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Theodore Simos (1924-2009) Barrister and Supreme Court Judge.

Theodore Simos was in a legal conference over the Spycatcher case one day when he took a telephone call from his daughter, Elizabeth. The young girl wanted to know how to load a film into a camera.

In Spycatcher Simos represented the British Government, with Sir Michael Havers, QC, the British attorney-general, and was opposed by Malcolm Turnbull. The unflappable Simos, QC, took his daughter through the procedure step by step, while the lawyers waited to resume their conference.

It was the quiet, measured, undemonstrative approach that Simos, who went on to become a judge on the NSW Supreme Court, brought to everything he did.

Theodore Simos, who died at the age of 75, was born in Katoomba, to Zacharias Simos and his wife, Mary (Manateros). Zacharias had left his home on the Greek island of Kythera in 1914 and caught a boat to Australia. He was 14 years old, quite alone and looking for work. He found it in Greek cafes in Tenterfield and Sydney.

In 1916, with the world at war, Zacharias established a café in Katoomba and called it the Paragon, meaning model of excellence. In 1934, with the world in great depression, Theodore was born at the Paragon. Some time after that Simos snr framed a testament to the work ethic and hung it on a wall in the café, "I am the salt that gives life its savour....I Am Work."

The Paragon was later listed on the register of the National Trust, as a three-chambered art deco café-tearoom famous for its chocolates, sprung dance floor and marble fountain. Today it survives relatively unaltered.

Theodore attended Miss Long's school in a Katoomba Church hall, Katoomba Primary School, St Bernard's College, Katoomba and Sydney Grammar School before proceeding to Sydney University at the age of 15. During his undergraduate studies he won many awards and prizes including the John Geddes Prize for Equity, (1954), the Sir John Peden Memorial Prize for the greatest proficiency shown in the subjects of constitutional law, the law of property and private international law and the W W Monahan Prize Scholarship for the highest proficiency in the examination in evidence. He became the university medallist in law, (1956), in a year that included other future judges, Barry O'Keefe and Andrew Rogers. He then took a bachelor of letters degree from Oxford and a master of laws from Harvard.

Having served his articles of clerkship with Messrs Dowling Taylor Pratt and Nicol, solicitors, of Sydney, he was admitted to the Sydney bar in 1956. He read with Anthony Mason, later Sir Anthony, who became Chief Justice of the High Court. Sir Maurice Byers became another mentor.

Simos made his name in equity, commercial law and intellectual property, arguing appeals before the High Court and the Privy Council. Appointed QC in 1974, he also lectured at the Sydney University Law School, was a member of the Australian Law Reform Commission and served on the NSW Bar Council.

His most remarkable case as a barrister was the Spycatcher trial. The British Government was trying to suppress the memoirs of Peter Wright, a former MI5 agent. The High Court ruled that the case involved political questions and was not suitable for determination in Australian courts.. Turnbull successfully defended Wright, eventually blocking the British attempts in their courts.

Simos also assisted the Senate committee in its examination of the High Court Judge, Lionel Murphy.

Throughout his career at the Bar he maintained an active interest in legal education and the administration of the Bar. Between 1964 and 1969 he was an examiner in Equity for the Barristers and Solicitors Admission Boards. Between 1966 and 1974 he was a lecturer (part time) in Equity at the University of Sydney Law School. He served on the Council of the New South Wales Bar Association, as Secretary and Treasurer in 1966-1967 and 1976-1977. Simos was also editor of the Australian Bar Gazette, 1966-1970, a member of the Barristers Admission Board, 1978-1980, President of the Sydney University Law Graduates Association, 1984-1991 and many other committees and associations.

Rumours that Simos was to become a Supreme Court Judge had been around for more than a decade before his appointment in 1995.

One reason it was so delayed stemmed from the Yates Properties v Darling Harbour Authority case in which Yates brought a negligence action against solicitors Abbott Tout and barristers, including Simos.

Yates claimed that he should have received more money after the Harbour Authority resumed his land in 1984. Proceedings dragged on from 1986 until the High Court decided in 1999 that the lawyers were not negligent.

On the bench, Simos was seen as conservative but not narrow, cautious but fair. He was a legal scholar whose powers of reasoning were admired, a good listener who arrived at judgements through the application of principles. "I hope I'm not too conservative," he told the *Herald* in 1995. "We live in times of change, I embrace change but not for the sake of change"

He retained much of the Greek attitude in family. His mother, Mary, who lived to be 88 and worked at the Paragon until late in life, would find a table for anyone in the legal fraternity who knew her son.

He married Helen Donnelly in 1962 and they had three children, who shared family holidays at South West Rocks on the Macleay River where he fished. He would often walk to work in the city from Centennial Park and was once picked up by a bus driver who recognised him as a fellow fisherman. Simos became somewhat reclusive as Parkinson's Disease took hold of his body, preferring people to remember him as he had been.

A private funeral was held on June 2nd 2009, followed by a memorial service at St Francis of Assisi Church, Paddington on June 26th 2009.

Theodore Simos is survived by his wife, Helen, three children, John (Jack), Paul and Elizabeth and their families including eight grandchildren.

Theodore Simos was initiated, passed and raised in the three degrees of craft masonry on 18th January 1967, 19th May 1967 and 17th January 1968 in Lodge Murrumbidgee No. 37, UGL of NSW and ACT and affiliated with Lodge Bland No 337 on 21st September 1972. He was struck off both lodges on 15th August 1979 for nonpayment of dues.

Theodore Simos' father, Zacharias Simos, was also a freemason, having been initiated, passed and raised on 21st February, 17th April and 19th June 1928, in Lodge Leura No. 323, UGL of NSW & ACT and calling off on 20th May 1953.

Ref: Stephens, Tony, SMH June 2, 2009

Meagher R P, Australian Law Journal, August 1995
Records, UGL of NSW & ACT.



Theodore Simos ... from Katoomba cafe to Supreme Court bench.