lasry: [00:43:37] No. But look, I'd well and truly had enough of the bar. I'm not someone who adored the bar. I don't speak in sentimental tones about the bar and the camaraderie and all the rest of it. It wasn't something that I was sorry to leave behind. So in many senses, it was a relief to leave the bar and become a judge.

Michael Green: [00:43:57] Okay. Again, it's a transition. Was it an easy transition from being a barrister

Lex Lasry: [00:44:02] Yeah, I to being thought a was actually. Yeah, I mean, will judge this but my sense of it from my own point of view is that I took to it reasonably quickly. I mean, it's quite different but on the other hand, you're in the same courtroom as you've been in for thirty years, you're just sitting in a different place, that's all. So you know what's going on and you just have a different role. My point is it's not foreign, it's a different angle.

Michael Green: [00:44:24] Yeah, okay. As you say, you've been there working in there for the last twenty years or something.

Lex Lasry: [00:44:29] Yeah.

Michael Green: [00:44:29] I'll ask you a question about sentencing now. I'll give you a little bit of context about me. The only sentencing I've ever done was on the AFL tribunal sentencing footballers for misdemeanor, and I found it hard. Cause I Yeah. Would think, no, they've, but for the grace of God, could go me. Then when I think of people like yourself who've got to, on behalf of the community, sentence people to imprisonment and often for lengthy periods, did you find it hard?

Lex Lasry: [00:44:54] I do find it hard. Think it's just that, as people have said before me, we have this process here where you have to look the prisoner in the eye and speak to them in the first person as you impose the sentence. So at some stage in that process, you're looking in the eye as I'm looking at you in the eye now and saying the sentence I will impose on you is life imprisonment and you'll serve thirty five years before you become eligible for parole. That's not an easy thing to do and it's there's some, usually they're expecting it. Their lawyer will have told them what the range is, what the probabilities are, but nonetheless speaking those words and making those orders is something that I think most judges struggle with. So there's no struggle to be at really, you've got to do it. If you don't want to sentence people, don't be a judge. That's what judges do. But it

Michael Green: [00:45:44] Is difficult. Although, I'm assuming there are some people who, in the best interest of society, need to be imprisoned. Absolutely. And I guess that might make it a bit easier when you think, well, really, to help protect society, this person cannot be allowed out.

Lex Lasry: [00:46:00] Yeah, I mean, it's helped by the fact that you know you're doing what the law requires. If you don't do it, then of course there'll be an intervention at an appellate level and it'll happen anyway. The contrast I wanna draw because I, is that with County Court judges, there are a lot of cases in the County Court where judges are having to sentence people who are on that cusp, Do they go to jail or not? You know, for offences that probably deserve prison but there's a good argument why they shouldn't go in at all. I think they're the really difficult sentencing exercises. In the Supreme Court sentencing murderers, the range is clear and the sentences are usually pretty clear. So in a sense it's easier because the rules are already laid down.

Michael Green: [00:46:39] And that obviously makes sense. I never thought about that, about the difference between the County Court and the Supreme Court, but now that

Lex Lasry: [00:46:45] Or magistrates. I mean, magistrates are churning through a massive workload and occasionally during the day they'll have a case come up, a criminal case, and the prosecutor says, You ought to go to jail. And the magistrate's got to decide under the pressure of all the other work they're doing whether to send someone to jail or not. That's a big decision on the spur of the moment.

Michael Green: [00:47:03] Big decision indeed. You mentioned the Farquharson case, which you presided over, I think, the retrial, not Correct. The original Can you just remind us what the Farquharson case was about, and whether there's any difference in a judge for you being judge of a retrial as opposed to the original trial?

Lex Lasry: [00:47:25] Well, the case was about Robert Farquharson's allegations against him were that he murdered his three children on Father's Day, I forget the year now, but it was a Father's Day. He and his wife separated. He had his children for the day, took them to McDonald's or somewhere in Geelong and they were driving back to Winchelsea where they lived and basically as he drove along that highway, he turned right and drove the car into a dam. His defence was I had a coughing fit and lost control of the car. The Crown case was he did it deliberately with the intention of killing his children in order to exact revenge on his wife. That's what the case was about. He was found guilty twice. And as far as the only difference between the original trial and the retrial was that of course in the retrial, there was all the transcript from the first trial. So, our trial took a bit longer because there was more to be cross examined about. And also in our case, the prosecution presented a fresh witness who had not been a witness at the first trial, who was an eyewitness as to what happened. So that was pretty contentious as well.

Michael Green: [00:48:31] And in both trials, did the prosecution present some sort of reenactment?

Lex Lasry: [00:48:36] Yes, there was a film. We took the jury to the scene. We drove down to Winchelsea so they could see the physical environs. But yes, there was a that's also quite a contentious thing. They took a VN Commodore which was what he was driving and dropped it into the dam with cameras inside the car in order to recreate what

would happen once the car started to float and then sink. Sounds innocuous enough, but one of the things they showed in the courtroom was the view from the back seat as the car sank and as the water came up. And that's the view the kids would have had before they drowned. I must say, I've always struggled with that.

Michael Green: [00:49:15] And were the defence happy that that car was identical to the car that Farquharson was driving on the day? Terms of the windows were and all that sort

Lex Lasry: [00:49:24] Of stuff? Yeah, well, mean, there were plenty of variables. And there's been threats in the press of new evidence and a further appeal, which seems to have come to nothing. But yes, that was contentious. There was a lot and the tracking the car through the grass into the dam and all the rest of all of that was the subject of expert evidence and was contentious and the jury obviously took the view

Michael Green: [00:49:48] They took. And speaking of juries, you like all other criminal law barristers that I know are very much in favour of juries. May it change? I mean trials are becoming much longer. I mean, you started in the early 70s, major trials took maybe a week or sometimes less than a week.

Lex Lasry: [00:50:06] I'm not sure that's right, Michael. Mean, if we go back to the 80s, that first trial I did, the Jack Winnicke case, that trial took five months and there were drug trials that went on for close to a year. You don't see that so much now. I think the pressure is on practitioners to be a bit more efficient in the way they conduct themselves. But what I do think as technology improves and as life goes on, I suspect there are aspects of the criminal trial that are becoming very complicated, particularly the scientific aspects which trouble juries. But I have a confidence that they're properly explained they're able to understand it all.

Michael Green: [00:50:44] And so you wouldn't be in favour of their criminal trials by a

Lex Lasry: [00:50:47] Judge alone? I don't mind the idea of it. I've not done one as a judge, but I don't mind the idea of it, so long as the choice is made by the accused. If that's what the accused wants, then I'm fine with it, but as long as someone wants to be tried by a jury, they should have that.

Michael Green: [00:51:02] And you've got a saying that you use or advice you give to juries when they're empanelled.

Lex Lasry: [00:51:07] Yep.

Michael Green: [00:51:08] Can you just tell us what that is please?

Lex Lasry: [00:51:09] Yep, well the idea is to try to get them to understand the seriousness of what they're about to embark on, and I do tell them, and I'm not the only one who says this, I think I've borrowed it from someone, might even be Paul Coughlin, but I say to them, as I think he does, this task you're about to undertake is the most important civic duty you can perform in peacetime. And it's obvious why, you know, the future of this person is in your hands. You will decide what happens.

Michael Green: [00:51:34] And it's true. It's unarguable.

Lex Lasry: [00:51:36] Yeah. Is true. Yeah. And Michael, most jurors see that straight away and are conscientious, I think.

Michael Green: [00:51:43] Social media is not corrupting the jury system?

Lex Lasry: [00:51:46] Well, that's a problem, isn't it? I mean, judges give juries warnings at the start of cases not to go onto the media and research the case or talk about the case in social media. I had a case not long ago here in Victoria, so two or three years ago, where I gave the jury that warning, do not go home and look it up on Google. Please, whatever you do, just concentrate on what happens in the courtroom. And the next morning it was brought to my attention that the foreman of the jury had arrived for the first day of the trial and was telling the other members of the jury what he'd learned on the internet about the accused. I mean, just shake your head, you know, how can that happen? How can people be so stupid? Anyhow, that's what happened.

Michael Green: [00:52:26] But it's not typical.

Lex Lasry: [00:52:27] I don't think it is, no. No, I think if you make them see why it's important, then they will resist the temptation.

Michael Green: [00:52:37] Your judicial career, at least here in Victoria, came to an end in 2018. Why did you retire? If I'm counting properly, you were 70 at the time?

Lex Lasry: [00:52:48] No, no. It's a farcical process. I retired officially in 2018, which is when I turned 70. I then went on for another five or six years as an acting judge, And that's what I was when I

Michael Green: [00:53:02] Yes, when you're

Lex Lasry: [00:53:02] What happened in 2020

Michael Green: [00:53:03] Sorry, 2024, So

Lex Lasry: [00:53:06] I didn't retire, I resigned because I still had a current commission.

Michael Green: [00:53:10] So why did you resign?

Lex Lasry: [00:53:12] I was the trial judge in the trial arising out of the Eastern Freeway crash that involved those poor young police officers. The prosecution had low charges, including four counts of manslaughter, which they announced to me at one pretrial hearing that they were not pursuing and when I asked them why they said they weren't gonna tell me and that there'll be no reasons, they just weren't proceeding. So, I was critical of the prosecution and the DPP for that. I was also critical of the way in which the case had been presented. So, there were other charges, heavy vehicle charges and various other things, which I was critical of as well. Ultimately, that criticism led to the accused applying to me for a stay of the proceedings, which I granted.

Michael Green: [00:53:55] That's a permanent stay?

Lex Lasry: [00:53:56] Permanent stay, yes. So the manslaughter charges were gone. These other charges I decided I would stay. The Crown appealed. The Court of Appeal wholeheartedly reversed my ruling. They were extremely critical of the ruling, completely disagreed with it and reinstated that case. So I thought that was the end of it. So that happened, the argument before me happened in March '3. The Court of Appeal decision was in August, around August '3. In February 24, I'm told by the Chief Justice that the Director of Public Prosecutions has made a complaint to me about the judicial

commission in the things that I said both in court and in my ruling and describe what the complaint was. That meant that from March '3 up until February '4, at which point I was in the middle of a quite complex, bikey murder trial, I'd been continuing to do criminal cases where the DPP was one of the parties unaware that I was the subject of complaint. I wasn't told by the DPP and for whatever reason the judicial commission kept it a secret from me as well. That combined with the way in which the communication that the judicial commission sent me led me to the view that I was a little bit behind the eight ball so far as getting a reasonable hearing was concerned. And I just decided I was not prepared to go through the process. I was 75, 76. I had enough. So the best way to resolve it, bring it to a head was to quit. So that's what I did.

Michael Green: [00:55:24] For my enlightenment and maybe other people as well, who or what is the judicial commission?

Lex Lasry: [00:55:30] No, you'll have to ask them who or what they are, Michael. I don't really know. There's an act of parliament. There are people who constitute the judicial commission.

Michael Green: [00:55:36] Are they politicians or

Lex Lasry: [00:55:37] Are they publicists? No, I'm not sure what they are. I mean, think they bring in probably lawyers and other judges to participate in particular cases. The idea is to punish misbehaviour by judges. I didn't think I was, I'm clear, I didn't think I was guilty of any misbehaviour. The sort of criticism that I made of the DPP was this kind of criticism that I've got myself over the years from judges and wouldn't have dreamed of making a complaint about it, plus the matter had been dealt with in the Court of Appeal. So to me, was something I wasn't prepared to take part in the dance. I just decided I wanted out.

Michael Green: [00:56:10] And so out it was, although you have continued to do some judging

Lex Lasry: [00:56:15] Yes.

Michael Green: [00:56:16] In the Northern Territory. Yes. Their system is slightly different. It's only two tiers, not three. Straights court, supreme court. That's right.

There's no county court equivalent. And so trials and matters that are here in Victoria might be done in the County Court. Yeah. There are done in the Supreme Court or

Lex Lasry: [00:56:32] Yeah, all jury trials in the Supreme Court.

Michael Green: [00:56:34] All jury trials in

Lex Lasry: [00:56:35] The Supreme So the Supreme Court do everything. They do murders but they do sex cases, they do theft and burglary, they do everything that's indictable.

Michael Green: [00:56:42] And have you done much work up there?

Lex Lasry: [00:56:43] Yeah, did last year. I did three months up there. So I've got month on month off for three months. And it's terrific. The atmosphere is good. The judges are great. The building is beautiful.

Michael Green: [00:56:55] Listen. You're always in Darwin, not in Alice Springs?

Lex Lasry: [00:56:58] It's open to go to Alice Springs. I haven't done that yet. Yes. So I was always in Darwin. It's it's terrific. And Darwin in June, I can recommend to anyone. It's fantastic.

Michael Green: [00:57:08] And culturally different to Victoria? I'm assuming it would be actually.

Lex Lasry: [00:57:12] Do you mean generally or

Michael Green: [00:57:13] In the Yeah, I mean generally, yes, and then how that then flows through into the legal system.

Lex Lasry: [00:57:18] Yeah, well, I mean, you see First Nations people everywhere in Darwin. I think the indigenous community is probably 25 or 30% of the population up there. They are 85% of the prison population and that's a lot different from what we see down here. I mean, I welcome that. I like learning about indigenous culture and that kind of stuff and I haven't had much exposure to it until now.

Michael Green: [00:57:41] No, we don't get much exposure in Victoria, do we? And when you go to Darwin, it's very different and probably something we all should do is learn more. Yeah. Okay, absolutely learn more. I remember hearing an Aboriginal guy speak at a function I was at at some stage, and he said, you people have been here a couple hundred years, I guess. We've been here over sixty thousand. He said, you could probably learn something from us. Yeah. I thought that was reasonable.

Lex Lasry: [00:58:03] That's a fair point.

Michael Green: [00:58:06] We gotta get on to the juicy stuff now, Lex. Yep. Okay. And this is the Lex Pistols. Yes. So who were the Lex Pistols, and how did your name come to be part of a rock band?

Lex Lasry: [00:58:17] Well, it happened reluctantly. So the Lex Pistols were a bunch of lawyers who liked to play music. Others included John Champion, Michael Carroll, Alastair McNabb, Justin Willen, Paul Connor, and a singer we had at the end, Reggie Ewing, who was fantastic. Look, it was just a garage band really. But we lasted for, I don't know, twenty years, fifteen or twenty years, and then it just sort of fell over at the end and so we don't play any.

Michael Green: [00:58:43] Are you playing any music yourself, No, not, no. But you are a guitarist?

Lex Lasry: [00:58:46] I'm a drummer.

Michael Green: [00:58:47] Drummer? Oh, sorry, yeah, that's right. I see you're at school with Ross Wilson of Daddy Cool. You didn't get invited to join Daddy Cool?

Lex Lasry: [00:58:53] No, we did one concert with him. We ran a concert for Peter Gresta, the journalist who got locked up in Egypt. We ran a fundraiser and he came along with what was left of Mondo Rock, and fantastic. I mean, he was great. So, yeah, I occasionally see him. He denies that he was at school with me. He says he can't remember me, so

Michael Green: [00:59:12] But I remember him quite vividly. I'm sure if he were he's probably the coolest kid in the grade, so everyone would agree.

Lex Lasry: [00:59:17] He is very cool

Michael Green: [00:59:18] And your other great hobby is racing cars. Yeah. And specifically MGs or maybe Porsche's got a mention there as well.

Lex Lasry: [00:59:26] Yeah. So I played footy for a few years after I left school and I wasn't much good at it, so I went motor racing. And that had a lot to do with the poor performance towards the end of university. So I basically raced sports cars, touring cars on one occasion and towards the end, two or three Porsches.

Michael Green: [00:59:44] And racing cars, is this on circuits like Sandown? Yeah. It's not the ones that go up the hill, not the hill climb?

Lex Lasry: [00:59:50] No, I've done that as well. So there's a, I used to run a thing, we've got a place up at Meritage, there's a nearby mountain called Mount Buller, they used to run sprints up Mount Buller, we did that a couple of times. But no, mostly sand down Phillip Island, went to places like that.

Michael Green: [01:00:04] Are you still doing it?

Lex Lasry: [01:00:05] No. Too dangerous.

Michael Green: [01:00:08] Too dangerous because you're too old. I'd be dangerous.

Lex Lasry: [01:00:10] It's hard enough on the road. I saw a sticker on a car yesterday, I think, as it passed me and the sticker said, I'm not speeding, I'm qualifying.

Michael Green: [01:00:19] To finish off, you also made a comment that if you could turn back the clock, you probably wouldn't be a lawyer. No. Why did you say that?

Lex Lasry: [01:00:27] Oh, I haven't enjoyed it enough to, I wouldn't do it again. I wouldn't do this again. If I could turn back the clock, I think I'd find something else to do. There are a few things about it. I never thought I was good enough to do it. Perhaps that turned out not quite to be right. I just, reflecting on it now, to have spent a life, which a lot of people do, making a living out of human conflict is not something I'd wanna do again.

Michael Green: [01:00:51] And yet, as you said to the juries, this is the most important thing you'll do in peacetime. Yeah. The contribution that members of the judiciary and the bar as well and the law in general, in its best cases, not all the time, is absolutely crucial to our Absolutely.

Lex Lasry: [01:01:08] I'm not saying it's not important, it's just that I don't wanna do it again, that's all.

Michael Green: [01:01:13] But you must take some satisfaction out of having done it and having made a significant contribution to our community.

Lex Lasry: [01:01:19] Well, other people will judge whether I've made a significant contribution. I don't reflect on that very much anymore. I've got through it. I'm just glad it's over in many senses.

Michael Green: [01:01:29] Well, Lex, as a member of the community, speaking on behalf of the community, I say thank you for the contribution you've made. I can't change your mind. I'm not gonna try to, but, I'm sure we're a better community for having you having made a contribution. Thanks for coming in.

Lex Lasry: [01:01:44] Thank you, Mike. Thank you for saying that, and thank you. It's been a pleasure.