**part-1-the-greek-boy-from-romania**

Con Heliotis, thank you very much for making time to be interviewed for Folger's List. We have a lot of ground to cover. I must ask you somewhat a relevant question to begin with.

Is it true your nickname is the Golden Greek? It used to be. I think now it's more the Rusty Romanian. Oh, I was going to say, what about the Silver Greek? No, no, this is true.

I think in my 60s someone nicknamed me the Golden Greek year it was over. And my mother was Romanian. And so we entered the period of the Rusty Romanian, the rusty incontinent Romanian.

There's a lovely photo of you with your family on the wall here in your chambers. And now that you've mentioned that your mother is Romanian, how did your parents meet? My grandfather... I go to Greece every two years to see my favourite relation, a cousin over there, who lived here until she was 18. Then she went on a cruise to Greece, married the purser, never returned.

She lives in a town called Mithoni. And I went to... She went to the bank one day. And the bank manager said it was one of her maiden names.

And she said Heliotis. And he said, oh, that's a coincidence. The mayor's wife's grandfather was also named Heliotis.

You know, her maiden name's Heliotis. So to cut it short, it turned out that the mayor's wife's grandfather and our grandfather were brothers. And that enabled her and subsequently me when I went over there to go and find the little village and the one-bedroom hut and piece together the story.

It was a picture of two brothers, orphaned. One is 16 or 15, the other's a year younger. And one of them, the elder, decides there has to be more.

And somehow he makes his way to Romania. He's got no money, but he heard that he has an uncle in Romania. So he makes his way to Romania, finds the uncle, learns from him how to make chocolate, and he makes handheld chocolates by night, puts them on a handcart and pushes it outside the Bank of Bucharest.

Sells them, goes back home, makes chocolates and sells and so on. By the time he dies, he's a multimillionaire with a four-story chocolate factory in what is now the heart of Bucharest. In fact, my cousin and I have got a claim against the Romanian government pending because we want compensation because the economists took it over after the war.

And we've sort of been living off him ever since. The other brother stayed behind. As a consequence, I think one member of his family has been outside of Greece.

He had seven children. One of them didn't even make it to Athens. And there's a lovely photograph of him on the wall from back to the middle.

It's a little town called Charakas. He's 83. He's got a suit on, a collarless shirt, and he's got a little switch in his hand, and he's switching the donkey that's going round and round on the mill.

And that was his existence. Now, why we didn't know about it, I've got no idea. My father got on very well with them.

There were letters that he had written to them that they showed me with photographs of me as a young boy. But for some reason, both he and his brother just decided to draw a line in the sand with the past. We don't know why.

Do you think there was a quarrel? No, they never quarrelled. They got on very well. We'll never find out now, because everyone who knew is dead.

But I think maybe they just thought, well, that's the past and we're going on with the future. The factory was in Romania, the main factory. There was a subsidiary in Greece.

Dad met Mum there. Did your father get any flack for marrying a Romanian? No, no. Did some Greek villagers get married to someone who wasn't Greek? No, they were happy.

She came from a very wealthy family and Dad was fairly nouveau riche by then. And they settled there until the war came. I was actually started in Greece.

This is how wealthy they were. In the middle of a war, they were in Greece because Dad had to look at that factory. But I was born in Romania because my mum wanted to be with her mummy.

We were caught there by the war. They got out by the skin of their teeth because the communist government immediately after the war didn't look kindly upon the very wealthy and needed them out of the way so they could get their property quickly. So actually they had 45 minutes notice to get to the dock and on a boat or they would be being arrested.

And they went straight to Greece where the civil war was about to start and they'd had enough of wars by then. So they decided to come to Australia. Unfortunately, along the way, they had to leave the wealth and the possessions.

So when Dad came out here, he worked at General Motors Holden in the factory floor, almost like if you ever saw Charlie Chaplin's movie, Modern Times, almost like that. He stayed there for three weeks, I think, at which stage he told the foreman what to do with his spanner, quit, bought a house on no deposit in a place that was unknown in those days called Reservoir, came home and had an Evers-Bracta and let Mum then look after all this for a while until he recovered. I am very glad I didn't ask you the question.

You've said it yourself. I know in Modern Times, I remember the little Tramp character goes mad. I was nearly going to say, did that happen to your father? And you just answered that question.

You're right. He then got a job in the factory at McRobertson's, which was a forerunner to Cadbury's. He did two things to distinguish himself.

One, every week they'd have stocktaking and they'd have two people and one of them would keep the pad and the other would count every box of chocolates. And Dad said, why don't you count the bottom row and the top row and multiply? And so they spent the rest of that week, one would do it Dad's way and the other would count to see if it always worked out. And somehow word leaked out that there was a brainy bloke down on the floor.

And the second clever thing he did was he threatened another breakdown. So Mum sort of took him and marched him into the office. And he finished up his days as the purchasing executive at Cadbury's because once he got into the office, they also had some recipes.

There's a rumour, and I don't know if it's any more than a rumour, that the old cherry ripe was one of their original recipes from back in Romania because he gave them recipes that he still had from there. How wonderful. So that was a brief history of how we... What an interesting story.

Was your mother pregnant with you on the ship out here? Or had she already had you? No, when I was born. I popped out in Romania. Saw out the war.

Then we went to Greece. We spent, I think, three years there. And then came here, I think I was five, five and a half.

Do you have any very early memories or not really? I have memories. When we went to Greece, we actually lived in Rhodes because it was not the seaside holiday resort it was then. And I remember... And Mum was still very carefree.

So, you know, I remember the beaches there. I remember she and my... This cousin of mine, her mother, were good friends. So we'd find ourselves down... I remember being at beaches with them but not much else.

Are you the eldest of your sisters? No, my sister. I have one sister who's the elder. She's two years older.

Right. And the others in that picture are your cousins? Yes. My sister's the one in the middle.

And then there's two cousins. One of the boys sitting down is sort of a cousin. My uncle, Marina's father, went out with this fantastically attractive woman, redhead, superb, rents her.

Sort of an Italian auntie mame, if you can picture that. My favourite of all my aunts. And they weren't related.

My uncle took her out. But there was such a furore about the marriage because by then the family had made money, so now they were, as most nouveau-riches were, sitting terms. And so he didn't marry her, married another lady who died on my 18th birthday, Marina's mother.

But she... Auntie Rensa remained good friends and, in fact, chased Uncle when his wife then died. Again, he then went to Switzerland and married somebody else there. So Auntie Rensa didn't do too well.

But she had a son and she adopted her sister's son. Something went wrong with her sister and so she adopted that son. And that's the other two boys in that photograph.

That is a lovely history and such an interesting one. I not long ago spoke with a woman who, like you, came from Greece. And she said that growing up in Melbourne, when her family came out here, she remembers very clearly when they were looking for rental premises, knocking on the door and a woman saying to them, we don't accept new Australians.

Did that happen for your parents? There was still quite a lot of... ..dislike, let's say, for migrants. I remember Mum being in a fruit shop and they wouldn't serve her. She said, look, I just want to buy something.

They'd say, you'll wait until every Australian is served first. I had the reverse problem. We couldn't speak English when we came out here at all.

And they put me in some school. Dad was the only one who could speak English and they put me in a school. And the best as I can figure it out, he thought I was being rude because I wouldn't answer him.

And I couldn't answer him because I had no idea what he was saying. So I got a smack on the back of my legs and got stood behind the piano somewhere in the corner until somebody that night explained to him that I couldn't speak English and that was the problem with it. There were... Yeah, there was still a lot of prejudice in those days around the place.

It sort of lasted until all the Asians came into the country. I mean, if you only went down to all the rallies that were anti-Asian, the first few rows were all Italians and Greeks because now we're Australians now. We are out with these foreigners and now the Asians are having a go with the Middle East.

Yes, I know exactly what you're saying. We need some prejudice.

**part-2-school-and-taylors-college**

So you grew up in Reservoir, and you mentioned a school that you went to there. I went to St Gabriel's, a Catholic school. We dropped a year coming to Australia, and there was a nun at St Gabriel's who took a real liking to me, and she helped me skip a year so that I could get back on track.

And then she got me into Xavier, because in those days you really had to be enrolled at birth to get into that school, and on the retreat that she went to, she managed to get the headmaster, who agreed to get me into Xavier. So I was educated at Xavier. So she was a very important early influence in a sense, in terms of getting you started, perhaps? It was.

At Xavier in those days, you either did medicine or law, or they weren't interested in you. Really, that was their two folks. My God, if you said you wanted to do engineering, they'd politely ask whether you'd be happier somewhere else.

And if you said you wanted to do drama or anything like that, good Lord, no. You didn't entertain any medical notions then? I did for a short time, because you probably know, European doctor is the thing. I secretly wanted to be a lawyer, because I sort of liked acting and talking a lot.

But my parents, in Europe even then, there were far too many lawyers around the place, and Dad's concern was that in Europe you didn't get anywhere in law unless you had contacts. And he said, we have no contacts, so what are you doing? But we persevered. Were any people at Xavier at the time now here at the bar with you? No, Zahara was here, but he passed away.

Yes, Arthur Adams, he was at Xavier. So no one in your intake, though? Sorry? No one in your year? No, I think he was a year or two older than I was, above me. I can't think of anyone else offhand.

What kind of student were you? Terrible. Really? Terrible. Terrible.

Not studious, you mean? I didn't. In Matruk, the mothers had quarrelled for some reason, and the fathers were in business together, and they went overseas for a period of time. And you didn't travel quickly overseas in those days.

And so my cousin and I decided we'd see Australia. And Mum never learned to speak English properly, so that I would come home and I'd ask her to dictate a letter, please excuse Con, he wasn't feeling well. And I would say to Mum, you know, I came home early, I had a headache, but that would cover me for a month that I'd been wagging it.

And that went straight through until Dad came back and went into hospital for a while. And so it was a disaster of a year. And Dad wanted to, I mean I'd tear up the reports before they came home, and Dad wanted to, he got the final report and went to ask the headmaster what happened with his darling son, because I was lazy but relatively, not clever, but could learn fairly quickly.

And Dad wanted to understand, and the headmaster said, well it may have something to do with the absences. And Dad said, well he was absent a bit. And he said, oh yes, he said, I think it was 38 days.

And Dad said, he was absent 38 days? He said, no, he attended 38 days for the year. So that was it. He said, look, your son's bright, but he's lazy, he doesn't want to learn at the moment, send him to work, when he's ready, bring him back.

The check of Heria then what happened was I decided I'd show them, and I went to Taylor's. Taylor's was a totally different place than it is today, there were no Asians, now it's completely Asian. And I decided I'd show them, and I actually passed seven subjects, instead of the four you were required to pass, I passed seven.

So they, but only one honour. And there was only one law school in those days, at Melbourne, and for that year, for the first time, they introduced a quota. And... What year? What year was that? Sorry? What year was that? That's interesting.

Well, I've been to Bar 46 years, you can work it out later. And as a result, they were only taking your top three subjects, and that wasn't enough to get me in the quota. I said, but I've got seven subjects.

They said, no, we're taking the top three. So Dad, who had a commerce degree, said, why don't you do commerce? I did. And I could still be studying commerce now, I mean, economic geography and accounting, I just couldn't get my head around them.

And so I turned up at the first exam, sat there for the compulsory half an hour, walked out, and was planning my, I was going to go to Europe and ultimately become a salesman or something. And on the way out, I bumped into a boy from Xavier, and he was going to the uni, I said, what are you doing? He said, well, they've opened up a new course. The judges were upset at the quota, and so they've opened up their own course.

Yeah, they ran it for many years. They actually housed it at the Royal Melbourne RMIT, and what was it called? The article clerk's course, run by the judges. We're fantastic.

I mean, our first lot of lecturers were Daryl Dawson, who went on to be a high court judge. We had, oh, he went into politics. I can't remember his name.

The judges, everyone who took us, Ronnie Merkel was one of my tutors, who went on to be federal judge. They just, and the idea was that, and we sat for the first two years for the Melbourne University exams so that there'd be uniformity. And then they got upset because we had a better pass rate than they did.

We had no honours because we had to work morning and night. The article clerk's course meant you worked until, you went to lectures until nine, then you went to work, and then you went to lectures after. So no one had time to get honours and do all the extra study, but everybody was passing, and so they stopped having the exams.

I think this is the first I've heard about that. That sounds very, very interesting. I was almost thinking, I'll bet you anything he's going to tell me in a minute that your pass rate was better than the actual university students.

They were. We did rather well. This comes across as bragging.

It's not meant to be. When I wanted to apply myself, I could do well. At Xavier, we're still being stringed so that you had A, B, C, and I was always in A, and there were 32 students, and I used to come 16th.

And this is a true story. And I wanted a bike, and my father didn't want to give us bikes because they were dangerous. And I kept at him and at him, and finally said, look, come in the top three, I'll get you a bike.

The next term I came first. Got my bike. The term after that, I was 16th.

Back into my little niche in life. The same with the RMIT course. I found out that the government actually gave you money if you got exhibition.

So I picked my subjects. I got exhibitions in most of the subjects. Then they told me that if you get top of the course, you get three or five hundred pounds or something.

I said, my God. So I got top of the course because I needed the money, or wanted the money, and then settled back down again. Sounds to me like you're very much a carrot and stick man.

Would you say? It was good. I tell you, it helped a lot.

**part-3-reading-with-Hubert-Frederico**

Those articles got me into a firm that was W. B. and O. McCutcheon that's since been swallowed up and is now part of, it became Darville McCutcheons and then his partner, I'm not forgetting the name of the firm, but they used to brief Foley's List a lot and they used to brief Hubert Federico a lot to do all their car accidents. Car accidents was the whole thing in those days because they hadn't been outlawed. So Hubert was, that's what Hubert did, no crime, but he did this amazing amount of, I mean you go on circuit, you come back, I still remember him, he'd pull checks out of every pocket because he'd settled all these cases and fought them out.

All the top criminal barristers of that era were on Foley's List. So I wanted to get on that list. The fact that I got in the newspaper, got me into W. B. and O. McCutcheon, the fact that they briefed Foley's a lot managed to get me onto the list.

I was going to read what a bloke called Berkeley, Hartog Berkeley, who went on to become our Solicitor General and he was a friend. What happened? Why didn't that happen? Well, Foley's, as I saw on one of your other interviews, I think Dick Stanley said that you were expected, you went to the same list as your master. You did, but not for any traditional reason.

There was no technology in those days, there were no phones. I mean we couldn't ring anyone we wanted. Foley's had lines to their day lines, you know, the lines all went off at 5.30 and then there were five night lines and you had to fight to get a night line if you really needed it.

Foley's said, no, if you want I'm happy to take you but you have to read with someone on my list and Hartog wasn't on the list and we briefed a few but a lot. So I went and asked him and he said, sure, come here. It was too difficult for Foley's to run, to chase you if you weren't connected to their particular switchboard.

I mean there were still switchboards in those days. I did read the obituary of Hubert Frederico with whom you did, as you were saying a moment ago, eventually read and I'd just like to talk briefly about him. You were admitted to practice in 1968 and you actually signed the bar roll very soon after.

What was it like reading with Hubert Frederico? Oh, he was a gentleman. You know, his father was on the bench at that time. He was a gruff old grouchy old bastard, he really was.

Hubert was a gentleman in every respect. It was almost a shame he went to the family court. God, I don't know how he got into family law and went across there because he never practised in family law.

At the bar most of his work was all car accident cases, you know, but personal injury stuff, the big end stuff and a lot of circuit work. He was always very helpful, very polite. He had his own secretary which was very rare in those days.

He didn't share her with anyone because he had so much paperwork. The money was all made out of paperwork and they settled 90 per cent of their cases. Yeah, he was always happy.

He was absent a fair bit because he'd go on circuit a lot, but whenever he was there he was just as helpful, a very good teacher. He'd throw four or five paper briefs, interrogatories or something, at me and say, you know, get those done before you go out to lunch, will you? And then he'd explain why they were wrong or why they weren't. He let me stay.

Rooms were a bit hard to get then in those days, so he let me stay on until I was able to get a room somewhere. And we stayed, if not friends, acquaintances after I finished. He was a good man, a very good man.

Where were his chambers exactly? Where did he have his chambers? Which floor was it? I think my memory, the best memory I have now is it's seventh or eighth floor of the old Owen Dixon, but the old Owen Dixon didn't have the three extra rooms, sorry, floors above it. No, fifth, sorry I'm wrong, fifth floor of Owen Dixon, what is now Owen Dixon East, which was the only Owen Dixon there. So give me a sense of what it was like for a young barrister for you in those early days, and I mean you would have been just about the only Greek barrister at the time? Yes, there was another bloke called Connor Carkers who joined after me, but he went off into family law.

What was life at the bar? It was so much different, and very stuffy. A Supreme Court judge befriended me and he... Which one was this? I really am trying to remember his name, I was trying to remember him before and I've forgotten. Bill Kaye? No, it wasn't one of those, he was older than that, wasn't my shire, I became good friends with Lysander of course too.

Xavier Connor? I'm just doesn't come to me. But he disapproved that I wanted to do crime, because it really, crime wasn't very acceptable in those days. The poor relations of the bar, I think Colin Lovett said that to me.

It was almost, despite the fact that you had some incredible gentlemen doing it, it was almost assumed that if you were going to do criminal law you were going to cheat somewhere. I don't know why that was the case, but it was the poor relation, you didn't go there. Hard to get silk if you did crime, harder to get on the bench.

So he disapproved of that. Then I came to work in a light fawn suit, and that was certainly not done, and he mentored me about that. And then I bought a sports car, and it almost threw his hands up forever until I divorced, and then that was it.

He figured I was beyond redemption at that point. You didn't divorce, you didn't wear light suits, you didn't, there was a lot more, the togetherness at the bar was much greater, much stronger than, because I think I was about 250 or 260 of us, and the forerunner to dominoes was on the top floor. The bar mess, was it? The bar mess hall? Yes, and there were long tables with tablecloths.

I raised tablecloths because there was also one table in the corner that didn't have tablecloths on it, and the whole idea of this was you, the barristers, would be expected to take the next place. You were not expected to go and sit somewhere away from the others, so that you would take the next available spot at the table. And that way you got to sit with judges, with senior barristers, junior barristers, and there was a very strong bond amongst all the smaller Bar.

If you wanted to bring solicitors or guests up, you sat them at the other table down there. We all had to grovel to solicitors when we started, and once we got much older, and these were the people who set up Owen Dixon, the mess hall, I think it was a sort of a payback. The justification was that we could talk openly about cases in front of each other, but you couldn't in front of outsiders, and so they had to sit there.

**part-4-foleys-list-and-opting-for-crime**

Do you feel like butting heads with people, or were you more inclined to go along with all of this? Oh, you went along with it because you came in as the outsider. You know, this was a very strong, established institution. You wanted to do well here.

And very tight rules. Don't forget, even then, Jim Foley, thorough gentleman, lovely bloke, but very strict. I mean, I was here for two years, and I said I'd want to go on a short holiday.

Do you really think that this seniority should be having a holiday? Kevin, who'd just started and was in the corner, he sort of said, go on, not only go, but when you come back, lift your fees up, because the solicitors will be wondering, thinking you must be successful if you can afford a holiday. What a contrast between a father and a son. Jim was, you know, don't waste your time up at the mess because the call might come, big case, and if you're not there, he'll go to somebody else.

He was a disciplinarian, but a very, very benign one. Whereas Kevin, it sounds as though, from all the descriptions I've heard, was a much more jovial personality. You could sit down until the Bar started to frown upon mixing with your clerk.

While there was some talk that clerks were getting extravagant Christmas presents from young barons, don't forget, a barrister's clerk had the power to destroy you in those days. He really did. Unless you had excellent connections, you relied a lot on floating work when you first arrived.

And even if it wasn't floating work, if a solicitor rang up and said, oh, look, what about Billy Smith? The head is not really into that type of work in that type of case. If you really wanted to, and there was talk of two or three barristers, not on Foley's list, but being starved out of that list because they'd have big arguments. But clerks were very powerful in those days.

Do you think that, in a sense, encouraged a bit too much, shall I use the term, toting? Did that encourage in any way, do you think, toting? It certainly encouraged, as I say, extravagant presents at Christmas and so on. And so the bar decided that clerks, generally speaking, should discourage friendship with barristers. But until that, Kevin and I, Kevin came to my place for dinner when I was a young barrister, I went to his, because we lived in the same area, and yeah, he was good fun to sit down.

You could sit down and have a beer with Kevin whereas you couldn't with Jim. That was the difference between them. Well, Con, let's talk about your early years at the bar.

Did you start out with a broad general practice? You said you were wanting to do crime, but is that how it started? No, I wanted to do crime. I almost left the bar. Philip Dunn was very clever.

He came here and said, I don't care how long I have to sit there, I won't do anything else but crime. I came and I was doing all general work, because I sort of figured, well, one, Cutchins was certainly not a criminal firm, and two, I didn't have any contacts in the criminal world, so I took whatever was there. And there was plenty.

I mean, by the time I got to my desk on day one, there were two briefs on there from Foley, you know, just floating work. And I did everything under the sun. And it would take forever.

They'd get you to do a Companies Act problem that a Companies Act expert could do in half an hour, but a young kid would have to read the whole Act to make sure he knew what he was doing. And it was just an incredibly busy time, earning very little money, and I started to feel like I was a trained monkey, because a lot of this work is you find the precedent, you fill in the name, and away you go. And it was certainly not what I had intended.

There was a very young solicitor called Isaac Appel. The firm is now Meacham & Appel. He briefed me when he was doing his articles with the old Meacham, and his boss died just after he finished, and there was no one in the family to take it over, so the wife, Mr Meacham's wife or widow, sold it to Isaac.

Isaac didn't know much about a lot of areas of law, and he said, hey, listen, why don't you join me? We'll move to St Kilda Road. To use his words, a Jew and the Greek at St Kilda Road, how can we fail? And I went down to see Kevin, and I said, I'm leaving. And he said, but why? I said, because I just didn't come here to do this sort of work.

It's boring, and if I'm going to be bored, I might as well go and do it, and the solicitor's off. And he said, well, why don't you do crime? I said, because I can't get any. He said, but you can.

He said, there's people like your Isaac Appel, they ring up at the beginning of the month, and they book you out for the month, in civil cases, because crash and bash was a big thing in those days. And they book you out, and then they settle the cases, and little by little they withdraw them. He said, but whenever I'm offered a trial for you that goes more than three days, I can never find three days spare.

He said, I'll tell you what, you go upstairs, and you bring down every brief on your desk. And I did. And he rang all the Solicitors and explained to them that I wasn't doing that sort of work anymore.

And by the time I went back up, he had two criminal trials on my desk. And they're prosecuting, but that was it. And that's what I did.

Isn't it good that that offer had been made? Yeah. Do you think it could have been all totally different, couldn't it? Yeah. Remember that first story? I remember being outside the little one-room hut of my grandfather's and thinking how different it might have been if you happened to get into that gene pool instead of this gene pool.

I'd still be in Greece somewhere living in a little village. So little things happen in life that take you around. So that's how I got – I did want to do crime.

That's how I got funnelled into crime.

**part-5-blackballed-by-legal-aid**

Can you talk about one of your very earliest cases that really left a mark on you, or perhaps you feel proudest of, in those very early years? There would be so many, I know, but is there one that stands out in your memory in those early years? No, I prosecuted for quite a while, my heart wasn't in that. Why was that, why didn't you enjoy prosecuting? Why didn't I? One, I don't like the jail system. There are, to my way of thinking, yes there are violent individuals, cruel individuals who have to be locked up somewhere, but the rest of it doesn't excite me much.

Fraud, although I'd be a terrible judge, I'd let almost everyone out, apart from those people that make humans scared to live. And on those I'd be really tough, so I'd be a bad judge both ways. But I didn't, again in those days, I know I'm saying that a lot, but in those days a prosecutor was not expected to be an advocate.

It was frowned upon if you tried to sway a jury for the prosecution. Hampel, Georgie Hampel, really changed all of that with his education, his school of advocacy. But you were expected to present your case fairly and not with, first, again, that was not what I enjoyed.

Secondly, I suppose if you think your client might be guilty, but you get a not guilty verdict, there is still a form of pleasure, if you like, in the fact that you have done a good job, a skilful job, in your chosen profession. You could never feel that way if you thought someone was innocent, but as a prosecutor you managed to convict him. There's just far less scope, I really never enjoyed it.

Early on then you decided to move away from prosecuting and become a defence barrister. Then I got into circuit work, I did a lot of circuit work. Where did you go? I don't think there's a country town I haven't been in many times.

Again, luck intervened because there wasn't a legal aid then, it was a public solicitor and they were briefing me to do a circuit. And the young solicitors that came with you on circuit, they had the power to brief you in those days, not the silly system. We were going to Warrnambool, I remember, and this young kid said, Would you mind picking me up? I said, Not at all.

And we drove there, we did the circuit, at the weekend I drove him back. And you were paid travelling expenses, I think you might still be, but so much per kilometre or mile, and I put in a claim. And then the next week I picked him up again and brought him back and I put in a claim and said, Oh no, no, it's not done that way.

You get one week, I get one week. I said, Well that might be okay if you take your car one week and I take mine, but if I'm taking mine, I don't see why you should be getting a mileage. Now, the work stopped altogether.

As a result, I was forced to find private solicitors to brief me. All because of that? Well, I didn't find out for four years later, four or five years later, when I was doing a trial and there was a little Indian gentleman who worked for the now legal aid and he said, Oh, I like the way you work. I said, Thank you.

He said, Why, you don't do legal aid? I said, Never offered to me. So he came to see me, didn't ring me, came to see me that afternoon. He said, You've been blackballed.

I said, What? He said, You had some problem with some young brother some years ago, over expensive, and he put you on a blacklist. We have a list of people, but we don't brief, and he put you on the list. He said, Will you work for us? I said, Of course.

So, the next thing I knew, my old desk was filled with us. I rang him up, I said, No, sorry. Five years ago, I would have taken all this.

I'll do one or two short trials a month, but that's it. And as a result, I was forced to develop a private practice. Didn't you want to lodge a complaint with the Law Institute of Victoria? No, what for? They did me a favour.

I mean, there's so many brighter barristers that have always stayed pegged in to legal aid and have found it difficult to make the money they wanted to make here. And I'm not talking about it's all about money, but legal aid always has been difficult. You've interviewed Colin Lovitt, a very bright barrister, but took too much legal aid work and never developed a private practice.

And it hounded him all through. All the murder trials were all on legal aid. Chris Stain, another one who comes to mind.

In fact, there's a young QC just down the road, down the floor, called George Giorgio, and he's doing a legal aid fraud matter now. I was offered the brief originally, and then the client couldn't afford it. And George started to do it, and then they revealed to him it was going to be legal aid, and he stayed in it.

It was going to be two and a half, three months. I said, George, he said, oh, look, they still pay two, two, four a day. I said, I don't think that's a problem.

The problem is that in that three months, anyone who wants to give you a private brief, you're busy. You need to develop your private practice. Or you will fall into that area of legal aid work, which gives you a great deal of work.

You do all the murder trials, and Colin's done many murder trials more than I have, but I like my diversity of work. Fate has been interesting to you, hasn't it? Fate has been very interesting to you. Probably to most people, but it has been.

It's had some incredible twists and turns. If you hadn't been blackballed, you wouldn't have got your private practice. I wouldn't have worked myself into private practice.

**part-6-long-trials**

It led to all sorts of things, because to do that I sort of developed a Perth practice, and an interstate practice, a bit like Philip. If we want to go to a particular state for some reason, we've usually got solicitors we can ring up and say, hey, what are you doing in July, I want to come down. I mean, I leave on the 2nd of April now for Sydney to do a 10-week murder trial there.

In the middle of August I go to Perth for three months, I think, to do what they think will be their longest trial over there. Philip's coming over on that one too. So it developed that.

It unfortunately got me into family law for two years. Worst two years of my life. When was this, in the 70s? The 1970s or a bit later? No, it was the new active hit, so it was 87.

And men could now go for custody of their children. In the old days, almost unheard of, because even if they won custody, they were expected to pay the wife's costs because they had the money. And so a lot of people just couldn't afford to go for custody.

In any event, there was a strong presumption that the wife should have them. Kevin Foley asked me, It was also thought that the criminal bar developed the best cross-examiners and that the family court really didn't. And to a large extent in those days it was true.

There was only one real advocate that I can remember then, and that was Paul Guest. But Kevin had this friend of his who wanted to try for custody, and he asked me if I'd do the case for him because they wanted a cross-examiner there. And we did.

We tackled it like a criminal trial, and we won custody. Under the new rules, you didn't have to do it all together. In the old days, family law was all done by the Supreme Court, and you didn't get on for three years, by which stage most of the animosity and the fights had been resolved, and you were expected to do everything together.

Property, custody, access, all happened together. The new court, you could go there almost straight away while the wounds were still open and bleeding, and you could go for access, and you'd go for custody, and then you'd go back for property. So this guy said, Would you mind doing a property case for me since you know me now and my wife? I said, No, OK.

And of course while we were doing that, he said, Oh, by the way, my mate wants custody too. And before you knew it, in all the space of a month, I was whipped in down there. Initially I didn't mind because I had a young family, so I was trying to generate income, and I didn't have legal aid anymore, and that filled the void for a little while.

So I remember Frank Galbally ringing me up to try and brief me, and he said, Now, how much do you charge? I think it was 1,600. He said, Oh, we don't pay any of our criminal barristers that much. I said, Well, I'm sorry, Mr Galbally, I won't be able to work for you.

I only had that cheek because I knew I could do family law at 2,000 a day any time I wanted to keep the coffers going. But it was the worst two years of my existence. I took on a very long trial.

The trial went for three months and was preparation of a month for a senior sergeant charged with taking bribes from casino operators. We didn't have a casino in those days, so all the casinos were illegal ones. And Senior Sergeant Berry was copying bribes from a Greek man, Anastasios, and got caught.

And I took the long trial just to break the connection with the family court. Just as when Perth went, Perth got out of control. Perth, I was, I think, the first or one of the very first to go there.

And I was doing a committal. They had full committals in those days and they had afternoon newspapers. And on the second day, I think I called the policeman a liar because he was.

Now, and their barristers, they didn't have barristers. They had amalgams. A solicitor would do it.

And they didn't seem to want to upset the police because that would detract from their chances of getting any work. So this was shocking in those days, to call the police. And the West Australian, which has always been a police-run newspaper in my view, had an afternoon paper.

And they really were trying to have a go at us because the headline on the front page was Victorian barrister calls WA cop liar. And it backfired. Every day or second day when we'd go back to a hotel, there'd be somebody else waiting with their papers saying, well, look, they lied in my case, but my solicitor says I can't do anything about it.

Can you look at these? And on the strength of that committal, my solicitor, who was from Melbourne, opened a branch office in Perth that lasted for years and years. The outcome was that I was going to Perth every month, spending at least 10 days, two weeks there. It was driving me nuts, really destroying family.

It went on for a long time too. And eventually I took on another long trial, the Grollo trial, to break the nexus, to again break it. And we tried a couple of people.

I sent Christine over. He didn't quite click. I sent Colin Lovitt over.

He managed to get himself reported by the judge in both cases. And one of his clients was a bloke I now, I still act as a lawyer, John Kizon, who kind of runs crime in Western Australia. And he said, never again.

I mean, he got me off. But he's a loose cannon. I mean, it's frightening.

You don't know where he's going to go next. Oh, no, I'm not leaving him again. And eventually another barrister I know you've heard of from Colin was Stephen Schirra.

I sent him over, and he clicked, and he took over all the work until he passed away. He's so sorry to read that he passed away a while ago, yes. And he had done a trial for John Kizon inside a trader.

And I acted for John Kizon when he was 28 years ago on assault type charges at a nightclub. He was a boxer. And then I acted for him about 15, 16 years ago on drug-related charges.

I get this call last February, not this year, last February, because Stephen had passed away. And Stephen had, he said, there's an insider trading. So Kizon's come up in the world, but he just can't quite get on the right side of the law.

He said, you've got to do it. Stephen's passed away. I mean, you've got to come and do a Con.

And so we went back for seven weeks, and that was the trip back. But I see we're all connected with Western Australia for a long time. It's so interesting.

And you do seem to have a knack for getting these long trials. Yeah, yeah. I don't like them.

When I say I don't like them, there's a lot of preparation. I mean, that one there, that's the 10-week murder trial in Sydney. That hurt too.

That's another stupid story. Can you tell us? I went to Sydney last year. This is a drug importer who's in prison awaiting trial for his drug charges.

And two of his co-accused, it is alleged, turned on him and decided to give police evidence. And so it is alleged he put a contract out on them, and because he was in jail, he had to work through intermediaries. And one of them was his brother-in-law.

He was probably the dullest knife in the drawer. And he would do things like go and speak to A, and get a box and give it to B. And the box, as we now know, had the gun in it that was used. And then go to C and get a bag and give it to B, and that had the money in it, that sort of thing.

But I was asked to do a committal for him in Sydney last year, and we went there for three days, and I was excited as could be because somehow or another I always get the number one person on the list, the heavy. I mean, I went in Perth when I did work with Christine. I don't think he ever led.

With Colin, I did some things in Perth recently. Again, I had to lead. And if you do all the work, that's the part that's wrong with it.

And this one was fantastic. There were five accused, a 10-week trial, and all I had to do was sit back and once a week ask a few questions on behalf of this young man and play golf. You sound almost bemused, though, that you do get to lead.

That can't be by any means an accident, surely? Well, in Perth I sort of had the name made beforehand. I don't know why it turns out that way. You genuinely don't know? Sorry? You don't know? Oh, no.

Often you'll get briefed because they want a more senior silk, and you'll get briefed, and then they'll say, well, he's leading, so we don't need to spend that much on the others. Maybe it'll be that. But it was, let me tell you, I was so excited about this brief.

And then the police charged my client's sister as well, the ex-wife of the big boy, and the family could no longer afford the silk because they now had to represent both people. And that solicitor apologised. I said, never mind.

My whole idea now is to be semi-retired. I only want to work 50 percent of the year. And this was not in the plan.

And a few days later, my favourite junior in Sydney, a young kid called Avani, Avani Jamal, a very bright boy, rings up and says, it's an off chance, can you by any chance lead me in a murder in April? And I said, look, I can because I've just come out of a murder trial. He said, no, you haven't. You've now got Mr. Big.

And he said, and I said, why do you put it that way? He said, well, I didn't know that you'd take it if I put it any other way, but now I know you're free on that time. So there goes the dream. We still have the 10-week trial, but now there'll be a lot of work.

But the good thing about long trials is once you break the back of them, then in the middle there's a fair period of not... The worst sort of trials are four or five days where opening, cross-examination and final all run together too closely. It takes a lot of work.

**part-7-advocacy-the-old-and-the-new**

Are you a cross-examiner? Yes, if people here or solicitors say that if I have a skill at all it's meant to be cross-examination. I don't know what I'd say about the style of it because I taught cross-examination at Hampel School for a while and I know what the rules are and in fact I admire the barristers who follow those rules but I never do. I just don't, I don't know, I think cross-examination is a lot of work, a lot of work involved because of the modern way of criminal trials are run that we still need to come back to and a lot of, yeah, basically a lot of work is what makes a good cross-examiner.

Just having all the facts at your fingertip, I have a good memory for conversation. I can usually remember something you've said yesterday almost word-for-word and a good, and I think you need a good understanding of psychology. You need to know what a witness is likely to say or not and what a jury wants to hear and what it doesn't.

I think that probably makes it all up. Phil Dunn uses the RAT. Uses it? Uses the RAT as he calls it, the Rational Alternative Theory approach, which is his way of being methodical and laying it all out for himself to be across, usually a big table in his case.

Are you in any way an advocate of the RAT approach or as you say a moment ago? No, I've done trials with him. He came in the Grillo trial, Philip. I've done trials with him.

He has a totally different, I just, I believe that you need to work. Work is probably the, you need to know, I mean we have committals part of the modern technology that, so that you have versions of this law that a particular witness would have given. You need to know them all so that you can actually, the moment a word comes out of place somewhere, you know that it is out of place because he said something different somewhere else or some other witness has said something different somewhere else and that only comes from work.

I mean I've read some smaller briefs than this, five or six, seven times and it'll be on the sixth or seventh time that I'll pick something up that I missed the first time. I think that's the, when I used to teach cross-examining, I used to say that was the most important component. When I came to this bar, criminal advocacy was in the hands of the good orators, like Philip.

Philip is a fabulous speaker and he was, he fits into the mould of yesterday's criminal barristers. I mean he does today's too, but he could do that and it required people with the quote, the gift of the gab, the ability to be advocates. Briefs, because we didn't have modern technology, briefs were so very slim, even in very heavy trials, Merdeka, because we had no, first you didn't photocopy much because you didn't have photocopiers, what you had was so slow and bad.

You had no telephone records, so you didn't have five or six folders of phone records. Most importantly, you didn't have committals. We had committals when I first came to the bar, but there were no recordings, so that a young clerk of courts, and he'd be some young 16 year old, you'd ask the question, the witness would answer it, and he would make a composite of that, you know, what time did you get to the club? I arrived at 7.15. I arrived at the club at 7.15, but he would write this out by longhand, so that, and you had to wait for the second question, so that one, committals were very short because it was so time-consuming.

Two, you never got a run-on, so you couldn't get anywhere with it, and so a committal papers would be a few pages, four, I mean four pages is considered a lot of committal, and at the end of it, the witness would read it to himself, and if he thought it was accurate enough, he'd sign it, and that was a committal. Now, that wasn't a lot to go on, and so briefs were very thin, and the advocates of those days would pick one or two central topics for the trial and ram that down the jury's throat, but you had to have the ability to do that, you require, you needed to be an advocate.

Did any miscarriages of justice, did any miscarriages of justice ever eventuate from that old way of doing it?

No, it was probably a better way, in some ways you actually got to the truth quicker because you didn't have all these other things to play with, but I don't know, I can't miscarriage of justice that we haven't now.

Oh, I shouldn't say that, but you know what I'm saying, was there ever the chance that someone might get the wrong thread from reading those early committal briefs, if you like?

But it was just totally different. I remember Bobby Vernon, he was crossing the road to go to the Supreme Court to do a murder trial. The brief was a very thin little thing wrapped in, you know, with pink ribbons, and he was making notes on the back of the brief, you know, just making little notes on what he was going to cross-examine about, or what he was going to tell the jury, and there would be one central point, at the very most two, and they would just hammer that, and they were so good at it, you know, Starkey's and all these early books, and Bob Vernon was probably the last of the big boys, and if there's one today that could follow into that mould, it's Philip Dunn.

Now, then, committals, we got recording, so now all of a sudden you could cross-examine a witness for hours, and it would all be transcribed accurately, and if you were prepared to work, you would know those answers that were given better than he remembered, because the trial would get on for six or nine months, and by then the witness would have forgotten a lot. You hopefully, if you had done your work, knew where you were going. Into this climate came a very small-billed, very thinly-billed barrister.

He used to be a solicitor called Jack Lazarus. Jack, he mumbled. He was Jewish.

I raise that only because he had a strong Jewish accent, and he mumbled. I mean, he'd often sit opposite me at the desk to talk about a case of his, and I couldn't understand him at times. He just mumbled, but he certainly was not an advocate of that old school, and he wouldn't run a trial on one or two points, but he would find a hundred or two hundred inconsistencies, little inconsistencies, between what the witness had sworn on his own, what he had sworn at a committal, what he had sworn in the statement to the police, and he would raise all these tiny little things, like on the basis of, well, he got 400 points wrong, for God's sake, ladies and gentlemen, how can you believe him? And what he, because he was also an older man, Juris also seemed to believe that he was going to tell them the truth, because I'm sure half the time they couldn't understand what he was saying, but he never lost the trial.

Using this new technology, this new idea of running trials, that has now become, because it's easier to become a worker than to become a natural advocate. And so all of a sudden, barristers could get in there and follow the Jack Lazarus mould, if you like, and do it, even though they weren't capable or didn't have the ability to do the Vernon approach. That's very interesting.

Phil Donnan yesterday said Jack Lazarus was a very intense advocate. He was. There was an intensity, he said, that marked him out very strongly.

He said he was like a McCarthy. Well, I suggested he might be a McCarthyist in reverse, do you think? I'm not sure I saw him that way. We had other things, we had the unsworn statements in those days, and Jack was the master of reason, because you could give a jury a reason why your client was making an unsworn statement, and if you couldn't work out a reason, you go and see Jack, and Jack would tell him what the case was about, he'd come up with two or three reasons why your client was making an unsworn statement.

Now, he was intense, but he was a worker, he was very, he was scared of no one apart from his wife. He knew he'd come in to Foley’s office, and the girls on the switchboard would say, Mrs Lazarus, oh, you'd better put her on now, quick. She must be a bait.

It sounds very like it. When you spoke to me on the phone not long ago, it was almost as though you were saying to me that, in a sense, Jack Lazarus is responsible, pretty much, for the way it all happens now, in terms of this surfeit of information. In my eyes, he was, because I couldn't, I'd seen the other boys at work, and I didn't think I would ever be this natural advocate, and I couldn't work out why Jack never, well, I needed to know why Jack was never losing trials, and I watched him a few times, because I was prosecuting.

The one good thing about prosecuting is I got to see a lot of these people at work whilst I was actually still earning money. So I got to watch him. I saw him in court when I had briefs as a co-accused, and that was that.

I watched him in a rape trial that should have been a loser, but he had all these tiny little points, you know, inconsistencies with the complainant, that at the end of it, as I said, he would just go through them on his final address, you know, she said this, she said that, remember, and she said something different here, said something here, said something different there, and they quit, because they couldn't believe it. He tied all that up with beyond reasonable doubt, how can you possibly not have a doubt, and it was a highly successful formula. What about Jack Cullity, who was a very well-known... I didn't see... he was a beautiful orator.

I didn't see... I just missed out on him, so I didn't see him at work. Because you talked about George Hampel before, and I know that he was articled to a very well-known solicitor, Ray Dunn. He never had the opportunity himself to be... Ray Dunn taught me criminal procedure.

He taught me a few other things too, but he taught me criminal procedure. Very short classes, because by then he was a very big man, and there was no lift to the first floor where we had our lecture, and he needed the first five or ten minutes just to get over the... but he was a very smart lawyer. He did all his work... again, I hate the expression in those days, solicitors did a lot of their own magistrate's court work.

You're expected to be a bit of a specialist and move into the higher jurisdiction. So I did know Ray. I knew George.

George was a beautiful... he had a beautiful speaking voice. John Walker was probably the smoothest. I mean, if there's one word to describe him, he's smooth.

If there's one word for you, what would it be? Oh, intimidating. I'm a bit... I'm fairly forceful. Forceful.

Phillips was here. Vincent. This place is full of them.

But they were almost like a hybrid. They were coming out of the advocacy era and swinging across to what I see as the modern way of running criminal trials, whereas Jack Lazarus wasn't coming from the old era. He developed... whether he developed it or whether he perfected it, to my... by the time I came along, he was the one that I sort of credited with this change.

**part-8-advocacy-the-old-and-the-new-ii**

Really, when you think back to what was here, we had, there were no mobile phones, there were no photocopiers, there were no, so much that didn't exist then that's changed the face of everything, including criminal law.

Do you feel with all the technology that's available at your fingertips now, do you feel any better as a barrister for it?

It's hard to say, I mean people adapt to, it's not the massive change that happened when the technology started, but you adapt to what's there. In crime, the DNA didn't exist.

DNA was thought to be a massive assistance to law enforcement. The mobile phone is by far a greater tool. I mean, more people now are caught because of the mobile phone and prosecuted than DNA or anything like that.

So you learn to adapt. I mean, we didn't have, they didn't have recording facilities. Records of interview were never recorded.

Policemen would sit at a typewriter and type out your question and answer. So a record of interview was perhaps two or three pages because they weren't very good typers. Now the record of interview will go to a hundred odd pages, and if you didn't want to, and you didn't have to sign it. So police officers got in the habit of saying whatever they wanted to say and put down your confession.

Sometimes those confessions were voluntary, weren't they? We all threw our hands up, just to come back to your question. When they introduced compulsory recording of interview, we all threw our hands up.

At least a client who had confessed and thought better of it could still go ahead and argue that it wasn't his confession. Even if his signature was there, they threatened him so he had to sign it, but it wasn't his confession. And we thought, how on earth are we ever going to get around this new technology? And so you adapt.

Talking about the old way of doing things and the new way, are there other elements you wanted to touch on because you mentioned now that there's a modern way. In fact, Phil Dunn, when we spoke to him, also said things were changing very considerably. What else are you seeing in terms of what's coming towards us now? It used to be the old saying, it's better that a hundred guilty men go free than one innocent man be convicted.

That view has changed a lot over the last few years. All of the advantages you had in running trial. I mean, I can't work out how we ever lost a trial given all the advantages we had.

Everything was tilted in favour of the accused person. Now that's changing a lot in almost everything. I mean, we lost the unsworn statement and that had to disappear, but that's gone.

We're moving, we'll follow England soon and not lose the right to remain silent. But over there, when they caution you at the beginning, they say to you, well, if there is an explanation that you give at your trial that you don't give now, then that may be brought up in front of the jury. So what they're saying is, all right, you don't have to answer questions, but you are being given a chance to explain now.

And if you come up with some super duper explanation later, then you will be questioned as to why you didn't tell the police that at the time. The changes that we see in sex cases to try and make it fairer for the complainant, in fact, carves big inroads into the way criminal trials are run. The limitations on what you can ask about and how you ask them and how they give evidence and so on.

But that's been brought about by a lot of external pressures, hasn't it? Yes. Almost all of it is political. Very little is judge-chained.

We're traditionalists. I mean, if you left it to the lawyers, they would run it forever the same way. It's the politicians.

I mean, why do we have these extravagant maximum sentences that are never imposed? Because every time, the average person wants people locked up forever until someone in their family is caught. And then they can't understand why it's so strict. So that every time a politician wants to get some points for nothing, for no expense, he just ups the maximum penalties.

Now, the sentences bear no relationship to the maximum penalties that are there. But the politicians can do it. And they bring a lot of these changes.

Some of them are necessary. I mean, children should never have been cross-examined in the way they were. But it's a huge inroad.

It now gives the prosecution a massive advantage where you can't really cross-examine. And the jury doesn't see the young man, the young person. A victim in rape is no longer in court.

So she's in another room somewhere and appears on video.

**part-9-dodgy-characters**

I must ask you, because I was intrigued, and I know that you acted for him, Andrew Fraser.

He applied recently for a job on the parole board, or fairly recently.

You're kidding.

No, I have the newspaper article. He didn't get a Guernsey, but he did apply. I sincerely hope he didn't get within 100 kilometres of getting a Guernsey.

He felt it was because he had provided information about that killer, Peter Dupas. I don't have very much time for Andrew. I did do his plea, because the others wouldn't.

I was not a friend of his. I think he briefed me once in a time. He was there, and that was my client who went to him.

But when it came time for him to apply for bail and then to do a plea, he must have stepped on a... I mean, he briefed Philip, he briefed Robert Richter, he briefed Chris Stane, but none of them were about at the time. Philip was in Perth, Robert was busy. So the junior, who was one of my favourite juniors, Greg Lyon, who's now a Silk, he said, he said, well, we've got to do something for him.

So I did the bail, and then I did his plea. I haven't read it. I refuse to read anything that puts a dollar into his pocket.

But I'm told he complains about me in two respects in the book. One being that I didn't go down to see him after the sentence. What he doesn't say is he kept telling everyone he wanted me to get him a bond. And I said, don't do this. I know Leo Lazarus knows me. He knows I know.

It's out of the question. He will deduce that you haven't any appreciation of the seriousness of your crime. And it was only at the end of the first day of the plea where I got the prosecution consent to extend his bail that I said to him, well, look, Your Honour, the prosecution consents.

May bail continue overnight? And Leo was just about to get up and leave the bench. He came back and he said, Mr Frase has been at large long enough. Bail revoked.

And it was the way, the chilling way he said it that Andrew then said, oh, well, 12 months. Go for 12 months. I said, a good judge will give you three, three and a half for this crime.

Now, the problem was he told his wife the same thing. So when he drew his five and a half on the bottom and he was being led away, his wife was screaming, collapsed in court. So I said to Greg, you go downstairs with him.

Tell him I'll come out to the prison next week. I've got to make sure this woman's all right. That became in his book that I didn't go down to see him.

I had little time for Andrew. I watched the Channel 2 programme when he first came out. I don't think I've ever seen anybody institutionalised so quickly.

The way he spoke, the way he thought was all I'd expect from someone who'd been in prison for 20 years. And the other thing I came across was that he had absolutely no insight into what he'd done and no responsibility for it. It was all somebody else's fault.

Do you find that's in common for a lot of the people that you've acted for, that they have no self-awareness, no insight?

Sex cases, you get that in sex cases. Pedophiles often have no real appreciation or insight into what they're doing or the severity of it. But most other criminals, no, they know. They know what the system is. They know who their enemy is and they know why they're breaking it.

I'd like to ask you about what you alluded to as the Tony Mockbel window here in this room.

Tell me about the Tony Mockbel window. I don't even know which window it is actually.

It's the middle one. You see there's a window there that you can pull back? Yes. And that, by the way, the other copy of that photograph is there by the window but the sun's made it shrivel up, you see. I acted for Tony for years and years and years.

I think the first time around he was charged with attempting to bribe a county court judge on behalf of a friend of his, not on his own behalf. But anyway, his trial was about to start and I had the Growler boys in here. Adam Growler was having matrimonial problems and they wanted to run something past me.

So I said to Daniel, Daniel, do you see those panes there? Why couldn't we put a window in one? And he said, it's illegal. I said, well, I know it's illegal. That's why I'm not doing it.

That's why I'm asking you to do it for me. And he said, all right. Now, six weeks passed and nothing happened. So I sent him a text. My condolences to your Glacier's widow. He rang up.

I'm so sorry, Con. Absolutely. You've got to remember, I was sort of part of the family by now because I'd lived with Bruno for two and a half years.

I'm sorry, it will be done. Part of what the lunacy that the Growler trial brought about was that we would meet on Christmas Eve, Bruno and I, and we'd go into his gym and strip down to our underpants and have a weigh-in. The idea originally being who would lose most in the year.

It quickly became who would gain less in that year. But it all started off with him saying, well, the trial hadn't started. And I said, well, the juries like fat Barristers.

And I said, I haven't read any literature on that, Bruno. I said, but I know that they don't like fat defendants. So you should look at your mirror, son.

And that started. I said, well, why don't we have a competition? And it was either one US dollar or a thousand lira. The euro hadn't been invented then. It was a big weigh-in. And we would do it every year. So the next time I see Daniel is Christmas Eve when I'm going for the weigh-in.

Daniel, my window. Oh, yes, yes, yes, yes. No problem.

It'll be done. Come January, on the eve of Tony's trial, he's in here for a conference on Sunday. It was hot.

And I said, I'm sorry. I'm going home. It is too hot.

I can't stand it. And he said, I'll get you a window. Now, how he even knew about the window.

He said, I'll do the window. So I said, OK. On that basis, we can continue. We'll put up with the heat. Then Monday, I get a call from somebody who said, now, I'm the window boy. He said, I'll do what Mr. Mokbel wants.

But you're not to tell anyone who I am. I said, I don't know who you are. Who are you? He said, let's keep it that way. He said, I've measured the window. I said, how do you measure my window? He said, don't you worry about that. I've ordered the glass. And it will come. And when it's ready, I'll. In the meantime, we started the trial.

And then, of course, Tony absconded. And it started. And in the week after it absconded, I get a call. This is the glass man. He wasn't. He didn't call himself a glass. He was a glass man. He said, the glass is ready. I want to come in early on a Saturday morning. I said, well, I can be there by 8. He said, oh, no. I want to be gone by then. I'm talking about early.

He said, you understand that without a balcony or a guard, this is illegal. I said, I didn't hear a word you said. But I'll make sure that you can get in. So I got someone to let him in. I said, but Holly was on the phone. I said, well, look, that'll be organized.

I said, but have you been reading the papers? I don't care what's in the papers. If Mr. Mokbel wants a window, Mr. Mokbel gets a window. He rang me on the Saturday afternoon on the mobile to say, look, I've cleaned up as best I can.

I'll put a fly-by screen on for you. He said, but I couldn't find a vacuum cleaner. I said, don't worry about the mess. We'll clean it up. I said, where do I owe you? Please, if Mr. Mokbel wants a window, Mr. Mokbel gets a window. Don't you understand? And so I thought in honor of him, since I was never charged for it, I told him that that was the Mokbel window.

The Mokbel window. What a fascinating story.

And what, in some ways, such an illuminating story, too. Like all these boys, to you, that perfect gentleman. You know, Tony, as I said, I've acted for him year after year after year.

Whenever he was successful, he'd come up with a bonus. It was always exactly the same for you, your solicitor, your junior. Perfect gentleman.

Very sorry he did what he did. Can I ask, because I only read the book finally, Big Shots by Adam Shand, he keeps referring to someone called the Chief Executive. Is that Tony Mokbel in the book? I don't know.

I haven't read the book. He doesn't say who the Chief Executive is. I'd need to read it, I don't know, because there could be a number of them. Oh, okay. Well, then I'm just curious. Everyone here has acted for almost every one of them at some point in our careers.

Somewhere along the line, over a fee disagreement, Mickey Gatto and I parted company. He's always worried about whether Robert's health is too precarious and then he has to come back to me. So he still is very nice to me, but we've all acted for everyone.

So when the gangland sort of struck and it was somehow expected that Robert and I would do most of them and because he was still close to Gatto, he ended up with the Carlton crew and I got the Mokbel, Carr-Williams, etc. crew. As I complained to Robert, it became quickly unfair because my people were much better shooters than his and so I was running trial after trial and he had one trial.

He said, all right, I've got Gatto coming up, don't worry. Not Gatto, I've got Condello about to start. He came in on a Monday morning. I was working here on Mokbel's things. He came in and said, can't be bad luck. They just shot and killed him outside his front. We're going away for two weeks. See you. We're a cynical bunch.

**part-10-the-real-cause-of-gangland**

But if you knew the story of how Gangland started, you'd be...

Well, I know what I guess most people know from watching the programs, Underbelly and the like.

Underbelly, the first Underbelly was excellent, and it was about 80% accurate too. There was some gratuitous mucking around just to make it more watchable, but no, it didn't go anywhere near that. It all started off with Roberta. Roberta was the root cause of the start of all of this. Roberta and amphetamines.

She was married to a very dangerous crim, and she started to muck around with Carl. And when Carl was warned, he didn't take the heat, the Morans were sent out to deal with him, he got shot in the stomach. Shand almost intimates that in this book.

He doesn't say what you said, but he said that he was much more afraid of her than he was of him. So in a sense that... Well, I acted for Roberta, I acted for Carl. Yeah, she could be quite a tough lady, Roberta.

I've heard her, she ran amuck on a former barrister here, Nicola Gobbo, because they believed, in retrospect now looking back maybe rightly, that she was informing. And if you could hear the language of Roberta on the telephone to Nicola, Nicola came in to play me the tapes, a seaman would blush at the language that this woman was capable of. She was a very strong lady, she still is.

But that was the start of it. And he got shot, so he decided the Morans had to go. Mokbel at that stage was very much the Chicago type of criminal, you know, murder's bad for business.

So he stayed right out of it, it was ridiculous to suggest, as they ultimately decided to charge him with murder, there was nothing to be further from Tony's mind. Drugs, yes, murder, no. Then Tony was in jail awaiting some, awaiting bail.

He called someone a dog in there, which is a very silly thing to do. That man was very well connected with Johnny Kizon, who was very well connected with Gatter, so they invited Tony down to the restaurant. A couple of waterside workers were there, and they put him in hospital for eight days, they severed the ability, and that pushed him into a coalition, if you like, with Carl Williams.

A coalition of the Williams. And the two lines were drawn, if you like, that led to so many reprisal killings backwards and forwards. I'd like to ask you at this juncture, Con, it doesn't happen, of course, to most of your brethren, but thinking about criminal barristers who cross the line, have you seen much of that yourself? No.

If there's one thing I'd love to get across to the community out there is just how little criminal Barristers actually cross the line. I think the Bar generally is very, very much aware that the primary duty is to the courts, not to your client. I can tell you, in my view, I've never crossed the line.

I wouldn't cross the line. If my son was charged with a serious crime, yeah, I probably wouldn't, trying to think of the best story I could to get him off. But I don't lose sight of who my clients are, the vast majority.

You do get the odd Bruno Grillo or Dickie Pratt or people that you can actually relate to, but you don't lose sight of the fact that most of your clients come from a pretty revolting part of our community. And I can't imagine why anyone would be tempted to cross the line for them. And even if one was because one wanted to win for some reason or wanted to get a reputation going as a winner, the risks are enormous. I mean, if you get caught, it's your career. Why would you do that?

But there are solicitors who have. Solicitors do.

Solicitors are totally different because they have to become very intimate with their clients. They need to get the work, so they need to virtually deal with it. I mean, we mentioned Nicola Goldberg.

Why did she go wrong? The one thing... In drug matters, she was my favourite junior. I got her in next door, even though Philip and, I think, Terry Fryer subjected because she mixed too much with her client. And I used to badger her and badger her, you're not smart enough, you're not experienced enough, and there's no loyalty amongst them.

They will slice you up the moment it suits them. Wouldn't listen. And what's happened with her is a sort of a... Now, solicitors have to do that.

There's a solicitor out there who's a QC, does a lot of crime. I won't mention his name. But in the old days, he was in partnership with a gentleman who's now deceased but who ended up in jail on numerous charges.

He was a ratbag and certainly cross-lined. He was a strong communist and really thought the system here needed to be destroyed, so he had no respect for the legal system. But in those days, I inherited the police association work from John Phillips and John Walker, and I would do most of their cases.

And I went out to... I went out to do a case. What would happen is if there was an accusation made that the police had misbehaved, then you would go and represent them, and it's now become outlawed, but you would then run the prosecution, the police prosecutor, and say, well, you might as well do it. There's no point in having so many barristers or police and barristers.

And in those days, at that time, you were very good friends with the police because you were representing them. And this was Brunswick, and it was a foray. It was a very, very nasty family of criminals, the forays.

And they'd complained, and so I went to appear on behalf of the police. And the police had bugged the cells, apart from anything else, for protection because they were concerned about me. But what came out of all of this was that they showed me and said, have a look at a photograph of this solicitor.

Now, this gentleman would just die if he saw this now, but there he was with his leather, with the Hells Angels leather, and a can of beer. And I don't think he's ever drank a can of beer in his life, but he'd have a can of beer there, and arms around him were the big boys of the Hells Angels. And even though I promised I wouldn't, I sought him out because he was a friend of mine.

And I said, listen, the police have got all these guns. What are you doing? And he said, look, it's easy for you guys because you're just brought into it by us. We brief you, and you don't have to socialise with them.

You don't have to get close to them. We do. I don't like doing that, but how else am I going to keep the Hells Angels working unless they think I'm 100% behind them? And that is the pressure on solicitors.

So they are forced to become friendly. Often they become friendly, and when they become friendly, then that's when you start to cross the line. You take risks.

You do things you shouldn't do. But I don't think that applies to barristers. I can speak of the younger generation because a lot of them have been my juniors, and I see a lot of them through the Foley's PAL system. I'd be very surprised if any of them attempted to go down that path.

**part-11-how-grollo-got-off**

Con, you mentioned Bruno Grollo before and that was, at the time, is it still actually the longest running trial in Victoria? I'm not sure. I'm not sure it was, but it was, with legal arguments, it went almost two years. The jury were in panel for 13 months or 14 months, but bear in mind, Philip's client went bananas doing it and had to be locked up, unfit to be tried, a man called Flanagan.

And the judge by that stage should have, I mean, once he was going to be out of action for two or three months, the trial should have been aborted. But old Judge Barnett wasn't going to do that, which is great. I mean, we had a ready-made appeal point if we all went down.

So by the time they got back and then they had to have all the transcripts read of what had happened in the months before to remind them, it was, it went for about 13 months, 14 months, with the jury. And as became, as I think becomes obvious in long trials, juries can't remember the evidence. There's an impression that's formed.

And my junior in the Grollo trial was Bruce Wormsley. He said something that was very true. They will acquit him if they think he's worth saving, because they want 13 months of evidence all over the place.

And that's how we ran the trial. It was very much focused on the creator of the CBD, as we know it. Certainly someone who won that as much as I did was Dina Gwalo.

She suffered a massive stroke. And until then she was the only person, she and the judge, were the only person that sat through every day of the hearing. Because during legal argument without a jury, Bruno was allowed to leave to attend to his business.

If I was bored or I didn't think it was important, I'd leave Bruce there so I'd go, and others would too. So she was the only one, she and the judge, that sat through every day. But she then came back after she was well enough, but in a wheelchair.

And she was in effect, the way the courtroom was set up, she was near the door, but she was directly opposite the jury box. So I don't know if a jury could have found themselves able to convict him with her sitting in that wheelchair, I don't know. So clearly the prosecution weren't sufficiently able to make them think that he wasn't worth saving.

We won't talk about the prosecution. The prosecution was led by a lovely bloke called Shannon who died. He's junior, who I won't know, because he's still with us, was a very fired up individual.

And Martin didn't do a lot of crime, Martin Sherman, so he pushed him to, they went to extraordinary lengths to try and convict Ronald. Extraordinary lengths. And didn't endear themselves or the jury for that either.

So you said a moment ago about juries, that they feel someone's worth saving. That's very interesting, because obviously everyone has a different approach when they're working to juries. Phil done this, they talked about putting a mental picture, or giving them some kind of picture.

Not quite your way by the sound of it. In longer trials, no. In shorter trials you probably run that way, but I'm not sure what he means by mental picture.

As opposed to lots of verbiage. It's just some sort of overriding image. Philip will say, and he'll also tell you, repetition is good, so he will get this note.

This is a throwback, if you like, to the old idea. Remember I told you Bob Vernon, he was telling me a story. He was very good friends with Hartog Berkeley, and so I became friends with Bob.

And he was telling a story, very basically it was that they were in the army of some sort, a civilian army, but they were out on bivouac and it was cold. And the upshot of the story was that he took, no it was the other way around, Bob was on sentry duty and Berkeley bought him a cup of hot cocoa. Now that's the story he wanted to tell.

And it was summer, we were all about to have some huge vote for the bar. And we were waiting to go in and he was telling me this story. And every second, third sentence he said, so I'm out there, and it is cold.

And I'm walking backwards and forwards to try and keep, because you've got to understand, it was cold. And he kept drumming this picture into my mind. I think at the end of 10 minutes, even though it was a warm summer's day, I always started to feel chilled.

You know, I really started, this is what we're talking about, this power of advocacy, this one idea that you sort of keep thrusting over and over and over again until it sticks. I think maybe that's what Philip's talking about in there. That's not what you do though, is it exactly? I like a central point that I can, what I call a killer point or the winner point that you can bring the jury's attention to.

But then I revert back to the Jack approach, the Jack Lazarus approach. Look, how can you believe this witness when they have said this and said that? You said that Bruno Grollo's wife may have been an important influencing factor. Indubitably.

Oh, was that it? Was that the actual pivotal thing? No, I think they liked, we came out and they liked Bruno. Bruno's quite a lovable bloke. A lot of time was spent on his evidence and he came out with quips that sounded very natural that had really been drilled in.

He was being, I remember one line of his was, why didn't you report this to the police if you knew it was happening? You know, I mean, you're saying so much stuff. He said, if I reported every one of my workers who stole something from me, I wouldn't have a workforce, they'd all be in prison. But the way he said it was, it got the jury laughing with him.

They genuinely liked him. The prosecution, from the beginning, kind of played into our hands. They wanted to paint him out as this sinister rogue, which enabled me to, because they had crossed the line and I was then able to cross the line with the man who built Melbourne.

They were talking about this plan, this horrible plan that Grollo got up to. Let me tell you about another plan that started off with 101 Collins Street. Because this was all about the Rialto.

This was the tax fraud on the Rialto. They delayed that trial because then the allegation was made that Bruno tried to bribe the Australian Federal Police to drop the charge. And they thought they were on such strong ground there that they would run that trial first.

We went 30 months, but the jury, I think the jury at the end of it was, what do we believe? I mean, we'd heard 30 months of evidence. But, you know, he's worth saving. By the way, what happened with the weight loss competition? He took it so seriously, unbelievably serious.

I knew that seven days beforehand I was five kilos lighter. I had it won. And I went on the day and we hopped on the scales and he won by three quarters of a kilo.

And I said, bullshit, not possible. You can't lose that sort of weight. And as we're walking back upstairs, I actually ran my hand, because he has a sauna in his gym, I ran my hand past the sauna.

I said, you bastard, it's still warm. He said, no, no, no, no, Dina, Dina likes a sauna. I said, crap, Dina was a straight victim, never be allowed near a sauna.

So we went upstairs and Dina said, who won? I said, he did. She said, oh, thank God it's over. I mean, he just won't drink.

He said he missed his own Christmas function. Wouldn't go to his own Christmas function because he would drink there. He hasn't been drinking water.

His ex-wife said at the time, look, probably it meant so much to him and he was in the middle of so much turmoil in his life, that's a good thing. So then he almost went year by year. I'd win one year, he'd win one year.

In the beginning, it was very, very formal. We used to frame the money, the thousand lira or the dollar bill and all sorts of things. It kind of dropped. Only about the last two, three years did we stop doing it. But as I said, we'd lost the encouragement. We got to the stage of who'd gained less.

I never thought a client could be so good for your health. De Bruno, yeah. He'll say he was very good for my wealth if you ask him to.

**part-12-rambling-rose**

Can I ask you about Rose Porteous? You said that was quite a fun trial, acting for Rose. Heavy, heavy work. Slater, I'll tell you how it came about.

I'd finally finished the Grollo trial. My desk was covered with letters of congratulations from the bar and from others outside it. And the people had come and taken the last of the files because there was nothing else in my chambers.

For two and a half years, I'd been fighting this man's case. And when they finally took all the files away, there was nothing left in here. And I was sitting back in this chair, leaning back with my feet on the desk.

And I said, well, Lord, we got rid of one nut. Who are you going to send me next? And I swear, again, true story, the phone rang. And it's Slater and Gordon.

Will you come to Perth and represent Rose? And I looked up and I said, thank you. I said, of course I will. And they were very careful with their money, Slater's.

Said, well, we don't want you to do anything other than to cross-examine Gina Reinhart. Geoff Chettle is your junior. He will look after the rest of them. That's all you got to do. And there'd be very little preparation, of course, because you only have to prepare her. So we turn up in Perth and I've got a two-bedroom apartment there.

And the second bedroom is almost wall-to-wall brief. And I said, what is this? Oh, you won't have to worry much about... Gina had taken over the case. She'd reopened the inquest by going to the Supreme Court and ordering a new inquest.

And she'd got all the witnesses together. And each witness had changed their story so often that the work volume was unbelievable, to the point where I said to Geoff, forget Silk and Junior. I'll take the odd because I'll do the first one.

You take the even. And while one of us is cross-examining, the other one has to just come up to scratch. I was getting up at three in the morning, but I stayed on Melbourne time over there.

I had the only coffee machine, so Geoff would frot up two hours later. Very hard work. And they were very serious. They wanted Rose in for manslaughter. They had her on murder as well, but they wanted her for manslaughter. And they wanted her for murder.

On the basis she worried the old boy to death, which she probably did. But they had two of their senior prosecutors had been seconded to the coroner to allow him to help them run this committal. They were very serious about it. One of them was Mr. Rainey, who went on to become famous or infamous in other ways.

He's back in practice now, I believe.

He's back in custody? Practice. Oh, practice. Good. I didn’t mind him.

He was exonerated. I quite like him, yeah. And the other one was Linda Black, who's also a senior barrister there. But they, after the first six, seven weeks, Gina, I coined the expression, Rose is mad, Gina's bad. I had no time for Gina. I thank Bruno, because she tried to brief me in it at one stage, and I was still tied up with his matters.

She sacked 11 QCs in that inquest line, and then had to come back to the first one, because she'd run out of them, and then went back to Peter Hayes and offered him more money. It almost sounds like that old expression, vexatious litigant, applies to her. Well, she had unbelievable resources, and money meant nothing.

And she was determined to stamp out this woman and get her charge. But one of the advantages was she just wouldn't, anyone who didn't do exactly as she wanted got sacked, and that's why there were 11 QCs. But another one was a private investigator who she again sacked, and who rang us.

And Jeff came in with my solicitor from Slaters, who was the whistleblower against our female prime minister, as it turned out, Nick Steinbrown. He was a solicitor involved in this. And they said, look, this bloke's got evidence, and he's got documents.

I said, well, we won't buy his evidence, because that's what we're accusing them of doing, of paying for evidence. I said, but we will pay for the documents. I said, but now, Jeffrey, one of us has to stay pure if this all blows up.

So you better go, I'm not going. And we were all very cloak and dagger. They had to go on the south side of Perth, on the other side of the Swan.

And they met at a particular bench at a particular time, and came back very excited. Look, this is just a sample of what this bloke can give us. And we found the money trail.

I mean, Gina had been paying hundreds of thousands of dollars to these witnesses. I mean, they were maids who were getting nothing. And all of a sudden, one of them was paid $240,000 for her statement and her evidence.

Now, once we blew all that up in court, the inquest was over, and there was no way that we were going to be. The director pulled out, pulled his director of public prosecution, pulled out Rainey and Linda. And Coroner had to get some young solicitor in his office to sort of sit there.

He said he was going to run it through to the end because he didn't want her going back to the Supreme Court. But he put us on strict timetable. Now, Rose was, oh, Rose, I'm crazy, right? She, she, she, she.

You sound like you're quite fond of her in a way. In a way, in a way, yes. I mean, I have a coffee table book, lovely thing with her that she put out.

Rose's Way to a Man's Heart. It's a cookbook, and there'll be a recipe or two, and then there'll be these photographs of Rose coming down the staircase of Prix du Moine, et cetera. And she gave it to me at the end, and she's inscribed it to Con, when do we get to do you know what? Your glamour girl, Rose.

Well, you've got a fan by the sound of it. What are you going to do about that fan? Totally crazy. I quickly said, yeah, you're not coming to court.

I thought you were going to say you're not coming to dinner. Certainly not. You're not coming to court, unless I tell you to.

We'll come once a week to the Prix on Monday. Then she started coming late, and I was on Melbourne Time. So I said, look, Rose, we get here at 6.30, you finally descend at eight. Not going to happen. I'm coming on Monday. I'll be there at 6.30. If by 20 to seven, you're not there, I leave. And that's it for the week. So dead on 20 to seven, this woman has got an old bathrobe wrapped around her. And I must say, not a stitch underneath.

Comes down this staircase, she's still steaming from the bath. She said, oh, this horrible man, horrible man. I'm sorry I come like this, no makeup, no clothes. I have no clothes underneath, and flashes of salt. I have to, because he says if I don't come, he goes now. And we're sitting down for dinner, and she's got those bloody poodles all over the place.

And I said, listen, if that thing yips at my ankle once more, Rose, it goes straight in the microwave. You know what a good minute of turning around will do? They'll still have a pleasant smiling look on their face, Rose, before it implodes. Come away from that bad thing.

But of course, every five minutes, a robe would come out and a sad breast would come out here or there. Well, then she started squatting to feed these bloody dogs, and God, everything that God gave her was. Now, come on, weren't you tempted? No, I was tempted, my God.

Now, the Rose of old was certainly no longer with us. In fact, that was the concluding. She had to give evidence. And I said, well, come down. And Jeff Churdle said, well, we have to, aren't we gonna prep her? I said, Jeff, I have read two autobiographies, three biographies, countless articles where she's quoted. I don't think I've found two the same.

I said, she's told so many different lies over, how are you gonna prep her? He said, what are you gonna do? I said, I'm gonna put her in the witness box, ask her a name and address and sit down and let Peter Hay work it all out. She, I said, we're coming down on Monday, though, just to tell you what to expect, Rose, because you haven't been in court. And I said, make sure there's no one there because I really don't have much time to muck around.

And I get down, there's about 35 people there, all over the place. I said, all right, bugger you, I'm going home. You be at my apartment, because we each had apartments and we're finishing off in Fremantle. And we each had, I said, you be there and we'll, I'll talk to you then. Gospel story. She arrives up and she says, I have to go back home. I haven't got time, I must go back home. I said, Rose, you haven't got time. We've got a few minutes here.

Willie was being handled, was being cross-examined and Geoff Chettle was running there. I said, what's the problem? She said, I can't go on the stand. I said, what's the problem? She said, I forgot to put my knickers on.

I said, Rose, I don't care, but it'll be windy. I said, Rose, there is nothing that all of Perth hasn't seen at least once. Now, for Christ.

You're a very bad man. She could be lovable, she could be extremely tough, extremely nasty. I mean, she divorced poor Willie or she kicked him out 12 times.

**part-13-poodles-and-dictators**

So what was the upshot in the end, after it was all over? You got the coffee table? Yeah, no. I was doing the criminal trial, Burnside. Julian Burnside was her Barrister in the civil cases.

And I came down and I told her where I wanted to stay, because if I'm there for more than a few days, I don't stay in hotels, I want an apartment. And she said, oh, but you'll come and stay at the Prix. I said, no, I don't mix with clients.

And she said, but Julian Burnside stays there all the time. I mean, he has the Ceausescu wing. They've actually named a wing in the old buildings, it's no longer there, but they named it because Ceausescu used to be a very close friend of Lange.

And when he used to come over and they'd plot, you know, that's why Lange wanted to secede Western Australia from the rest of Australia. He wanted to make it a separate country and under a dictatorship-type rule. So Julian would stay there.

I never understood that from Julian. I don't get that close to them. But when it was all settled, the civil side of it, she by then had come to Melbourne. Another very funny story.

Is she still in South Yarra? I was renting an apartment. I was in the throes of a divorce.

And I was renting an apartment in South Yarra. And the penthouse was for sale. And I heard that the penthouse, that someone had signed a contract. And I was wondering who on earth it was. And I went for dinner to Tony Hargrove, the solicitor. I went to his place for dinner.

And his brother is an estate agent at KM Burton, his brother-in-law. And he popped in to get some ski clothes for his kids or something. And he came in and he said, I had a great day today with one of your former clients.

I've just sold the penthouse. I said, to whom? He said, to… I said, I don't believe this. I dashed back. I said, is it unconditional? He said, oh, it might as well be. He said, the only condition is the dogs. There's some body corporate rule about dogs.

And that's it. I don't expect that'll be a problem. Now, I had made very good friends with a lady who's still a good friend of mine now. In fact, my partner had lunch with her today. But she was on the body corporate and in the same apartment. They owned and I was renting.

And I went to speak to her and I said, you can't waive that law. He said, Con, you know what this will do to our values? You know how much he's paying for that apartment? I said, it'll last 10 minutes, I'm telling you. Because you know what it'll do to your values when every day you've got reporters and TV cameras waiting in the lounge, et cetera.

I mean, this woman is a disaster, for God's sake. So she convinced the body corporate not to change the rules. And they weren't going to.

She had to either get rid of her poodles or couldn't go in. In the meantime, I get a call from Rose. Oh, God, I've done a very stupid thing. I can't afford to buy this place. I don't know why I signed up. I paid too much for it.

I don't want it. I said, look, Rose, I'll do my best to get you out of this. Don't get rid of your poodles. But for God's sake, don't buy anywhere else before you speak to me first, will you? So the contract was torn up over the poodles. Rose moved out of the place. Rose never went into the bloody place.

She had a dinner at the old Jacques-Romain. And I just thought it was time to sever relations, and so I didn't go. I know Julian went and Chetil went, and I refused.

Oh, I made some excuses. And that was the last I saw of her. I saw Willie a couple of times in Perth.

I'll tell you another story, but it's not really for your cameras. And I thought you were going to say a few moments ago that her whole reason for getting that apartment was so that she could entertain thoughts of becoming Mrs Con-Heliotis. No, no, no.

That was not true. Rose was sort of a flirtatious... I've got to tell you this.

We're doing the inquest, and Peter Hayes, poor bugger, he was not at his best any longer. Jeff used to hum the theme song from A Price is Right every time he came in because he'd given the brief back because he'd discovered that there was payments being made, but then he'd taken it back again. So we were each given four hours to cross-examine her.

For Reena, I had four hours for Gina instead of the week I'd asked for, but he only had four hours with Rose. And I was given an extra 45 minutes because this towering woman who screams at the drop of a hat in court couldn't speak above a whisper, and I couldn't hear her. She wouldn't answer questions.

We had to set up a microphone on law books to put it right in her mouth so we could hear her, and the coroner gave me 45 minutes extra because of the way she was prevaricating. Now it was Rose's turn, and I've got to say this for Peter. It was an unwinnable case because Rose is uneducated but has a lot of street smart, and the courtroom was, of course, all her supporters.

And time and again she would say things that were just ridiculous and would bring down the court, and Peter couldn't use his intelligence because it would look like he was browbeating this uneducated, poor Filipino woman, but she had no boundaries on her. And the coroner was such a gentleman, he wouldn't allow any bullying. But the epitome to describe how it all went was that what Peter would want to cross-examine her about was that there was a Greek doctor that Rose was sleeping with, and he was giving her all of her scripts for the pathogen that she was abusing.

And there's a party at the Prida Mall, and Rose is coming down the staircase, and the doctor's sister is climbing up. And they meet, and Rose is meant to have said to the sister, I'm going to get into your brother's pants tonight. Now that's what Peter Hayes wants to cross-examine her.

And so he starts her saying, you had the party. Oh, we had many parties in those days. It was a beautiful place.

Madam, please answer my question. You had a party, and Dr So-and-so was invited? I didn't personally supervise the guest list, but I'm sure he would have been there. He was my doctor.

And his sister was there, and at one stage you're coming down. I said, oh, I have no memory of this, Mr Hayes, but it's possible, it's possible. I won't say no if you say so.

It's not a matter of what I say, Madam, just listen. So now, as you passed her, you said to her, I'm getting into your brother's pants tonight. Oh, Mr Hayes, please, Mr Hayes.

Have you seen him? He's such a little man. I couldn't fit into his pants. No, no, no, Madam.

You were saying you wanted to have sex with him. Oh, Mr Hayes, that's possible. I say that for a lot of people.

I would like to have sex with Mr Heliotis. Look at him. Isn't he a handsome man? Mr Chettle, him too.

Even the coroner's ducking under the table right now. But then the mirth goes from her eyes, and her eyes harden. She turns to him and says, but not you, Mr Hayes.

You're too ugly. This was how she ran, so that at the end of two and a half hours, we had a break. Peter Hayes is perspiring like a tap.

She's as cool as can be, walks past him to go outside and says, oh, Mr Hayes, I'm enjoying this. Are you? And with half an hour to go, he sat down. He wouldn't complete his time with her.

Did you see the television program? Which one? Oh, the one about Gina Reinhardt and Rosalind Pearson making contact. Yes, I did. Was that any good? No.

Rubbish. And a lot of lies. It's a shame.

As I said, Underbelly really impressed me, number one. From then on, they lost track, too. And the last one they did on Tony Mockpell was just a disaster from every point of view, especially accuracy.

But I thought the Gina Reinhardt one wasn't accurate. I mean, the truth was you could write an encyclopaedia on what happened between Lange, Gina and Rose and how Gina, in effect, manipulated the old bugger. I have to ask you, because of this bizarre business of the Ceaușescu wing, how did you feel, given that you're part Romanian? Oh, I mean, I'm a strong disbeliever in capital punishment.

I mean, I rarely, as a student, did anything like that. I marched against capital punishment and violence to women. They were the only two things that ever interested me.

And I hate the thought of killing, but I've got to tell you, they handled it very cleverly. Instead of letting this thing drag out with this man becoming a martyr, et cetera, et cetera, all in a quick thing, a quick try, yes, out the back, executed him and his wife, end of story, let's move on. Ceaușescu, I don't know if you've read your history on him.

He was a very, very good dictator in the beginning. For the first 10, 15 years of his reign, he did a lot for Romania. His nickname used to be The Builder, and he built an enormous amount to rebring Romania back out of what the Nazis in the Second World War had left there.

But in the last few years, he became a megalomaniac. He wasn't so much corrupt, he became a megalomaniac. I mean, he wouldn't wear an article of clothing twice.

If it touched the royal body, it couldn't go on a second time, couldn't be laundered because someone else might touch it, and then it had to be burned because having been on him, it couldn't go on to someone else. Now, this sort of extravagance when people are walking around with rags on their feet because they can't afford shoes, and then he had what killed him, what was his ultimate folly. There's a palace that he built in Bucharest.

It's a fabulous place. He wanted to copy the Versailles, and he not only needed to have this magnificent palace, which now the government of Romania uses as their headquarters, but he wanted this fabulous esplanade leading up to it, and the street wasn't wide enough, so he ordered the acquisition of all the houses and shops and everything else on both sides, had them destroyed, just so he could expand the roadway into this wonderful promenade leading up to it. It was to be his home, but remember in those days, Romania had the lay, and the lay was not, you couldn't transact it on the foreign exchange.

So that's why no Romanian was allowed to possess foreign currency because he needed to accumulate it to be able to trade with other countries. It was 10 years. It was a 10-year jail sentence if you owned, if a Romanian owned them, and the net result was that if you owned a packet of cigarettes, if you had an American dollar, you'd get them for 20 cents.

If you had lay, it would cost you $3. But to be able to build this thing where he didn't have the foreign exchange, he had to borrow some ridiculous amounts of interest, and he crippled the country. And shortly before this palace was finished where he was going to live out his days, they obtained it.

**part-14-getting-on-judges-wrong-side**

Have you done many judge-only trials? No, I haven't. I've never done one. Because I know, I read a robust exchange that was reported with Justice Gillard.

This is at the time when Tony Mokbel absconded. He wanted me to stay on and finish the trial. Yes, you were asked to stay on and you said no, you weren't going to.

And that led to a bit of an exchange that was described as fiery, robust, you name it. He wanted me to really lend an imprimatur to the propriety of the trial going on without him. That was all.

But if you read it, he was the bloke who originally said you couldn't go on. And then by day two, well I'm not sure. By day three, I'm not sure. By day four, well any man of your experience and common sense would know you have to go on. And that's what prompted that exchange of your common sense and experience on Monday. In the meantime, because I'd been to the Ethics Committee and they'd all said you can't go on.

It was a shame because Bill and I were quite good friends. Good acquaintances would be a better way of describing it. And we finished up, he reported me for that to the Ethics Committee.

Of course, they advised me so that got nowhere. He sent a report to the Solicitor General. Pamela Tate rang me to say Con, don't worry about this.

I'm certainly not going to do anything about this. It's ridiculous and I've told the judge. But it finished up on a very bitter note.

So much so we bumped into each other at a play about four or five months ago. And we exchanged hello, but there was just a coldness there on his part that was quite unfortunate. I regret it, but he outsmarted himself.

He gave Tony bail to make sure the trial would get on. It was to be his last trial before he retired. And we had all these reasons why we had to adjourn.

And he wanted on in February. So when Tony had got bail in the Magistrates Court, we went up to him. And I was sure we'd lose it because he was already on a drug importation charge.

And he came out and he said, Mr Mokbel, the prosecution says you're a danger of re-offending, an unacceptable risk. And I said, I think you are, if you commit a small crime. But you don't.

Your crimes all take a lot of planning and setting up and literally months of work. Now your trial is due to start in three months' time. If you give me an undertaking, after speaking with Mr Heliotis, that you will not apply for an adjournment, then I will give you bail because I don't think in three months you could plan a crime.

Therefore, I don't think you're an unacceptable risk. But if you were to apply for an adjournment, then you would have time. And so you would be an unacceptable risk.

I wouldn't give you bail. And I came back and I remember saying to Miriam, this silly bugger has grown smart somewhere. Very smart little ploy he's used there to obtain his out-on-bail.

Of course, it all backfired. He, Billy, you knew his father. His father's nickname was God.

Old Gillard was, Ollie was a fearsome man. I mean, you tremble in front of him, but a fiercely smart man. I'm not sure that Billy inherited the smarts, but he got onto the Supreme Court.

He did a very, very good job of it all. Didn't create puddles or waves. And at the end of it was going to retire with an honourable career behind him.

And he kind of retired with the epitaph, that's a silly bugger that gave Mokbel bail. Can you believe it? And it just absolutely aided him, it really did. But that's a, it was, I just felt very strongly that I couldn't go on without a client there.

And he, by that time, felt equally strongly that he, that I should be there. So, when he started to threaten me, particularly saying, well you need my leaf to go. I said, no I don't.

That's when he got it. And for some reason, I've got no idea why, how, that of all bloody things is played. If you Google me, that comes up on the internet.

It does. A number of people have come and told me I've read that exchange between you.

You must be tired of it. But I suspect if you wanted to get busy and put in a lot of other things about yourself, say on Wikipedia and things, you might find that slips down the search list somewhat.

You know, Tony didn't nick off because of that trial we were running either. Tony, the trial was going exactly the way we planned.

We thought we had a very good appeal point and that we would, if we didn't win it with Gillard, and we almost did, he changed his mind at the last minute, we'd win it on appeal. And if we didn't, Tony figured he'd get five years or something doable. No, what happened was that Brincat, the bloke who used to be the shooter for Carl Williams, he had turned and done a deal with the Piranha Task Force, in which he told all and ended up with a ridiculously light sentence for three or four murders.

He got 16 years or something. But part of what he put in his statement was that Tony was responsible for a contract on two people, including that killing in South Yarra, the bloke who was shot in front of his son. It was a murder trial that I did for Carl, and he was convicted of that one.

But, as I said, I never for a moment believed Mokbel was a murderer or wanted murders committed. But I came down, it was on a Thursday, and I'd meet him downstairs at Wheat's, it was in those days, and he would be having a cup of coffee, I'd pick him up, we'd go on to court. And I went down on this occasion, and he was reading this 28-page statement that Brincat had put together, and that Zara Gard Wilson, who sort of was still semi-acting for him, had sent him across.

I don't think there was anything wrong with that, there'd be no prohibition order made by Betty King, but he said, do you think they'll charge me? I said, of course they will. Piranha's charging everyone. He said, but I haven't done this.

I said, well, the big problem you've got is the problem that Carl Williams had, and that is the publicity. Everyone in the community now knows you as not being a particularly nice man, and that's going to weigh heavily in any trial. He said, well, when do you think they'll charge me? Now? I said, no, I don't think they'll want to rock the boat on this trial, so they'll probably wait until the jury goes out and they'll charge you then.

If I was angry with him for one thing, he might have given me a hint, because I spent a whole bloody weekend in here preparing his final address. He didn't turn up on Sunday, and Nicola rang me to say he wasn't there, and I said, well, it's not surprising, he sets his own rules. And then, of course, the rest of it.

But it wasn't this trial, it was what he was facing next that was the trouble. Yes, yes, and again, that's just but for a twist of fate in a way. And as it turns out, we were right.

Peter Morrissey, he rang me to see if I'd act for him. I said, I can't, I've told the whole world you ran out on me, Tony, I can't. So he went to Peter Morrissey, and with all that publicity, I mean, no man had got the publicity, especially that wig and so on.

With all that publicity, Peter got him acquitted. He was acquitted on the first murder, and the prosecution didn't even proceed to trial on the second. But it was what set the whole train in motion.

**part-15-concluding-observations**

Are we seeing a resurgence of violence, do you think? I don't know where it's going. When the gangland boys were largely either killed or sent to jail or retired, the Lebanese Middle Eastern clique took over. They didn't have the same brains as the old boys, and they were far more violent.

They more or less have shot themselves out of existence, so they're either in prison or awaiting trial. They're still a nuisance out in our past sunshine way, but not the force that they threatened to be, where they really looked as though they were taking over. I'm not sure where we'll go next.

Sydney got a touch of the Asian, the Japanese, what do you call them? Yakuza? Yakuza. Yeah, no, the other's more the four-letter word. But I did a trial for one Chinese gentleman there. It just frightened me how much they were infiltrating into the- Triad? Triad, sorry. Yes. Four-letter word.

Close enough. He was the head of a triad. You'd never know him.

He looked like a toilet cleaner. Multi, multi, wealthy bloke. A huge young guy.

Machete. He used to just go and take over an area. Have you ever feared for your life, for yourself? No.

Never? No. Any time I've been threatened, I was prosecuted. Firstly, crims or accused crims know that I will, within the law, within the rules, I will do my best for them.

I mean, when Carl Williams was being led away, having been convicted, he stopped by me and said, it wasn't your fault, mate, I want you to do my next murder trial. So they know I'll do my best for them. There's no real reason then to- We're not their enemy.

Their enemy is the police, the state. I don't think any- I can't think of any criminal Barrister that's been hurt or killed in Australia, in the whole of Australia, by- I mean, you may not remember, but there was a shooting in the Supreme Court many years ago. Phil Cummins was running a very heavy trial.

There were two heavy criminal trials going on. There were three people, I think, killed. I remember Cummins burst into my chambers.

I was on the top of the first floor. That's why Jack Lazarus would often stop there. And all he could say to himself was, blood is not red, blood's black.

Just repeat it. I mean, that all happened right in front of him. But the interesting part, with two very heavy criminal trials going on, it wasn't the- It was a civil case between neighbours that had brought about the killing.

Nothing to do with criminal law. The family court got its fair share. That's perhaps to be understood.

Apart from anything else, they did something I suggest that they shouldn't do, and they got rid of their wigs and gown. So all of a sudden, the man who was taking your kids away and your property away was just an ordinary individual that I could track down. But I can't think- And the solicitors that have been killed or attacked have been assassinated or been killed not because of the law, but because of their connection.

I mean, Condello, now Pena, who, by the way, a very, very gentle man, very gentle man, briefed me a bit. But it wasn't his- There was some talk that Mr Barbaro, who got 33 years, was unhappy with Pena, but it's much more likely to have been someone in the area he was mixing in where he wasn't either tough enough or clever enough to mix in a wig. But I can't think of other barristers or criminal barristers who have been threatened or killed.

No, we're not the enemy. You're saying it's been 46 years. Are you taking it to 50? Are you going to keep going? This is Canavan’s story, isn't it? Well, it's always a question I have for- Canavan wants to make it to 50.

Do you want to keep going, though? It sounds as though you're not talking about retiring, are you? Or are you? Well, I said to Chris, well, there's nothing- I mean, I don't want to travel. Travel is my hobby. I don't want to travel all year.

I don't want to play golf every day. The plan was that I would work only half a year. I hate winter, so come the middle of June, I disappear until October, Christmas.

And you work six months, and that was good. They've hijacked this year completely. I mean, these long trials and the lead-up to them are just- most of the year will be at work.

There's no doubt that with heavy trials, getting to the barrier of every one is a little bit more difficult. I think Judge Morwood said when he went on the bench that he thought 25 years was about the useful life of a criminal defence barrister. It's getting harder to get there, and there's no doubt days- because I work early in the mornings.

I'm usually here by 6.30. And there are many mornings when I know that my retired friends are out on the golf course, and it's a beautiful day, and I'm thinking, why the hell am I here? I don't know. I said to Chris, I don't have plans. One day, something will piss me off.

Probably a judge. Could be a client, could be a solicitor. Something will annoy me enough, and I'll come in.

I'll say, Miriam, pack it all up. I think we're coming back tomorrow. And that's when it'll all finish. I don't see myself sitting a date or a time when I'll stop the whole business. A judge went close last year. A judge went close.

Really close. A client that I really, really wanted to get a short term ended up with seven years, which at his age was almost a death sentence. Do you like that quote in Rumpel when he groused about judges having a case of premature adjudication? By and large, they're not bad anymore, the judges.

The Supreme Court's got some fabulous criminal law judges at the moment. The county court's a bit of a mixed bag. I'm not aware of the personalities that were here when I first started.

The judges ran everything and ran it tough. We got fined. I got fined once because, again in those days, juries got locked up.

It wasn't taken easy that you'd let them go home. If you locked them up at, say, 4 o'clock or 3 o'clock, you'd want them to sit until 10 o'clock or longer. Judges, as they now do, won't be available for a verdict between 1 and 2 because I'm going to have lunch, and we're not available between 7 and 8. The three of us, there was another defence Barrister and a prosecutor, and I went off to a pub or somewhere to have dinner.

And when it came time to pay, I didn't have any money on me and that place wouldn't take a credit card. So I had to go back to the motel where I was staying, get some money and go back and pay. And we ended up, we were about five or six minutes late, and the judge's tip staff was out there saying, get in here quick.

It's 5 or 10 past 8. The judge has got the flu and he's self-medicating, and I'm sure that's what he did. But he brought the jury in, and they're waiting in there, and he is sitting on the bench, and we, of course, have left our gowns and everything there, so we have to walk in and take our jackets off and put on in front of him watching. And all he wanted to do was to say to the jury, look, everyone would like you to reach a verdict.

It's important that you try to come to a resolution, so please do your best. Now go back out. That's all he wanted.

And we all got up to go and he said, now, gentlemen, in re haliothis so-and-so and so-and-so. He said, dealings for contempt of court. You are not here.

You are not available at 8 o'clock when I said you should be. I had trouble because he's clearly off his rocker, and I'm biting the inside of my cheeks because I'm trying not to smile. He said, well, you will be fined, and I'll impose the fine of, I think it was 20 pounds, 20, 30, 50, some ridiculous amount each.

And we're about to go, and he's left the bench. He comes back and says, no, back in the court. I said, actually, we'd actually disperse.

He goes, all back in the court. I've been thinking, maybe a conviction for contempt is a bit too harsh on each of you. I want your assurance that you'll contribute that amount to the poor box, and on top of your assurance, I want the receipt from the sheriff's office shown to my associate.

He'll show it to me. And if that's done by tomorrow, then the chapter will be at a close. But this is the way judges, the bad judges behaved in those days.

It sounds like there's a new phrase that needs to be invented, death by judge or something along those lines, even though there's no such thing anymore. You came to court without knowing your work in those days. Some of them could be ferocious.

Some of them were incompetent. Nothing changes. Con Heliotis, it's been a great pleasure.

Thank you very, very much. I actually enjoyed it. Thank you.

We have too. Thank you.