

Spycatcher case second to daughter's query

Theodore Simos, 1934-2009

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 has died at 75, was born in Katoomba, to Zacharias Simos and his wife, Mary (Panaretos). 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.

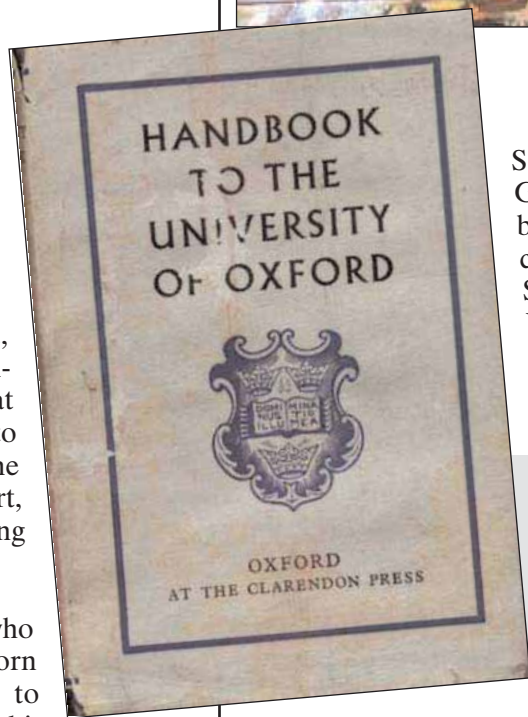
In 1916, with the world at war, Zacharias established a cafe at Katoomba and called it the Paragon, meaning model of excellence. In 1934, with the world in great depression, Theodore was born at the Paragon. Some time after that, Simos snr framed a testament to the work ethic and hung it on a wall at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

The Paragon was to be listed on the register of the National Trust, as a three-chambered art deco cafe-tea room 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 and



TOP: Paragon Cafe, 2004, with Simos family photographs still prominently displayed. LEFT: Theodore Simos's Handbook To The University Of Oxford



S y d n e y
G r a m m a r
before proceeding to
S y d n e y
University at the age of 15.
He became

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.

One reason it was so delayed stemmed from the Yates Properties v Darling Harbour Authority case, in which Ian 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 company's 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 to be conservative but not narrow, cautious but fair. He was a legal scholar whose powers of reasoning were admired, a good listener who arrived at judgments 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 atti-

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the university medallist in law, 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.

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 memorable 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

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



Photograph of Theodore Simos as a young boy

tude to 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 memorial service will be held at St Francis of Assisi Church, Paddington, at 2pm on June 26.

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

Tony Stephens
Article from the Sydney Morning Herald