

**CEREMONIAL SITTING IN THE MELBOURNE
MAGISTRATES' COURT**

**WELCOME TO MAGISTRATES STEPHEN BALLEK AND
COSTAS KILIAS**

**By Simon Marks QC,
Vice President of The Victorian Bar**

**Melbourne Magistrates Court,
Wednesday 14 November 2018 at 9.15 am**

Opening and Acknowledgement of Traditional Owners

May it please the Court.

I appear on behalf of the Victorian Bar to congratulate Your Honours Magistrates Ballek and Kiliyas, on your appointments to this Court.

I acknowledge the Traditional Owners and Custodians of the land on which we meet, the Peoples of the Kulin Nation, and pay my respects to their Elders, past and present.

Your Honours were appointed and sworn-in some time ago and are therefore well into each of your sitting lives.

It is nevertheless a pleasure to welcome you both on behalf of the Victorian Bar.

Magistrate Ballek, you were a member of the Independent Bar for more than 7 years, having signed the Bar Roll in 1994 and read with Duncan Allen (later S.C. now a Judge of the County Court). However, as you came to this Court from more than 13 years in

practice as a Solicitor, principally in the Office of Public Prosecutions, and most recently, as a Principal Solicitor-Advocate, I will, in accordance with the practice in ceremonial sittings in this Court, defer in making my remarks, to the President of the Law Institute who, will welcome Your Honour more comprehensively.

May I, then, address some more specific remarks to Your Honour Magistrate Kiliias, who was appointed to the Court, from your practice as a Barrister.

Prior to your appointment in October of this year, your Honour had practised Law for more than 32 years – having been admitted to practice in April 1986.

Of that time, you worked for around 3 years as a Solicitor before coming to the Bar in the March 1989 Readers Course.

For the remainder of your career at the Bar Table, (more than 29 years), you practised as a Barrister. You appeared in all the Victorian Courts, on a mostly daily basis, including appearances in the Victorian Court of Appeal.

Your Honour was born in Carlton but raised in Port Melbourne to Greek migrant parents. The eldest of three sons, you attended the local State Primary and High Schools: Port Melbourne Primary and then Albert Park High School.

Your father, who is in Court today, came to this country from Greece in 1954. He was a Master Carpenter – whose skills were recognised among others, by the Bar, through the specialised contract-work undertaken by him in Owen Dixon Chambers West for the company responsible for providing barristers with chambers - Barristers' Chambers Limited.

Your Honour's late mother came to Australia in 1957. Having completed High School in Greece, she had won a scholarship to the University of Thessaloniki – one of the oldest and highest-ranked Universities in Greece. But, the times being as they were, and your mother being a girl in a family of traditionalist views, she was not permitted to take up her scholarship.

She did, though, have a passion for books and learning – passions which, I suspect, in those formative years, led you to the library rather than the lathe.

She had already met your father in Greece (she was the sister of his best friend) before his departure for Australia in 1954. She followed him here three years later (1957). She brought with her, her passion for academic pursuit. She was fluent not only in Greek but in French; regrettably, no English.

So, born in Carlton, you grew up here in Melbourne in a Greek house, full of books, your mother's intellect and passion for languages (other than English), and your father's practical skills; but as an intelligent and outgoing boy, you were fast developing your own enthusiasm and love, for all that Melbourne had to offer.

You began an Arts Degree at Melbourne University majoring in Classical Studies and Languages – (Modern Greek, Ancient Greek and Spanish). Your initial career plan was to be a High School teacher. However, you did very well at university and re-

calibrated your career sights to extended graduate study and University teaching and scholarship.

An Honours course in ancient history: Roman History and the codification of Roman Law, sparked, so I'm told, an interest in the modern Law (that, I imagine, to the relief of your parents). You began a combined Law degree course and deferred your Honours thesis 4th year Arts. It was, of course, also at Melbourne University that you discovered, and indulged, your passion for acting.

But it was Professor David Lanham's course in Criminal Law, however, that was your Legal epiphany. It was then you really started to give serious thought to a life of crime [in crime].

With characteristic enthusiasm, you began Articles just 3 days after your last Law exam.

Your Principal was Kevin Zervos (now a Justice of the Court of Appeal of the High Court of Hong Kong). You completed your Articles with his brother Nick Zervos.

Your Articles year followed by your years as a Solicitor exposed you to general practice in the law, you

undertook work in Family Law, Personal Injuries, Property Law and Defendants' Insurance work.

Eventually, you made the decision to come to the Bar and enrolled in the March 1989 Readers Course. You read with Daryl Wraith – a noted Criminal Law Advocate – recently retired from practice.

You began, as most young barristers do, taking whatever work came. The turning point for you though, was a Junior brief to David O'Doherty, defending Hugo Rich on multiple armed robbery charges. If one includes preparation time, this case occupied you the best part of a year.

A spin-off benefit of your work with O'Doherty was your acceptance into the third floor of Equity Chambers – Gorman Chambers – highly-regarded Criminal Law Chambers.

How you arrived there is worth mentioning. A room became vacant and you asked O'Doherty to plead your case. He did his best for you – but came back with bad news – “it's your name – it's Greek – not Irish”.

Quick as a flash, Your Honour said: “That’s easy. My Chambers-name is “Connell O’Kilias”.

A short supplementary submission, containing this new, novel and persuasive approach was put, through O’Doherty to the Chambers doyens, and the power of the point was recognised. Yes, there was definitely something Irish there, most obviously the dry wit. The argument won the day. The room was yours – with all the wits and charmers of Erin won over by the charming wit (and Hellenic warmth), of Connell O’Kilias.

In practice, your Honour has, over the years, mostly appeared without a Leader. However, there are many fine barristers who testify to Your Honour’s graces and abilities:

Robert Richter says:

Your Honour is “a delightful companion in the battle”; and

You are the only Junior he’s had “whose acting talents exceed [his] own”; and

Bruce Walmsley had kind things to say too:

In a murder trial, he assigned to Your Honour the important task of cross-examining a key witness – the accused’s girl-friend who gave evidence for the

Crown as to how she cleaned his contaminated clothing;

The acquittal was good; but

He, Walmsley, found himself having to adjust to being invisible on the way to and from Court; everyone's attention being on his Junior.

Of course, away from the Bar, your Honour is among Australia's more recognised faces.

You have always had a deep interest in the Arts, particularly theatre, cinema and music. But it is your work as an actor that is most well-known.

I mean - who among those of us that regard ourselves as truly Australian doesn't remember your Honour in the film role that, for good or bad, defined you: playing Darryl Kerrigan's Lebanese neighbour in *The Castle*. It is not an overstatement to say that that film, notwithstanding its modest beginnings (and budget - \$750,000), has become an Australian classic; and of course you, Farouk, (I mean, your Honour), were in the midst of it.

Funnily enough, even yesterday, the Australian Newspaper was reporting that major energy operators, were quoting the “Castle Defence” in their response to Federal Government threats of potential divestiture of electricity assets through proposed newly minted laws to be enforced by the ACCC. Of course, that “Castle” defence (better known to erudite lawyers such as Lawrence Hammill QC as s.51(xxxi) of the Commonwealth Constitution) prevents the Commonwealth from acquiring property on other than “just terms”. To see it so named as one of the energy companies’ fight-back strategies reminded me both of the beauty in its simplicity, and the joy of that film. I should say that I could see no reference whatsoever in the Australian piece, to any letter being sent from the solicitors for any of the energy companies to the Chairman of the ACCC, suggesting that he “suffer in his jocks”. Whether that may come later is (without being too cute about it) probably in the lap of the Gods.

Although that film made your Honour famous, Your Honour’s broader skills and abilities as an actor, on stage; on television; and in films, has been well recognised. Apart from a number of other successful

films (*The Wog Boy* and *The Kings of Mykonos*), for years and years, you have hosted radio shows (including *The Big Con-Spiro-cy* and been a regular contributor to SBS's *The World Game* radio show and others). You've also had interests in *Tudor Court* Receptions; and in *The Ticket Office* restaurant with Rebetika music.

Socially, in each of Your Honour's communities, Your Honour has always been a real contributor.

As a son of Port Melbourne, you have passionately supported the Port Melbourne Football Club and the Port Melbourne Soccer Club, with whom you played as a Junior, before years in the Premier League St Kilda Hakoah Football (Soccer) Club.

In the Greek community, you have acted as MC without fee for Charity events. And have, for years, committed your Saturday mornings to your radio shows and appearances.

At the Bar, you served on a number of Bar Committees: these have included the Bar Council in 1995 (with David Habersberger at the helm); the Clerking

Committee in the same year; the Equality before the Law Committee in 1995 and 1996 and the New Barristers Committee. A substantial contribution. You also served as Committee member of the Criminal Bar Association in 1996.

And Bar records show that you opened the bowling for the Bar Cricket Eleven on a number of occasions; indeed, a certain source described you as “a devastating fast bowler to be greatly feared”. As that source turned out to be you (perhaps I won’t make too much of the point).

In your professional practice, Your Honour has always been meticulous and thorough in taking instructions; and in your preparation of cases. Those who have observed you say you were always interested – you had your heart in each case; and you engaged your mind, your significant intelligence, and of course, your aptitude for lateral thinking. What I learned was that your Honour cares about people and communicates easily with them.

At your heart you have a kind disposition and great sense of humour.

I can't help thinking of that story of your good fortune at Crown Casino when, having playing blackjack with your friend Tony, you left Crown early in the morning to travel to movie set for the filming of *The Castle*. You'd just won about \$3,000 which you'd collected in 60 \$50 notes. When Darryl Kerrigan asked you, his Lebanese neighbour Farouk (Costas Kiliyas), to contribute towards his legal costs, you produced a wad of cash (all your winnings from a few hours earlier at Crown Casino). Kerrigan then uttered those immortal words: "What is about wogs and cash?"

But more seriously, you have been prepared to stand up and be counted for causes. I like the YouTube posted a couple of years ago by the Law Council of Australia: "Legal Aid Matters"
<https://www.youtube.com/watch?v=0IPMyhckEbM>

On behalf of the Victorian Bar, I wish Your Honour joy in your appointment.

More generally, may I extend the welcome of the Bar to both Your Honours.

May you both enjoy long and distinguished careers, and satisfying service, as Magistrates in this important Court.

May it please the Court.