

## **WILLIAM & LONSDALE – Lives in the Law**

### **E09: Michael Duffy ONZ**

**Voiceover** [00:00:05] This is William and Lonsdale, a podcast about the legal ecosystem in Victoria and the fascinating people and stories that make it tick. Today's guest is former Attorney-General of Australia Michael Duffy. Michael began his life in the law as a solicitor in Melbourne before turning to politics. He served in the Hawke government as minister for Trade, Minister for Communications. And finally, Attorney-General, as we will hear today. Michael has worked alongside some of the greatest politicians and leaders of our time, not only in Australia but around the world. None, however, have been more influential than his wife of over 50 years Carol. A passionate teacher and lifelong labor member. But despite being politically aligned, Carol did not share Michael's enthusiasm for ALP conferences and events.

**Michael Duffy** [00:00:48] I got her to go to a conference of the Labor Party in St Kilda Town Hall. It was the conference that Whitlam spoke at finally about the withdrawing troops from Vietnam. But we needed votes and we needed as many votes as we could get. I said well, you come along to this conference. She wasn't that keen on it, but she said, alright. We went to it. And after it, I got talking to a few people and I got in the car and went home. And I'm driving down Nepean Highway. And I gave Jock Nelson a lift and we got to Sharman Road. And I said, Jock, I'm gonna have to turn round here. He said, "Why, where are you going?". I said, "I've left Carol at the St Kilda Town Hall." He says "you've what?". And I said, "I forgot she was with me", because that was a place you wouldn't find her, at the conference.

**Michael Green** [00:01:37] Carol sounds like a saint to me.

**Michael Duffy** [00:01:38] Well, that was a great day, that one.

**Michael Green** [00:02:04] Michael, welcome to Lives in the Law. Very kind of you to come in today. In delving into your life in the law let's go back to the early days, your childhood. You grew up in Albury

**Michael Duffy** [00:02:17] Yes, I did. We moved to Albury when I was about six.

**Michael Green** [00:02:21] In a very... What was a traditional family for the time of the 40s and the 50s? Your mom was a house mum. Your dad was a bank manager and an insurance manager. And so, it intrigued me with that sort of background, by the time you're in your early to mid teens, you were what we call today, a political junkie. You love politics even when you're a young kid. How did that come about?

**Michael Duffy** [00:02:43] Yes, I did. Well, it was a period when, even when you were very young, there was that period where there was the royal commission into the Communist Party after Petrov was on everything, now, I was then probably about 14 and it was everywhere and that sort of thing went on. And then there was the election, of course, not long before that in '53. And I just liked politics and I liked listening to a bloke by the name of Fraser. He was a member for Eden Monaro, a journalist. And if you listen to him on a Sunday night, it was only radio, of course, in those days. You had to have an interest because he was smart and he was articulate. And that sort of started it off. And then my father had a lot to do with the New South Wales government at the time for funding of the Mercy Hospital in Albury, which he was the president of. And so I met a few of those people and only odd people because Albury was a very conservative place. Not too many

Labor never came near it, but that's where it, I think started. And then the thing that accentuated that, Michael, was clearly the split in 1957 in the Labor Party. If you had any interest in politics, you sort of saw what was happening there, which was pretty grim stuff.

**Michael Green** [00:04:01] Very grim stuff. We may get to that. So just taking down the law path, Michael, you go to Melbourne University? You said were an average law student?

**Michael Duffy** [00:04:12] Very average law student. Resident Newman probably didn't help me much because there was... When you had nowhere else to go. It was a bit of an excuse not to go over to the university unless you had to.

**Michael Green** [00:04:20] In my time at Melbourne University Michael, the residents of Newman were renowned for their drinking capacity. You didn't save them for the first two terms of the year. They only turned up in third term.

**Michael Duffy** [00:04:29] Didn't catch me that way. I'm still a teetotaler.

**Michael Green** [00:04:34] So you finish university, you do your articles or clerkship, which was like an apprenticeship for lawyers in those days. And you established a one man practice in Queen Street. I found it very interesting that the names of the other legal practices in the building could have been a Catholic Irish mafia. You had Minogue, Galbally, Prendergast, O'Sullivan, Hennessy. And along comes Duffy.

**Michael Duffy** [00:04:59] And also Jack Carroll was in that building too.

**Michael Green** [00:05:03] Carroll, yes, yes.

**Michael Duffy** [00:05:03] Great bloke.

**Michael Green** [00:05:04] So how did you go about establishing a practice as a young solicitor?

**Michael Duffy** [00:05:10] Oh, it was pretty tough, Michael, but I'd been article to Brendan McGuinness and for family reasons I went back to Albury. Then I came back to Melbourne and I worked for give us for about another two years. I didn't quite know where to go. McGuinness of course had anyone... the people who work there must them were very big successes at the bar. And they all started in the licensing court. And he used to say to me "why don't you do that?", and I don't think I ever quite explained to him why, but I didn't think I had a sufficient interest in the law, per say, to go to the bar. I mean, you go back to people, you know, now they talk the law a lot more than I did. So, I decided to do something else I started on my own, was pretty tough. Got a bit of work from most people, mainly McGuinness, because he ran into problems with conflicts quite often because he acted for so many hotels and license grocers and things like that would crop up regularly where he couldn't act. And when you were starting on your own, they weren't bad clients to have some of them either.

**Michael Green** [00:06:15] Because they all had money. And I guess when you tell people to that, back then, liquor licensing was a significant part of a legal practice for those who did it.

**Michael Duffy** [00:06:24] Yes.

**Michael Green** [00:06:25] And you had to go before the Liquor Licensing Commission or the liquor court to have your license approved and you had to jump a lot of hurdles and prove a lot of things. So, it did require a significant amount of work by a solicitor.

**Michael Duffy** [00:06:38] It did.

**Michael Green** [00:06:38] To do it, to do the licensing stuff.

**Michael Duffy** [00:06:40] And so many of them came from that practice. Brian Burke, of course, he did a lot of it. So, did Peter O'Callahan, and he didn't stay there very long but Alex Chernov did a lot.

**Michael Green** [00:06:54] The former governor of Victoria.

**Michael Duffy** [00:06:56] It was an interesting place to be. There was no doubt about that.

**Michael Green** [00:07:00] And tell me, I understand in that, when you started on your own, in the practice in Queen Street. You did a lot of divorce work, which could be controversial.

**Michael Duffy** [00:07:12] Well, it was then because we had, it wasn't no fault of course, it was an awful jurisdiction. I mean, no wonder it was changed. It was appalling. You had private to detectives running around and the worst one, I think, was the constructive desertion when you had to tell a woman, well, yes you've got a big chance here, but you're gonna probably have to leave if you're going to be hit again. And this sort of stuff. And they were the ones you worried about, well, I hope to hell I'm right. And some of those were, of course, where other lawyers had conflicts, because if you'd been in practice a while, there was a big chance you'd be act.... You would have acted for both the parties ultimately divorced.

**Michael Green** [00:07:49] So the practice has gotten very busy. But you didn't have enough work to bring in somebody else. And so, it got difficult. And you turned to your very close friend, Brian Forest, and you decided to open a practice out in Dandenong.

**Michael Duffy** [00:08:04] It was a practice... It was not big enough for two, but about one and a half. So, we then opened an office in about 1970 or 71 in Dandenong. And it grew to the point that we had to close the Melbourne office eventually.

**Michael Green** [00:08:18] It became busy, as you said. But you were never just a lawyer. You also devoted a lot of your time to community involvement in the day long community. You were on the board of the Community Advice Bureau, you helping with legal advice, you were chairman of the Dandenong Youth Employment Project, involved with the local football team. What caused you to have such an interest in your community and make such a contribution to your community?

**Michael Duffy** [00:08:42] It goes back a bit to the fact that I think it goes back... My father was very involved in those sort of things in Albury to a very large extent, and he always sort of without preaching to you when you're fifteen or sixteen, used to say quite regularly, you know, "you've got to have some involvement in the community". And I certainly didn't want to do what he did. But there was that. And I think... I just thought that whilst things were better than they used to be in the sense of Social Security, in those days was even more needed in various ways, although I don't know that would still be the case now if I

really think about it. But it was all of those factors, I think, Michael, I needed to show some interest in it. I should add that a lot more. But I didn't.

**Michael Green** [00:09:35] But was that also the motivation behind your involvement in politics? Because you joined the ALP in 1964. Come 1980, you were elected member for Holt in Federal Parliament, which is a seat centered on Dandenong. Yes. Was there a crossover there, your political ambitions, your political interest and the involvement in the community and being a lawyer? They also came together in you being a local member?

**Michael Duffy** [00:10:05] Well, yes, I did. But the real thing was that it was the political interest at that stage, thinking of things you thought were important that was more than that. And when I joined the Labor Party, the people I knew best of all were John Kane, Dick McGarvie, Frank Costigan. They were all the people I knew most.

**Michael Green** [00:10:26] And all very famous names.

**Michael Duffy** [00:10:28] And they were all lawyers.

**Michael Green** [00:10:30] In the life of Victoria.

**Michael Duffy** [00:10:31] But at that stage, that was a group of people who had who were working very hard to reform the Labor Party itself. I mean, it was not a happy place in those days. And if there was a swing in the council bi-election in Moe, the executive would claim it was a big result. And that was about the only time they would be happy. So, it was that I think to a large extent, and then I became very involved with them. Then early 70s, I was on the local representative from the electorate of Isaacs where I lived to the state conference. And then I went from the state conference to the federal conference and then on to the executive for the Labor Party. So, it flowed through and a lot of it - looking back, I think a lot of it would have been hard, a lot harder if you didn't have some background in the law. I think today a lot of young people do law and they get a bit disenchanted with it pretty quickly. That shouldn't stop them doing law though, because it is a good discipline. And it's something that I think you can put to a lot of other uses. So, you don't have to practice the law if you don't want to. I've always thought I'm glad I did it, did law. There were many times I wondered why I did. But it was a discipline. It was a discipline in thinking about things. Understanding some things that when they're very legalistic, very hard for other people to understand. So, I think it was a combination of all those things Michael.

**Michael Green** [00:11:54] And it seemed to me, Michael, you may have, um, finessed the party a little bit by not living in your electorate. You actually lived outside the electorate.

**Michael Duffy** [00:12:02] Yeah, but....

**Michael Green** [00:12:03] That would be on the front page in the paper today if you were doing that.

**Michael Duffy** [00:12:05] Well, yes it wouldn't have been much of a story, though, because we were living in Mentone and the boundary was Springvale Road. It was only raised once in the elections in 1980, '84, '87, '90 and '93, and nobody took any notice of it, because they thought I lived there. And now it becomes more crucial. I think it should be less crucial now. In fact, as long as you're in your electorate when you're needed. I don't know it matters much where you sleep.

**Michael Green** [00:12:34] I also I thought that there might have been another personal influence on you who said she wasn't gonna be leaving Mentone?

**Michael Duffy** [00:12:39] No, no, she was not. And she was very, very accommodating, Carol, about all of this. But she did really ark up on shifting. I tried that and I tried it very hard. And I'm pleased that eventually I had to concede that one with what grace I could show.

**Michael Green** [00:12:59] So you're elected in 1980, a member of the opposition in '83, the ALP wins government under Bob Hawke and your appointed minister for communications.

**Michael Duffy** [00:13:10] That's right.

**Michael Green** [00:13:11] I mean, that's a big jump in three years to go from a fresh and new backbencher to a minister. Were you in the cabinet in that, with that ministry?

**Michael Duffy** [00:13:21] Now, two, three years later, I knew Hawke a bit because he used to come to Dandenong a lot. But it was a bit of a surprise because only three people went into the ministry. Who came in in 1980 Hawke, Beazley and myself. It was interesting because I was very close with John Button and Button, really liked communications. He wouldn't he would have liked that portfolio, but he preferred industry. There was a quaint thing that came along and that was Hawke appointed John Button as an assistant minister. And let me tell you, that did not work out.

**Michael Green** [00:13:56] An assistant to you?

**Michael Duffy** [00:13:57] Yeah. As well as by the industry minister.

**Michael Green** [00:13:59] Was he really there to look over your shoulder?

**Michael Duffy** [00:14:01] He was, and there was a couple of arguments going on at the time where I thought my career in politics would be very short as a minister at least. John and Bob disagreed with me over how to treat the then chair of the ABC who was then Leonie Kramer, and I got a question on it and the house was ready for it. Got through it. But as I finished, Bob led across to me and he said, "could have had a real go on that one", and I said, "well, you and John Button are the only people who think that". I had no idea of how directional the microphones were. And immediately John Howard stood up and said, "I move that so much of standing orders that be allowed in order that I can move a vote of no confidence on this issue" you see, I thought this is good. I'm going pretty well here.

**Michael Green** [00:14:54] You brought about a no confidence motion against your own government here.

**Michael Duffy** [00:14:57] Yeah and then It wasn't long when the letter came in one day from Hawke, saying "this is to advise you that the joint membership with John Button in communications at his request, has been terminated." And I thought, well, I'm not unhappy about that, but we got on a lot better, there was a gap in our both our careers where we pretty short with one and other.

**Voiceover** [00:15:23] William and Lonsdale is brought to you by Green's 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** [00:15:43] Michael, you mentioned that your next job after communications was the trade negotiations portfolio. I think I've read somewhere where you said it was the most interesting job that you had?

**Michael Duffy** [00:15:55] By a long way.

**Michael Green** [00:15:56] Why was that?

**Michael Duffy** [00:15:57] Well, it was an area which I had only a passing interest in. But once you got into it within about three months, I thought this is the most interesting portfolio you can have, because at that stage, there was a huge dispute between the partners to what was then the GAP. Now, the World Trade Organization over subsidies. The worst offenders were probably the United States, Germany, France, oh and the European community I'm sorry. They were specials and they distorted things by propping up industries with subsidies and, particularly in the area of agriculture. Australia had fought pretty hard to get agriculture on the agenda, but they couldn't really get it running. It was never on the agenda and we managed to get it on the agenda. That gave us a lot of power. When you were chairing that 14 countries when you were...

**Michael Green** [00:16:51] Sorry, Michael, you say 14 countries. That's the Cairns Group?

**Michael Duffy** [00:16:55] That's the Cairns Group I'm sorry.

**Michael Green** [00:16:56] And so the Cairns Group, were these nations including us, also Argentina, Brazil, Canada, Hungary, New Zealand, Indonesia. They came together to give themselves strength in...

**Michael Duffy** [00:17:08] They did.

**Michael Green** [00:17:08] In unity against the might of the US and the might of the EU. And so, this Cairns Group comes together maybe I think, maybe in the mid 80s?

**Michael Duffy** [00:17:17] Yes.

**Michael Green** [00:17:17] What role did you then play in the negotiations? How did it play out for you?

**Michael Duffy** [00:17:21] Well, the Cairns Group was formed in Uruguay, so that round of negotiations were called that. It was in a place called Punta del Este. And that was driven by John Dawkins. But he had got people together in order to get some idea of whether he'd be able to hold those people together and whether he be out there, whether that stick together when a new minister came in. Well, it went it went very well because you had the opportunity of not going to, say, the European community and the United States or both of them of saying, look, I'm here to put a position from Australia, but you better understand, I'm not only putting their position, I'm putting a position of 14 countries. And just a matter of interest is now a lot more the Cairns Group, it's now about 18 or 19 countries. And they used to stick through some very tough times. They managed to get agriculture discussed

and dealt with in the way that had never happened before. And it was so fascinating to be chairing that sort of a group. And then you get to a conference, they had conferences all the time, and you'd find that someone was going a bit soft on a couple of issues and you'd have to pull them all together again. When we were in Montreal the whole round, that's the Uruguay Round, very nearly collapsed because we so far apart that we couldn't get anywhere but we pulled it together and away it went again.

**Michael Green** [00:18:39] Must have been enormously satisfying for you, representing Australia to play a significant role in putting this group together, to then be in what really was the big table with the US and the EU.

**Michael Duffy** [00:18:52] Yes, and Dawkins put it together. But someone had to continue it. And it was not easy because there were some of the countries were pretty diverse, particularly Chile, and they sometimes would want to do something else. Brazil was another one that had its own thoughts at times. But my friend Michael Moore, who was then trade minister in New Zealand, later prime minister, he always had an idea that you'd think everything was settled and then you'd have to go and talk to him. And it really took some patience in negotiating, which I don't think.... ask Carol, I don't think she'd say patience is my greatest virtue but it had to be.

**Michael Green** [00:19:36] And you mentioned New Zealand there and the prime minister to be Michael Moore, you also did a lot of work in bringing Australia and New Zealand closer together in our trade relationship. Myself as a typical Australian, I would have thought, at least since the First World War and the time of the Anzacs, we were always close with New Zealand but our trade relationship needed to be...

**Michael Duffy** [00:20:00] It needed to be smartened up. I mean, the what was called the CER, the closer economic relationship with New Zealand had really fallen off the table. There were other matters that always seemed to overtake it, I think from memory there were about 17 reservations. We'd met agreements on a large part of the trade portfolio, but not in 17 matters. It had to stop because... You wouldn't probably think that now, but they were then about our fourth largest trading partner. And a lot of that was, of course, motorcars. And they were important to us in so many ways because it has to be close and that should be. If you're not close to New Zealand, you got a problem getting on with people.

**Michael Green** [00:20:47] And ultimately, the Kiwis honored you for your work in this area?

**Michael Duffy** [00:20:52] Yes, they did. Which was almost embarrassing, I thought. But they did. And either the Cranbourne or the Dandenong paper said "Duffy, joins the Queen Mother, and Hillary"...What was his name?

**Michael Green** [00:21:07] Sir Edmund Hillary.

**Michael Duffy** [00:21:08] It's a different sort of order to anywhere else. There's only 30 members of it and no one else goes in unless someone dies. So, it's a fairly small group of people.

**Michael Green** [00:21:18] And this is the order of New Zealand. And you're the only Australian ever to receive?

**Michael Duffy** [00:21:24] Yes. Tell you a story about that, too. Bob Hawke said to me one day was he was laughing about something one day, and he said, and "by the way, that order of New Zealand"... The order of the white cloud he called it. "Is that the one I've been offered?" And I said "no Bob the one you were offered was for another thing altogether. Most of the prefects at high school have got it". Slowed him down a bit.

**Michael Green** [00:21:49] Could Bob take a joke against himself?

**Michael Duffy** [00:21:51] Ah yes.

**Michael Green** [00:21:55] Michael, you come from the party, which is considered to be the more regulatory party, the ALP. And yet you've got a strong belief that free trade is the only system that works in the world.

**Michael Duffy** [00:22:07] Yep.

**Michael Green** [00:22:08] I'd like you to explain that to us, particularly in the context of the two biggest economies in the world at the moment, the US and China putting up barriers for trade between themselves.

**Michael Duffy** [00:22:19] Yes, well see, after the Second World War, the United Nations comes along, and then there was later than that all sorts of other organizations, the World Health Organization, and then there was the GAP, which is now called the WTO: World Trade Organization. They came together because they had seen what happened leading to the depression in the 20s, up to the 30s through there. And then the war came along. And one of the best things that came out of it was that there was a necessity to have regulation, have rules about trade, because it was a classic example. Classic example, Michael, of unless there were some rules and some things that people could not do, it would be the rich get richer and the poor get poorer all over again, but worldwide. If you look at the 1930s, a country like Argentina, for example, it sort of built a wall of tariffs around it and all that sort of thing and it just collapsed because other people say, "you can't do that to us because we'll do the same to you". And then there is no trade...

**Michael Green** [00:23:25] You're all stuck inside your own walls....

**Michael Duffy** [00:23:26] And if there's restrictions on trade and you're not trading, well what does Australia do? I mean, particularly in those days, it was in agriculture. But it's wider than that now. It's in services. Mining services, tourism, all those sort of things. It all collapses. And anyone who's thinking otherwise, they they're just not getting it. Well, I think that what's happening now is showing the poisonous atmosphere that can happen with not good trade rules. I don't know whether he understands it or not. But when you think about what President Trump's doing, I don't know whether he thought he could do that and China to not respond. And then it gets that that doesn't finish with China and the United States. It spreads to other countries having to respond. And unless you can settle those disputes, you finish up in terrible strife and particularly a country like Australia, which depends so much on trade.

**Michael Green** [00:24:28] And Michael, after that, your most interesting job in trade negotiations, and I can see why you say that, you move on to what doesn't sound as interesting on paper, being Attorney General, being, in fact, the senior legal officer in the Commonwealth of Australia. Now, I guess for lawyers, it's a plum job. Might be the plum job. Did you see it as that? Was it something you had aspired to?

**Michael Duffy** [00:24:53] Ah, yes, I always I always thought that one day, I didn't think it would happen, but I thought one day I would like the Attorney General's portfolio. And it was interesting because I followed Lionel Bowen, of course, and I followed him in every portfolio. He was postmaster general and then he became trade minister and then he became Attorney General. And I used to talk to him a lot about when he was Attorney-General.

**Michael Green** [00:25:20] So, Michael, we all know what an attorney general is. He is the senior legal officer for the Commonwealth of Australia, but he hasn't got a specific portfolio or an area of responsibility, such as trade or such as communications. Is there a definition of the Attorney-General's job?

**Michael Duffy** [00:25:40] Well, it changes from time to time. Let's go back. I mean, if Garfield Barwick was Attorney-General today or Lionel Murphy was Attorney-General today, they would do a lot of litigation themselves. But over a period of time,

**Michael Green** [00:25:59] So can I... By litigation, you mean appear in court today as the advocate for the....

**Michael Duffy** [00:26:03] Not always, but they did used to on occasions. That's changed because with the greatest respect to some of us, I don't think that was our field. Mark Dreyfus could do it if he decided to, but he's too busy with...

**Michael Green** [00:26:18] The current Shadow Attorney-General.

**Michael Duffy** [00:26:19] So you have then within the Attorney-General's Department: solicitor general, who does that but is in the Department of the Attorney-General. But then you had all the other things that were in the portfolio, Human Rights Commission and all the discrimination legislation was administered by the Attorney-General's office. The courts, the Attorney-General's office dealt with the budgets of the courts. Then there was the appointments, the appointment of judges, which you could have ideas about yourself, where you thought that if you asked the department for list, it sort of looked a bit like the usual suspects. So, you had to sort of be a bit broader than that, but you had all those things running at the same time. The other thing which was always there was, of course, if somebody ran into trouble with their own legislation, say it was the health minister, and they ran into trouble on, say, data matching, and the privacy commissioner who at that stage was Kevin O'Connor would say, "no, you can't do this. This data matching goes too far". Well, the next morning in ended up being, the health minister, saying, "what are you going to do about this?" I said "well it's not 'what am I going to do about this', it's your problem". But if you want a bit of advice on it, I'd suggest you get down and sit down with O'Connor and work it out. But I used to say to them in the office on a Monday "Is there anything today that we are going to do which is solely ours, or is it going to be another week of other people's problems?". So, you add those to the all the outriders that, as I said, the human rights area, the privacy area, the discrimination areas, they are all in the Attorney-General's purview.

**Michael Green** [00:27:52] Can I go to one of those areas you mentioned, which is human rights? There seems to, and I guess it happens to every Attorney-General. But in your time as Attorney-General, many significant human rights issues came up, which you had to deal with, such as detention of people before they were charged with a crime, the ratification of the International Covenant on Civil and Political Liberties, ratification of the

rights of the child agreement and dealing with the discrimination or the prohibition of gay people being in the military. Interesting things and I would think things that you are proud of to have dealt with? And so, could you take us a little bit about explaining that... The people being put in detention before they were charged with a crime seems an abuse of civil liberties, but it was a fact. What was that about? How did how did you work out a solution for it?

**Michael Duffy** [00:28:41] Well, there was a move at that stage to change it. I can't recall how many hours you could take someone in, but I felt it was far too long.

**Michael Green** [00:28:49] Might have been 24, I think I read somewhere.

**Michael Duffy** [00:28:53] I think it was. I decided that we should make it 8 without going before a judge or magistrate and getting permission to do so. In those days, people would answer you by saying, "well, there's people who you might not get any information out of on a tax thing or a corporate thing unless you do hold them for a while". And I said "well I'm not worried about them so much on this issue. I'm worried about the kid who's picked up in Footscray one night and held for eight hours, longer than eight hours. And what I might say". It's not very relevant today because of the problems with terrorism, those periods of detention before charges I don't know what they'd be now, but there'd be nothing like that were in 1990.

**Michael Green** [00:29:32] Does that concern you that a lot of the civil liberties that you took for granted growing up and you took for granted when you were practicing in Dandenong have been taken away because of the issue of terrorism?

**Michael Duffy** [00:29:44] Yes, but the solution to that I have not got. I think one of the things is, that I still don't think that it should be left too long before you get the consent to hold anyone without charge and have that done judicially. That solves the problem to a large extent, but I think it's the whole tone of it now where we're not going to move back, I'm afraid on that. The civil liberties will never be quite the same as a result of terrorism. And it's a thing that if you want to get into an argument about it, you'll be wedged politically.

**Michael Green** [00:30:20] Yes.

**Michael Duffy** [00:30:20] People say they the party that doesn't insist on it, you know, is lacking some moral fortitude. But the fact of the matter is, I haven't got the numbers that are going to get it up anyway. So really, the best they can do is to try and add bits on that might make it better. The whole thing is when you look at the civil rights, we think of the political rights, freedom of religion, assembly, due process. We can keep most of them. But there are some that are getting harder and harder and harder. And someone's got to find a solution to that, and it is beyond me. I think that, again, if you can involve the judicial process within most things, whatever people think about courts and whatever, they might be critical of judges and that sort of thing they don't do a bad job. And on the whole area, of course, the international protocol, civil and political rights. What happened in that period that had been in operation for a long, long while. But we had not ratified two protocols. Really, the most important, I think, was that we, by signing that protocol, we agreed that a complaint could be made to the United Nations and then to the United Nations commission, which was...

**Michael Green** [00:31:38] This is the International Covenant on Civil and Political Liberty?

**Michael Duffy** [00:31:41] Yes. And then that was that was because nobody could complain to the United Nations that they had been badly done by until that protocol was ratified. So, we ratified that.

**Michael Green** [00:31:54] That gives an individual a right to take an issue to the Human Rights Committee of the UN.

**Michael Duffy** [00:31:58] Yes.

**Michael Green** [00:31:59] And I believe a man named Nicholas Toonan did that.

**Michael Duffy** [00:32:03] Yes, he did.

**Michael Green** [00:32:03] What were the circumstances that you recall?

**Michael Duffy** [00:32:05] He wanted to challenge the criminality of the laws on gays and lesbians in Tasmania, which made it a criminal offense. And this is in about in the 1990s. It's not the 1890s, if he can do that, but you've got to get a fiat it from the Attorney-General to go to the United Nations. And we gave him that.

**Michael Green** [00:32:24] A fiat being an official approval.

**Michael Duffy** [00:32:26] And, of course, that those laws disappeared.

**Michael Green** [00:32:30] Satisfying things to do Michael, I must say. There's also the rights of the children agreement. You sort of think, of course, right, the children agreement. Everyone would be in favor of it. We would immediately ratify it in line with other enlightened countries, which we think of ourselves to be. And yet you had opposition to it?

**Michael Duffy** [00:32:47] Well, there was no opposition to the matters which stood out like child prostitution, child labor, child slavery. But one of the arguments was it would remove the right of people to discipline their children with the sheer stupidity of it's unbelievable but it ran and ran and ran for a while, that sort of opposition. What it does do is you've got to try to get the basic rights of children. No, no different really to the basic rights of adults. And you've got to work to try and get those built into your own legislation. See what people misread there, is they say "you agree with the whole principle, but you're gonna be run by the United Nations" it's this business about sovereignty. But that's not the case. You say we agree with all these things and we will work towards putting them into our legislation. But nobody, nobody can make you do it. It's just there that you can do that if...

**Michael Green** [00:33:41] You're agreed to it in principle, and it's up to you where you practically carry it out.

**Michael Duffy** [00:33:45] That's right.

**Michael Green** [00:33:46] Yeah. Yeah.

**Michael Duffy** [00:33:47] But once you ratify, you're expected to do that.

**Michael Green** [00:33:49] Now, in ratifying the International Covenant on Civil and Political Liberties and the Rights of the Child Agreement. You brought joy to the heart of one of the great men of the ALP who got in touch with you. Who was that?

**Michael Duffy** [00:34:03] Whitlam. He used to send me faxes regularly. "When is this gonna be done? When is that going to be done?". And eventually when it was done, he sent me a fax in those days which said, "well done, comrade. You've offended with the stroke of a pen, the president of the United States and the pope" he used to send... None of the other portfolios, but he sent massive messages whilst you were attorney general, which of course; that was his obsession.

**Michael Green** [00:34:32] He was a lawyer.

**Michael Duffy** [00:34:33] And he was a great man on civil liberties.

**Michael Green** [00:34:36] And a great man, in my view, a great man of history of Australia. And that sounds like such a Gough story. It exactly sounds like...

**Michael Duffy** [00:34:45] He changed the complexion. I mean, there were all sorts of reasons why people turned on him, that sort of thing. But he changed the complexion of Australia in a way that nobody else has.

**Michael Green** [00:34:56] Now, you also had the pleasure possibly to serve as a minister in the government of another great Labor figure in Bob Hawke.

**Michael Duffy** [00:35:04] Yes. Bob was Bob was a very interesting bloke, to say the least. But I think on his death, there's been too much emphasis on the larrikin element of his life. That was a part of his life, but it disappeared in 1980. People forget that. He didn't have a drink all the time he was in government and he did a lot, and his capacity to work Michael was unbelievable. I mean, he could work hours and hours. And if you happen to be in the house at eleven o'clock at night and you'd want to talk to him and you rang him, he'd be in his office and you'd get in and talk to him and then he'd be back there at seven o'clock or something the next morning. He had an enormous capacity to work. And you can have clashes with him, which I had, particularly in communications, none of the others, and I remember for some time in communications when I first started I used to think I hope I run into Bob today because there were would have been something cropped up, a disagreement. I was wrong about that. He wasn't like that. Once it was done, it was done, it was passed and that was that.

**Michael Green** [00:36:11] And he wasn't a great hater.

**Michael Duffy** [00:36:12] If he didn't agree with somebody. It wouldn't make him hate them. He would simply say, "you better work this out because you're going to have to work with them". He or she in the ministry. And that was his I think, his greatest claim. I mean, I don't know how many he liked in the ministry and in the cabinet, but there were plenty he didn't like. But you wouldn't know, in terms of dealing with an issue. And he was, he had a habit, of course, of letting a debate go to a point where he where he'd decide there was a consensus, where in many cases they were not.

**Michael Green** [00:36:46] Now he... One of his means of relaxation, of course, was to indulge heavily in the noble sport of Kings: horse racing.

**Michael Duffy** [00:36:56] He did.

**Michael Green** [00:36:57] I think you and he may have had that in common.

**Michael Duffy** [00:36:59] We did. I wish he would he would deny this and I shouldn't say it when he hasn't got the chance to respond. But I was never very good tipster but I was bloody better than him.

**Michael Green** [00:37:12] You've been a racing man all your life. You have chaired Racing Victoria. You're no longer chairing it?

**Michael Duffy** [00:37:19] No, I finished in 2013 and I was chairman of Racing Australia too, at that stage and I retired simultaneously.

**Michael Green** [00:37:29] Liked a punt as well as the horses and the racing?

**Michael Duffy** [00:37:31] Yeah, I do, but I'm not very successful. And that makes me a very moderate punter by necessity.

**Michael Green** [00:37:42] Political life in general I mean, when we as observers look at political life from afar, we think it must be absolute murder on the partner of the member of parliament. And I mean, I think what one or two women have recently resigned from parliament for that reason. And men as well, because of the difficulty of maintaining a functional relationship under the pressure of political life.

**Michael Duffy** [00:38:07] There's no way no one, in my instance, that I could have survived for 16 years without the support of Carol. She was quite remarkable, really. She's been a fantastic mother and a great wife and somebody who, as I often think of, we don't have that much in common except basic values. We have all pretty much the basic manners. We're pretty much straight down the line together. But, you know, she doesn't like the races. She doesn't like football. She likes the cricket, she'd sit up watching that light at night. But I said, you know, it's hard to imagine how she did last as well as... She had her moments. And so, did I, you know, in every marriage, but it's been a great 55 years. And it was only really because of her. I couldn't have done it without her.

**Michael Green** [00:39:05] Michael, just to round it up. Let's take you, let's say a young Michael Duffy walked in the door here. He's twenty one or two. He's just finished his law degree and he's about to start on his legal career. What would the Michael Duffy sitting here, who is on my calculation currently 81 years of age, tell the young Michael Duffy.

**Michael Duffy** [00:39:27] I think if you can, you want to do something in life you really want to do. You know, not something because you've got to do it or you're expected to do it because it's a long time if you're lucky enough to live a long life, you're doing what you've done by choice is a lot easier. And secondly, I think they have to understand that there's no substitute for some hard work. People don't just land on their feet. And I think you'd say to them, you know, whatever you achieve, remember one other thing in life to do what you really want to do you got to have a bit of luck. It's not just you. And I think it's an important aspect of people's life. And I think you're asked a lot about the law. And a lot of people ask you and I said earlier, I think in our conversation that I would never discourage anyone from doing law. But, you know, you could do a lot worse than do law. But it doesn't necessarily mean you practice law in your life. What I've done I was lucky enough to do, because I had the opportunity to do it. I'd do it again, but I do a few things differently.

**Michael Green** [00:40:38] Wouldn't we all, Michael, thank you very much.

**Michael Duffy** [00:40:39] Thanks. Thank you, Michael.

**Voiceover** [00:40:47] Show notes from today's episode can be found at [Greenslist.com.au/podcast/podcast](https://greenslist.com.au/podcast/podcast). There you'll find useful links. A transcript of the show and some wonderful shots of our guests. We're keen to know what you think. So please reach out by all the usual channels. Let us know the questions you'd like us to ask. Topics you'd like explored or ideas for future guests. If you're enjoying lives in the law. Please tell your networks and subscribe, rate and review the show. It really helps others find out about us. Our show is produced by me, Catherine Green. Recorded and mixed by Alex Macfarlane, who also wrote and performed all the music for the series. We are coming to you this week and every week from the iconic County Court of Victoria 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 respects to their elders past, present and emerging. 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 this discussion here today.