

William & Lonsdale – Lives in The Law

Ep 18. John Olle

Voiceover [00:00:05] This is William and Lonsdale, a podcast about the legal eco system in Victoria and the fascinating people and stories that make it tick. Today, your host, Michael Green speaks with Coroner John Olle. After cutting his teeth in the Dromana Magistrates Court. John became a criminal barrister at the Victorian bar and later moved on to work as a barrister in the coroner's court before ultimately becoming a coroner himself. Practicing as a defense barrister in crime meant John worked with all manner of people in the justice system. And although he would go on to be engaged by Victoria Police later in his career, he suspects he wasn't their favorite barrister earlier on in his life in the law.

John Olle [00:00:41] I was doing an armed robbery trial at some stage and some police don't like getting cross-examined too hard and so I was getting phone calls in the night, you know, 3 AM... Nothing. And it happened twice and I thought this is going to drive me nuts. So, I phoned a mate who worked for Telstra. I said, I need I need a track a call, as I suspect I know where it's coming from. I thought I need to find out, can you can make inquiries. He comes back to me, said, look, you've got to get two more calls, and the third time we can give you a code. I thought; you're joking. I'm going to wait. Yeah. So sure enough, it happened again. I said, Geraldine what's that? Clink. I never heard another call, Michael.

Michael Green [00:01:48] Good morning, John.

John Olle [00:01:49] Good morning, Michael.

Michael Green [00:01:50] Thanks for coming in for Lives in the Law.

John Olle [00:01:52] Thanks for inviting me, mate. It's a pleasure.

Michael Green [00:01:54] So let's set the scene of the John Olle story. Tell us about your mum and dad and the family you grew up in.

John Olle [00:02:00] Well, Michael, I was blessed to be raised in a family of two loving and devoted parents. My four sisters and I continue to remark how blessed we are and throughout my life in the law, how often I wish some of my clients had the benefit that I had as a young man.

Michael Green [00:02:14] You didn't stay in the one place. You moved around a fair bit, I think, because for economic reasons,

John Olle [00:02:19] Dad's background, he his mum died when he was four, dad died when he was 10 or 11, he and his sister was two years his senior were separated. They were placed in different homes, families. So, he didn't have any dough, any backing. And when he was playing for St Kilda for about five or six years after the war, that was a three quid a week period. And even Jack Dyer was getting three quid, apparently.

Michael Green [00:02:40] Yes. People who follow football now wouldn't believe that in those days playing what was then VFL football, you got nothing like the weekly wage.

John Olle [00:02:48] No, and the country teams had the money. And so, he was offered as a 26 year old, a twenty seven year old. Twenty quid at Nhill. But Mum was born in Quambatook. I'm not going back that way. And offered 12 quid at Sorrento to captain and coach. So, we were all born that way, my older sister had been born in particular, the only baby in the club. And so, we were all born, the rest born in Sorrento and moved down there - working for telecom, PMG

Michael Green [00:03:10] Postmaster General Department.

John Olle [00:03:12] Yeah. And that's how it was. But he always dreamed of owning a hotel. So, when I was six in grade two at St Joseph's, Sorrento, an accountant, said, look, the only way and you're going to make money and get the pub you dream of is to get a milk bar. And that was monumentally catastrophically poor advice. So, they moved us up to Braybrook.

Michael Green [00:03:30] So how did he finally wind up with that pub that he always wanted to own?

John Olle [00:03:35] Well, what happened... He kept his job at PMG while at Braybrook for the four or five years there our slate where people didn't pay, they send their kids over to get their bread and milk, couldn't pay and he was owed three thousand pounds. We went broke. He'd been in hospital for two weeks, very crook, got grabbed out of school one day to say, look, oh god dad's dead, but no dad managed to get some poor fool to buy the milk bar. And off we went to live with another family in Gardendale, one of mums nurses mates took us all in. So, we live with them for six months and very kind. And then we got a little place in Elsternwick, but it remained his dream, Michael, to get a hotel. So eventually he did.

Michael Green [00:04:09] It was a hotel in South Yarra.

John Olle [00:04:12] Yes.

Michael Green [00:04:12] South Yarra being one of Melbourne's more elite suburbs. You had an elite and genteel clientele at the hotel, I assume?

John Olle [00:04:19] Oh, absolutely. Look what had happened. I was studying law, eco law. I was struggling a bit, probably young for my year. I did my trick at sixteen and Dad came to me and he came to me, the first time in his life, he asked me for something, at that stage, let's say just twenty years old. I'd only taken from him. He said, I'm gonna ask a big favor. It's important. Will you get a license for the hotel? I found a hotel, a pub in South Yarra called the Prince of Wales. The Molina family own it. We need 40 grand for the lease, a four year lease with a three year option. And I'm hoping our house on the Nepean Highway, is going to be worth forty. But I'll need to keep my job because in case it goes belly up. I can't resign from the public service.

Michael Green [00:04:55] So he was still with what then might have been telecom by then, I guess?

John Olle [00:04:59] I guess telecom yeah and oh, look, it was just such an honor for him to ask me unhesitatingly. I said, of course I'll be working in pubs three or four nights a week anyway for a number of years. And so Mum and I got the license. And Merv King, the commissioner, said you realize if I grant the license you're the youngest licensee in

Victoria? I said that's right your Honor, I'm ready for it. But that's what happened. So, I kept on studying law but ran the pub.

Michael Green [00:05:22] So just to get this clear, John, you were the nominal licensee of the hotel because your dad was working for the postmaster general department or telecom, which it had become, and he couldn't be the licensee... On a day to day basis who was actually running the pub? Because you're a student in the law school at Monash.

John Olle [00:05:40] Yes. Well, I was able to study part time. I did. So, I might have done two subjects whilst I was the licensee that first year, and that was it. My mum was a co licensee and she only ever been a nurse until that stage, but she came with us. We're very blessed to have an old Richmond halfback flank, called Ron Irvine, as our bar manager. But I will say this. I'll tell you how tough that pub was. The previous licensee hadn't stepped foot in the bar in two years. He was terrified. It was a it was a just a tough hotel. I mean, I worked at the Elsternwick, which I thought was a bloodhouse until I got to this place. And it was pretty, pretty nasty and full of criminals fellas that been released from jail. And it was just a tough place. But I've got to say, my mother and I were always treated with great respect by these men. Unfortunately, there were more and more criminals coming in. It seems to be getting very, very full of criminal element. A copper came to our saloon bar one day and said look every crook in Victoria's in your bar, get rid of them. I said, you get rid of them. And he left.

Michael Green [00:06:32] So the police did nothing.

John Olle [00:06:34] Oh, no, they didn't. They did nothing at all. Look, eventually what ...

Michael Green [00:06:37] In those days there was a thing called the Consorting Squad, which was to stop criminals consorting with each other.

John Olle [00:06:43] Well, I think there are probably hoping they're all in our bar at that. Look, we had to. Took about three months for my dad to move these criminals out, and he spoke to the head fellow there, let's just call him King and he spoke to King and he said, listen, you're always welcome here, always. But I'm afraid there's just too many ex-prisoners coming in. I'm worried about my family. So, you're always welcome. They've got to go. King said, you know I can't do that. He said, well, it's a matter for you, but you're always welcome here. And King took them all and they left, went to another hotel. From that moment on, the hotel blossomed and the locals started coming back, trade to started coming back. It was very, very successful. My dad, you could see, I saw him, I saw the magnificent publican he was, phenomenal, in truth. He then resigned not long, maybe six months later. The older crooks always thought he must have been one of them because he said, the only reason your publican... a double murderer called... let's call him Nat said to me one night, they all spoke out the side of their mouth, your old man he's one of us, isn't he? I said I can't answer that Nat. That's fine, I had the license not him. He flourished. I used to watch him in awe as he'd move around this hotel and he was in heaven and he transformed into what a beautiful man, but unfulfilled. And so, at this early, probably early, early 50s, he was off and running.

Michael Green [00:07:56] John, so you're a young law student and involved in the day to day running of a busy hotel in inner city Melbourne. Did you learn anything from working in that environment?

John Olle [00:08:06] Oh, yes. I learned the importance of knowing someone's name. One of the early instances in that hotel, a young fellow who I met got extremely pissed, smashed a glass and shoved it in my face. And I called him by ... as drunk as he was when I said, Jim, hey. And his eyes sort of opened he was confused. How come this bloke knows me? You can see the mind at work. Yeah, I learned the importance of a name. No one ever came to a hotel twice without me knowing their name. I got it the first time so they'd come in again. Hello, Michael. The other thing is to read the play. I mean, as a publican, you never take your eyes off whatever's going on. No good getting in a fight. Stop it before it happens. Get in, talk to people, see what's going on. Yeah, I learned I learned a lot about human nature, human behavior. It reinforced what I always knew, that women were stronger sex. So as tough as these blokes work, the women behind the scenes to call the shots they were, there's no doubt about that. Yes, it was hugely important and could transpire in my life in the law.

Michael Green [00:09:01] Can I just go back a bit? You said you were just an average student at Monash and you've said also you're just an average student at school and maybe even less than average because your mind was more on playing sport and playing with your mates, until one particular teacher pulled you into line.

John Olle [00:09:17] Look what happened. I think in hindsight and Dad and I spoke about this, he was struggling a bit himself in his frustration. I think was reflecting on my behavior a little bit, not excusing, but I was just getting a bit silly, you know, wearing a cap backward that would have a can of vic walking down a street as a 15 year old. And a teacher, my history teacher saw me on Saturday when I was going to be playing cricket and I ducked off. He got me aside and he'd kick me out of class a few times. I wasn't a bad kid. Don't get me wrong, nothing like that. But I've just lost my way a bit. He just said, look, now you're at a crossroads here at the end of year eleven, you can go one or two ways. You can continue this course. You'll be nothing. You'll be a playboy be whatever you want to be or you can knuckle down. He said I think there's something in you. It's up to you, but the way you're going, you won't get through this year and you'll be moved on. And that was a spur to me. And I worked very hard and got through. And I think why it's so important this fellow Alf Bachelor is his name and much later life I got back in contact with him to thank him and I regret that I hadn't done it earlier. But the next year, year 12, you had to get permission of a teacher to do a subject. And it was a queue in his history class had mum and Dad there and anyway he saw me and he walked past all the people in front of me, I thought god he's going to say, no, don't bother. But he signed my form and that was a very powerful statement. So, I did alright. I got into law and law economics, as I said, but at unit, you know, hard because I had that feeling about economics and mucking around the pub and I realized I got to be in pubs all my life, I can't stand it, was going nuts opening up to the up the same blokes at ten o'clock every morning and trying about a ten o'clock tonight. And I just start to really knuckle down. And what it was a moot court at Monash and an old friend court judge was kind enough to give me one of the highest marks at universally for advocacy up until then if I got a C it was a miracle. But that really did... that and one other thing, Springvale Legal Service, a fella called Alan Ranit, I got on a Tuesday night and it made sense. All of a sudden, the penny dropped to me about what I could do and what a privilege it would be to be a barrister. And so, I got permission to do five subjects over that summer, they only let you do four or five, agreed to take them as an article clerk on the 1st of April forty years ago. Eighty one. And I needed the permission of the dean to let me do an extra subject so I could start. I just want to get into what they were crushing them and working well and studying hard. I finally found the law library, Michael. It took me six years to find it. It was a good place.

Voiceover [00:11:38] Lives in the Law is proudly sponsored by City Maps Illustrated. Their recent publication, The Melbourne Map, is a celebration of our wonderful city. This stunning hand drawn illustration, which took more than three years to create, is available as an art print jigsaw puzzle. And Calendar, the perfect acquisition for your home office or corporate gifting. More information can be found on their website, themelbournemap.com.au

Michael Green [00:12:06] So, John, you're knuckle down, you get through law at Monash and you do your articles with a solicitor in Sorrento, Shane McCarthy,

John Olle [00:12:13] My brother in law, Michael. He only had one condition. He didn't he wasn't brimming with excitement when I asked him for a job, I got to say, but I wasn't a bad little amateur footballer. And the continued presence around our footy club, the condition was I was captain at St Kevin's at that time, he said, you're going to play for Sorrento. Think it was the only thing that got me over the line, actually, fair enough, see you cob I'm off to sharks. Anyway, I heard Betty King's podcast. Michael, you don't mind me saying it was brilliant, absolutely brilliant. But my articles were the antithesis of hers. Shane was overwhelmed. It was the halcyon days of the common law. He was just flat out like a lizard drinking. So, he said, look, in that corner there, he was a big gruff Irishman - that's my too hard basket. And it was huge. And so, my first challenge to get through that within a month, about 150 files, I was working my ass off. But I learned so much. It was such a wonderful mentor. And he remains that to this day,

Michael Green [00:13:02] Did you get the opportunity to do appearance work as a young solicitor in preparation for coming to the bar?

John Olle [00:13:08] Shane knew that I wanted to be a barrister. He let me as soon as I was admitted I'd go to Sorrento Magistrates Court once a month, the Dromana Magistrates Court every week. And that's where I learned so much I never wasted a second. You know, I'd be watching Shane through my articles and I'd never go into that court where watching advocates good and bad, watching magistrates, watching their movement, their responses, just such a wonderful opportunity. I thought. I could never understand why people hang around outside of court, get in there and have a look and take on board. Not to copy people, but you saw things you liked, things I didn't like. But yeah, I think one day when I was admitted, there was a very, you know, beautiful moment for me as a young lawyer. We do a duty solicitor. Where one of the local solicitors would be the duty solicitor for the day. You might have, you know, sometimes two, sometimes seven people without representation. You had to develop a skill to quickly get the instructions you needed. Those days, no one had a brief. You've got a charge sheet before you'd get your instructions very quickly, you'd make your appearance, you'd say, see you later to the client or a young fellow was transported a paddy van down from it was either youth training or prison. I can't remember exactly, only a young fellow seventeen or eighteen. I met him, took my instructions, did the plea, was pretty straightforward anyway at the end, always duck out. I gave him a wave, his little face against the grill, he looked like one of my old mates, could have come from there for all I know. He said mate, and I was in a hurry, yeah. I wanna say FANKS. F A N K S. Oh no. No worries mate. No, no, no one's ever spoken about me like that. And I thought, well how powerful is that?

Michael Green [00:14:38] And you have said that it's a privilege to act on behalf of people as their advocate representative. Is it because of that? Because of instances like that?

John Olle [00:14:47] I think so. I think it's just such a great honor. It was never lost on me. What a great privilege, you know, to have someone's liberty in your putting your faith in you. I mean, it's such an obligation, such a weighty obligation. And really, whether you express it publicly, as often did in a criminal trial, goes to a client or privately, I'd offer a pledge to this person, I'll give everything I've got for you.

Michael Green [00:15:09] After your articles is down in Sorrento with Shane McCarthy, you come to the bar? You follow the normal path of starting off in a magistrates court doing the sort of work you'd been doing at Dromana.

John Olle [00:15:19] Yeah, what happened, I did my Magistrates Court for nineteen eighty, eighty three, eighty four desperate to get in the criminal court, then in January eighty five I was very determined to go to trial. There's no one else there. Nunzio LaRosa, a beautiful, he's now a senior magistrate. He was a legal aid solicitor. I was the last bloke left.

Michael Green [00:15:38] Nunzio had a client that was facing a trial in the County Court.

John Olle [00:15:42] The County Court, yeah, a shooting at Westfield Shopping Center. Peter Jones was the prosecutor. Brian Halpern was for the co accused. They looked at me, oh, my God. Anyway, they nursed me through this trial, the poor fella, thankfully, I don't believe Clarence Darrow could have got him off. But it was a terrific experience. And the shooting kept getting these fellows were shooting each other. And I was just hooked, I loved it. And Nunzio dear man that he is such a loyal and wonderful supporter. He was one of many solicitors who were so loyal to me and how learned they are. You know, I think sometimes barristers think that we're smart, we're not there, but I can tell you.

Michael Green [00:16:15] And so from then on, Nunzio and other solicitors briefed you in court trials.

John Olle [00:16:20] Yeah, I did trial work for pretty well steady ten years. And I just love a number of judges who I think had a respect for me. I gave everything I had and I had such great... Leo Hart, Lance Smith and John Hasset, Eugene Callady, even Paul Melelli became you know, he helped me on occasion. He was terrifying. But, you know, brilliant, unfortunately, weren't many women. Thank God that's changed. But there weren't many female judges.

Michael Green [00:16:45] Those senior judges were generous and helpful towards a young barrister?

John Olle [00:16:51] I remember Leo Hart one day that we had a number of people in a multiple plea of robberies, blokes robbing elderly ladies of St Kilda and a very intelligent appellate lawyer turned up and hadn't done his homework, which always puzzled me. Sometimes it's a real load to carry a high intellect, I think, because you're too smart for everything, we more humble, less talented beings have to ... I never appear before a judge if I don't know anything about everything, about everything, about whoever was appearing before. Talk to anyone. Tell me about it. Tell me about it. So, Leo Hart, I'd appear before in trials for a couple of years, this fellow turns up... He obviously heard that, I don't know what he about Leo, but he got it wrong. And he suggests at one stage it his plea that Leo should really have a good look at himself if he jails this folk, he goes LISTEN HERE! Don't you dare blame me for your client's conduct. And that was the whole thing, set me up

beautifully, so I followed him. Your Honor, you'll be comforted to hear my client is full of remorse for his disgraceful conduct and we aren't surprised who went to jail and he didn't.

Michael Green [00:17:52] John, talking about criminal trials, which were the staple of your professional life for 10 years, you never started a trial without having written your closing address to the jury.

John Olle [00:18:02] That's true, Michael. Yes, I just felt it was so important to keep it, I had to know my end goal. Everything I'd read was, where is that piece of evidence that's going to put my client behind bars? What do I have to overcome the rest is drass. What is that? And so, to write out the closing, I felt this is going to keep me focused. I don't want to ever... I've seen barristers get distracted. I've seen barristers who get on a run and then off they go and they've forgotten what they're on about. I want to make sure this is my aim. Always get there. But I'll tell you what, because I take a lot to drag me off my course over writing out my closing address. I knew start to finish where we're going. So hopefully when I finally got up in front of the jury with a glass in my hand, I can finally talk to you. Everything had been set out well before that conversation with the jury having written the closing before I started.

Michael Green [00:18:52] John, you found having someone's liberty in your hands, so to speak. A privilege and a weighty obligation to carry. But you decided early on in your career that although you loved the law, you're not going to live the law what did you mean by that?

John Olle [00:19:09] No, I just felt like it happened at a readers dinner, quite frankly, Michael, I was so wrapped to be a barrister, took my then my wife, but then interior designer girlfriend to a dinner. And some of these young fellows are speaking as if she wasn't there. And they're talking about judges by first names. And I barely understood what they talked about. I looked at Geraldine. This isn't right. And I probably overreacted, I had some great friends of the bar, and I love being there. But I made a commitment to myself and to my girlfriend, now wife, we're going to have friends outside the law. I'm not going to live the law. Hopefully I'll be successful. Hopefully I will continue to love it, but I'm not going to live it. So that will happen. And our lifelong friends to this day, are friends we made in our community way back then.

Michael Green [00:19:51] As I understand it, from talking to many criminal barristers, when you are running a trial, it is very difficult not to have that trial going around in your mind 24/7. Shocking. How did how did you overcome that?

John Olle [00:20:04] I trained myself. I actually realized that I'm not able I'm not really enjoying this any social outings too much. And it's not fair on weekends because I couldn't get it out of the trial, out of my head on a Sunday when I saw friends or family. So, I trained myself in 15 minute increments. I promised myself, if I don't think about work for 15 minutes then 30, I promise I'll do the work tonight. I'll work Sunday, so I'll cover that. Don't think about it. And so truly, I know it sounds ridiculous, but for me it worked. I trained myself to at least have two or three hours with my friends. I knew I couldn't live if I was forever living this trial in my head was going to undo me. I was smart enough to realize that others can do it, I'm sure, but I couldn't. So, I trained myself.

Michael Green [00:20:47] As much as you love being a criminal barrister and you lived by your creed that it was a privilege to represent people whose liberty was at stake. At a

certain time, you decided to stop doing criminal law and being a criminal barrister. Why was that?

John Olle [00:21:02] It was really two trials, one after the other that settled it for me. I've probably done the Daniel Valeria inquest at that stage, still doing trials, circuit, but one to follow each other. One was the one was the incest trial horrible incest trial up at Wangaratta. And I was cross examining these kids and I got my instruction for the trial with the five days or three or four days,

Michael Green [00:21:29] And in this, you're acting on behalf of the accused, the person accused of incest?

John Olle [00:21:33] Yes. And it was unlike me, I'd say good morning and good evening. And that was not like me. I do my job and he got acquitted, but I just felt pretty gutted and went home and a little baby Sarah looking at me. And then last trial I did a couple later this is the end of my criminal career, really was acting for an accused in an aggravated rape. And it was just pretty ordinary, really. And at the end of the trial, this fella said, look, I'd like to get you a gift. I said, listen, I won't know your bloody name tomorrow. And it was done. So, I said, I'm done. I don't want any more crime.

Michael Green [00:22:08] And so how did you transfer across to doing work in the coroner's court?

John Olle [00:22:12] Well, I was lucky that I was getting work through that period. Ironically the coppers started briefing me. So, I started I started acting for police. DHS were briefing me and my life...

Michael Green [00:22:21] When they were parties to a matter before the coroner's.

John Olle [00:22:25] Exactly.

Michael Green [00:22:26] Yeah. Okay. So, you've segued to the coroner's court. We all understand criminal law; the crown has to prove its case beyond a reasonable doubt. There's a presumption of innocence, etc. What's the difference between criminal matters and matters before the coroner's court? Well, what was the difference back then? Because I think it's changed, hasn't it?

John Olle [00:22:44] It has changed. When I was working as a barrister, a fella called Professor Norris had written an eighty five act and he didn't want any blame on. If he wanted to...

Michael Green [00:22:52] This is the 1985 Coroners Act?

John Olle [00:22:55] Coroners Act, and it was about trying to establish facts, neither criminal nor civil, look at reportable death and establish the facts in relation to those deaths. What happened to government in its wisdom back then, put in 19 1 E, which required a coroner defined contribution, any party who contributed to a death that meant that if I was engaged by a doctor or hospital to represent a doctor, I'd be defending him to the hilt. A copper in a pursuit, defending a social worker in a child death. And I did many child death cases. Same thing. And what dawned on me that little sting in the tail at 19 1E, that 85 acts, had destroyed any opportunity to really learn, to really learn. This is a forum in which it's a totally different forum to the criminal courts and the civil court. And they had

a therapeutic component or could have, but for all families could turn up and they start to glaze over. And what on earth ... it was a battleground? It was terrible.

Michael Green [00:23:49] Barristers were trying to protect their client from being blamed?

John Olle [00:23:53] To have been found to have contributed because such a finding, the press loved coroner's court, like no other court, they are always gathered at the front. A doctor in Daniel Valerio's case would have had the misfortune to have smiled with relief walking out the court. It was over, but his barrister hadn't warned him. Be careful that smiling face was on the front page of the Herald Sun! I mean, it could destroy livelihoods, reputations, no jail, nothing, nothing, no monetary penalty, but it could destroy a reputation in a heartbeat. So, yes, you defended like you'd never defended in your life because that was that was the target of that act unfortunately. The new act changed all that. It shifted the focus from blame to prevention. That doesn't mean that you don't... You still establish facts. You still analyze everything. You still may find acts or omissions that were suboptimal. But aim is not blame. Game changer.

Michael Green [00:24:43] You're there now as a coroner and we'll get to that. But in not trying to establish blame do the professional representatives there, barristers mainly are comfortable not seeking to establish the blame of somebody else to exculpate their own client?

John Olle [00:24:57] It is very tough. I have said on occasion you can understand the absolute angst of the family who desperately want to blame a psychiatrist or a doctor or someone. And but it's important that they explain and they hear, rather, from a coroner. Listen, if you're looking for blame, you should leave the court. Now, you're in the wrong jurisdiction. I don't know what you've been told before you got here, but I want to dispel that myth. We're here to try to find out what happened, what could have been done better. I say it's a rare and sad day if you can't learn from a preventable death, can other families not go through what you're going through? No one intends, no one went to work that day intending this tragic outcome. Let's try to learn together. Come with me on a journey as hard as it is. And then if we just keep... It very easy to go, the man as a coroner, you're sitting up there in the sanitized, very easy just to succumb to the public pressure. You've got to be beyond that. You've got to say no. The bigger picture, if a doctor is mucked up, look at the systems. In our hospitals today, results are still going to wards via fax, interns don't even know what faxes are. And there are so many systems that can be improved. The system failings, you'd have to look far. But if you do really keep the focus: I want to prevent, I just want to prevent.

Michael Green [00:26:11] John, we better go back a bit and establish how you became a coroner. You've been a barrister for a long time, but then in a pretty short space of time, you became a coroner.

John Olle [00:26:20] Yes, I look because down there all the time, Michael, and they've the comment, when are you gonna come and join us? OK, Thank you. And I decided to throw my hat in the ring. What goes on here? But I've got to say, Jennifer Coat, one of the most extraordinary judicial officers I've ever met, she'd just been hadn't long been appointed a state coroner of Victoria, from the Children's Court. And that was really a catalyst for me, not no disrespect to any predecessor, but I felt this is someone who I think would be extraordinary and really do something in this court and I love, that isn't getting anywhere near fulfilling its purpose. And so next thing I knew, I mean, Rob Hulls, he said, look, I asked a bit about you, apparently not a bad bloke, are you sure you ought to be a

coroner? Yes, I was just a coroner. Yes, I want to be a coroner. All right. Well, he said there's no glamor down there. I say, listen, mate, of a glamor up to here, I'm sick of glamor, this is where I wanna be. He said Ok well, I'll take you to meet Jan and show you what it's really like behind the scenes. So, it was a bit shocking, quite frankly. Michael, the files and the workload under-resourced, the bloke said I'll see you Tuesday. And what I did, I ducked up to Dunkeld for two days because I realized, listen, I'm not going to be a barrister for 25 years. It's going to stop and I'm starting a judicial role on Tuesday and I don't think my head is right, happened too quickly for me and everything that was breathtaking speed from the moment I said I'd throw my hat in the ring to meting an attorney, the state coroner. I'm going to start on Tuesday. Up at Dunked second, I had two nights here and the second night over maybe a sip of red wine looking at the Grampians, I said, right, the blinkers are off 25 years of just looking myopically for the one thing that's going to put my client down had gone, take the blinkers off and now open your eyes. There's a new world here as a coroner. And why I love this jurisdiction. You are participating. You actually can direct the proceeding. And so that was it. And so, Jen, I called from the Main Street of Dunked on the Sunday, she said Johnny, where are you? I thought you'd done a runner. And I said, no, no. Right. Yeah, I've just cleared my head. I'll see you Tuesday.

Voiceover [00:28:13] William and Lonsdale are brought to you by Greens List, one of the leading multidisciplinary barristers lists in Australia. Greens List believe in promoting conversation around the ideas and issues that shape not only our legal system but our wider community.

Michael Green [00:28:33] Can you explain to us how the coroner's court works, I mean, we all know what the coroner's court is, it examines deaths, but I mean, what deaths come before the coroner's court? How do they get the coroner's court? Not all deaths are the subject of an inquest, are they? In fact, I think the majority are not, yes. How had all those pieces fit together?

John Olle [00:28:50] Michael, there's a mystique about this court, even many members of the bar have got no idea where it is or what it is. But they say there might be about 40, 42, 45000 deaths in Victoria a year. We only investigate reportable death at about seven and a half thousand per year. These are deaths that are defined in the act, essentially unnatural and unexpected to violent deaths resulting from injury, death of people in care, in custody, death of people of any way linked to a medical examination. So, it really is the pointy end of those deaths. Only defined deaths have to be a mandatory inquest. The rest of discretionary, deaths in custody and care are mandatory, but all the other within that 7000 is at discretion of the coroner. And parties will apply for a coroner to hold an inquest or to investigate, but they've got to meet our criteria. So, what happens in practice? Every coroner, we run 365 days a year. Formally, we've had 10 coroners dealing with seven thousand cases a year. So, 750 each, our investigations are ongoing.

Michael Green [00:29:49] 750 deaths?

John Olle [00:29:52] Yep, each coroner picks up a year. But.

Michael Green [00:29:53] That's a huge workload.

John Olle [00:29:55] And you can't no matter how hard you work, I can tell you I can't get under 350, 400 any one time. So, you've got, say, between four and five hundred investigations at one time at different stages of investigation. Now at the start each coroner

does a duty above our normal judicial role, we do say 35 nights a year on call. So, for example, I'm doing a weekend. I start at five o'clock on a Friday night on call until five o'clock Monday, 72 hours over the weekend. Any death reported, death that occurs during that period I deal with on duty on the Monday and we cap it at 50 because the pathologist, they get two pathologists, 25 cases each. What we do, we meet at our coronial admissions Inquiry Center....

Michael Green [00:30:35] So you've got a team with you... You're on call 72 hours over the weekend and any death in that weekend, you get a phone call and you're told about?

John Olle [00:30:43] No, not quite. I'm sorry I've gone too quickly. Any death over that period, I get called about a range of things, but not all the cases are by any means. We arrive to work at 9:00 or eight o'clock on Monday morning. We meet our pathologist, our nurses and every case are presented to a coroner having been seen by a pathologist at the incident, forensic medicine next door, there's been family contact. The critical things that we've done early are, one, the identity of the deceased, the reportability, the cause of death and to release the deceased to the family so that there's a time pressure constraint. Also, at that time, a coroner will do a triage and sort out what is the next step in investigation. But the critical thing is identity and cause of death. So, I need a pathologist on each and every so normally the 25 investigations per day, deaths per day, but on a Monday fifty, there are two pathologists. We discuss every case and the deceased would have been through a postmortem CT scan. Medical records would have come in. We have a form eighty three document, a little snapshot from the police officer to say to the coroner, this is the circumstances. It's not evidence. It's just a snapshot; gunshot wound to the chest, aviation, maritime, whatever it might be. So, I look at the family. What do they have a view about autopsy? If it gets to that stage pathologist will say to me, I can give you a reasonable cause of death without an autopsy or no I don't know the cause of death. These discussions and as I say, they are time-critical because you're dealing with the families who are under stress, we have wonderful nursing staff employed by the Institute of Forensic Medicine who deal with every family. But it's a big day. It's a very big day, an important day and the aim is... We have odontologist and DNA specialist microbiologist to help us with the identity, if need be, fingerprints. So, we've identified the deceased. We've got a cause of death or I've ordered an autopsy and the body can be released to the family.

Michael Green [00:32:29] And I assume the majority of those deaths do not require a coronial hearing or an inquest.

John Olle [00:32:35] True.

Michael Green [00:32:35] The majority of them can be dealt with in an administrative way?

John Olle [00:32:39] It's a chamber, finding there must be a finding, a finding. In every case, some are straightforward after it may be even though it's reportable, unexpected, a pathologist can give me a reasonable cause of death of natural causes, albeit unascertained, or needs a PM following a PM. And I'll get a report later. This is a natural causes. That's a one page finding it. It's a pro forma. It's provided to the family. Others are obviously far more complex or I need to order a brief if it's a gunshot, if there's a police shooting of whatever it might be.

Michael Green [00:33:05] When you say order, a brief prepares to brief you as the coroner can't be preparing a brief as well as carrying out your duties.

John Olle [00:33:12] Yes, it goes it goes back to each coroner has a solicitor and a registrar. So, I do a triage form. I say I want a full briefing or a directed brief, what it might be by registrar contacts, the local police station where it may be, and they second an officer to be the coronial investigator who's tasked with preparing a brief, which they have about, they could be you know, folder or two thick in a case like Newman Haider, who was the first lone wolf radicalized young fellow some years ago, that was a complex investigation, I had two homicide squad police officers who prepared the brief for me, went to inquest. They did enormous, four thousand pages. But they're the top end, other cases where a brief is required, it could be suicide, whatever it might be. There's a local police officer who was seconded to be a coronial investigator - he's given an outline of the issues I want addressed and he or she will provide that brief to me. When I read the brief, I then decide. Right. It could be a few months later. What am I going to do it on anything further or is everything contained the brief that I need to fulfill my statutory obligations, or do I need further material or do I need an inquest? They're the steps and I'm liaising with the families throughout that process. So that's really it in a nutshell. So, in fact, of the seven and a half thousand cases per year, we're looking at only maybe one or two per cent. I can tell you the reason is why it is important to try to keep that number limited. There are many reasons, but one is an inquest is a really tough gig for a family and all concerned. You don't go to inquest lightly. It might sound terrific. It might sound wonderful. And what a great opportunity initially. But the reality is for families as families who largely drive me, Michael, don't go through this process, unless that needs to be because it's a person they love, whose life is really being held in a very public forum. It's got to be done really carefully.

Michael Green [00:35:00] So, John, in preparing for our talk today, one of the statistics which really surprised me and I don't think I've ever seen anything about it in the press, was the number of co sleeping deaths that occur in Victoria. And as I understand it, sleeping is baby sleeping with parents?

John Olle [00:35:16] Yeah, that's it Michael look, really for me it started I think I'd only been a coroner a couple of years and I had a case of a baby of found deceased co sleeping with his mother. And I was a bit taken aback. And I and I got our coroner's prevention unit, which is a wonderful report of the court. These are researchers and academics to do a bit more research for me. Were there any similar cases that I hadn't heard? And they came back with 33, 33 babies in pretty recent time had died co sleeping. And I was aghast. I end up going, one of our researchers had a wonderful paper on it. I went to a symposium in Sydney, medicos from all around the globe, quite frankly, as far as the Kimberley, this is a worldwide problem and no one has seemed to do much about it. So, I did make a pretty powerful finding. I ran a finding with the permission of a few parents a very difficult, really difficult, and the last thing a coroner wants to do is re traumatize. But there was a prevention message here. Everything was telling me. And so, I identified co sleeping as an inherently dangerous environment for a baby. They were safe, sleeping and not. And so that that got enormous publicity at the time, an organization called Kids and Sids were terribly supportive. Now, I'm sad to say that since that time we've got well over 100 babies have died co sleeping well over 100, and there's going to be far more work done yet again. The chief coroner of Ontario put it best. He said, we know babies die co sleeping. We just don't know why. He's a great medico so we can get every examination done. Not necessarily overlying people think oh co sleeping.

Michael Green [00:36:48] It's not necessarily suffocating.

John Olle [00:36:50] And the tragedy is autopsies rarely, if ever, can identify why. We just know it happens. It's inherently dangerous. I've got to continue this fight. I'm in the twilight zone of my career, but I'm just appalled and saddened that we still have parents sleeping. We know that they're drug taking will heightened risk again, but the risk is there irrespective. Babies are dying, co sleeping with adults. That means a dad falling asleep on a sofa, sharing a sleep surface, but in bed also put the baby in the cot alongside the bed. And it's clearly set out the safe sleeping practice, the first four to six months of life. Please do not put your baby in such an inherently dangerous setting as sharing a sleep surface with an adult. But it continues.

Michael Green [00:37:36] And something as simple and what looks, in fact a beautiful parent child moment as a baby sleeping on a parent's chest.

John Olle [00:37:45] Well, don't fall asleep.

Michael Green [00:37:46] I see, the adult remains awake.

John Olle [00:37:49] Yeah, it's co sleeping - both parties sleeping. It might be a bloke having a couple of beers. It might be that it might be the night of our bedding. It might be the heat generated. Who knows. The doctors have speculated there was a great pathologist twenty or thirty years ago. Why. Why is it so dangerous? Please don't know. I don't know what it is, but I'm not going to stop fighting.

Michael Green [00:38:15] You saw many suicides by elderly people which troubled you and led you to the voluntary assisted dying inquiry.

John Olle [00:38:26] Yeah, look, this was a tough one, Michael, because I think by 2012, 13 I was identifying cases of beautiful people who'd lived beautiful lives, were dying the most lonely and tragic circumstances. And yes, coroners are about prevention. And the people say how can a coroner who is mandated prevention be supportive of voluntary assisted dying? And all I wanted to do, I wanted the government to look at the issue. We had information privy to us that others didn't have, and I gave evidence in October 2015 because a government did of its own volition create an inquiry. And there were thousands of submissions and I was given opportunity by the state coroner. Do you want to give evidence or something to your heart? I'd love to. And my colleague Kate English came along and head of our CEPU, Jeremy Dwyer, and I gave evidence before a parliamentary inquiry. And all I wanted to do was a matter for them. But I wanted to give examples of cases we were dealing with on a weekly basis. And they were heartbreaking. And I my belief was it was appropriate because, yes, we were about cause of death, but also circumstances. And when we're privy to circumstances in which these wonderful human beings are dying in the most lonely and horrific circumstances, which reflect the absolute determination of those individuals who live long and productive lives to end their lives, then this inquiry had to hear about it. And I understand that evidence was very powerful. And I'm so proud of our parliament because I know before me, though, I think there are 12 or 13 parliamentarians. Some were not too happy with what I had to say, but also still with pride that they had the courage to enact that legislation.

Michael Green [00:40:01] John, we might sign off there. On behalf of everybody who listens to this podcast, I'd like to thank you for enlightening us about your career, but

particularly about the important, not to say vital role the coroner's court plays in the wellbeing of our community. Thank you, Michael. Thanks for coming, John. Thank you.

Voiceover [00:40:28] Show notes from today's episode can be found at [Greenslist.com.au/podcast](https://greenslist.com.au/podcast). There you'll find links to things talked about in this episode, a transcript of the show and some wonderful photos of our guests. If you're enjoying Lives in the Law, please tell your networks and subscribe, write and review the show. It really helps others find out about us. Your host is former lawyer and Greens List clerk Michael Green. Our show is produced by me, Catherine Green, mixed and mastered by Windmill Audio and recorded by Alex Macfarlane, who also wrote and performed all the music for the series. With covid restrictions limiting numbers inside the County Court of Victoria. We are currently recording our shows at Owen Dixon Chambers on the corner of William and Lonsdale Streets in our beautiful city of Melbourne. We acknowledge The Wurundjeri People of the Kulin Nation as the traditional custodians of this land and pay our respect to their elders past and present. There is no doubt that conversations about justice have been taking place on this land for thousands of years, and we are privileged to continue the discussion here today.