

HELLENIC AUSTRALIAN LAWYERS

ASSOCIATION INCORPORATED

Queensland Chapter Launch

Chief Justice Robert French AC

30 January 2015, Brisbane

Mr Varitimos, Chief Justice Carmody, Chief Justice Kourakis, my colleagues, Justices Kiefel and Keane, your Honours, Mr Panna, ladies and gentlemen. My thanks to Justice Philippides for inviting me to launch the Hellenic Australian Lawyers Association in Queensland. I also congratulate her on her appointment as its Queensland Patron.

I notice that when Chief Justice Kourakis launched the Association in Victoria in April 2014 he began by observing that it was probably important that, in accordance with Greek custom, he establish his Hellenic credentials. That was readily done beginning with the suffix 'akis' which indicates a Cretan heritage. He told of his grandfather's travel from Crete to Ikaria and his father's escape from the impending occupation of Greece before World War II and his migration to South Australia.

Sadly, I have no Hellenic qualifications. I have no Greek ancestry. I am not married to a Greek. I did not learn the Greek language, ancient or modern, although I became well acquainted with the Greek alphabet when studying physics and mathematics at the University of Western Australia. Every letter of it seems to designate an elementary particle or species of radiation or mathematical notation, as well as numerous astronomical bodies. And as a student I can still remember reading a plaque on the outside of the Physics Building at the University of Western Australia with the astonishing insight of the philosopher Democritus 2,500 years ago that:

In truth there are only atoms and the void.

I have read Greek tragedy and dipped into the Greek philosophers. As a young practitioner in Perth I got to know some fine Greek lawyers.

None of above makes me Hellenic. However, that deficiency does not leave me either uneasy or hesitant in performing the task which I have been set today. And in that connection I have been considerably encouraged by the example set by Justice Kyrou, the Patron of the Victorian Chapter, who is present this evening, and who recently launched the Asia Australian Lawyers Association in Melbourne.

Australia's cultural and legal traditions have links to Greece, ancient and modern. Some of these show up in ordinary English usage. When people speak of a law as draconian they invoke the spirit of Draco, the Greek law giver of the seventh century BC. Many, if not most, of the offences he created were capital offences. One of those capital offences was said to be idleness. His great successor, Solon, received a better popular historical press although he too had some elements of the draconian about him. He prescribed the death penalty for far fewer offences than Draco, but one of those which he treated as capital was drunkenness by a magistrate.

Under Solon's laws citizens were permitted to form associations among themselves for certain purposes, including burial and dining clubs, trade companies and privateer companies.¹ Those associations could draw up regulations which were valid so long as they were not in opposition to any law of the State. He also believed that citizens should participate in civic life and was said by Aristotle and Plutarch to have enacted a law prohibiting neutrality in intra-mural community dissension on pain of loss of citizenship. Its object as Plutarch explained it in his *Life of Solon* was:

That people shall not be apathetic towards the common weal, arranging for the safety of their private interests and priding themselves on not sharing the griefs and ills of their country, but that by taking at once the side of the party whose cause is the better and fairer, they shall share in the danger and render aid, rather than await in a position of safety the policy of the victors.²

He also provided an interesting mechanism for citizen participation in law reform. According to Demosthenes, he instituted a procedure under which a citizen who disapproved of an

¹ Kathleen Freeman, *The Work and Life of Solon* (Legal Classics, 1926) 138, 127 citing Gaius Digest xxi, vii, 22.4.

² Freeman, above n 1, citing Plutarch's *Life of Solon*.

existing law could bring an indictment against it proposing a law of his own as a substitute.³ The case would be heard by a jury. The proponent of change acted as prosecutor and the State defended the existing law. If the new law was approved all inconsistent laws were automatically repealed. It should be noted, however, that Solon also provided in his law that his Code was not to be touched for ten years, some reports say 100 years.

Solon, the law giver, was mentioned in a decision of the High Court in 2011,⁴ dealing with parity in sentencing in relation to Crown appeals. In a joint judgment of Justices Crennan and Kiefel and myself, we referred to the term 'equal justice' as an aspect of the rule of law embodying the norm expressed in the term 'equality before the law'. We mentioned in a footnote the ancestry of that term in the concept of 'isonomia' from 'isos' meaning 'equal' and 'nomos' referring to law, norm or order or perhaps 'nemo', referring to distribution. The word was thus capable of denoting equality before the law and equality of distribution.⁵ Although attributed to Solon, the term seems to have had a rather complex provenance. It travelled to England under the name Isonomy in the 16th century and then, according to Hayek's *Constitution of Liberty* was displaced in the 17th century by 'equality before the law', 'government of laws' and 'rule of law'.⁶

It is a truism that the laws and philosophies of Ancient Greece and the democratic principle which informed its societies are linked to our own cultural and historical heritage, including the idea of the rule of law and equality before the law. Justice Philippides will say something more of this in her closing remarks. Hellenic lawyers, in particular, are the inheritors of a tradition and culture which commences with Ancient Greece and stretches forward over more than two millennia to the present day. They are also therefore the inheritors of a contemporary culture, manifested in the art, literature, design, song, dance and food of the Hellenic Republic. As part of the wider Hellenic community and diaspora they are custodians of that culture and the long traditions and history that lie behind it. With an outwardly directed focus they have much to offer the Australian community and this Association can be a vehicle for that offering.

Our civic culture needs the nourishment and renewal which comes from the contribution of diverse cultural perspectives within the framework of our democratic

³ Freeman, above n 1, 133-134.

⁴ *Green v The Queen* (2011) 244 CLR 462.

⁵ K A Raaflaub, *Isonomia — The Encyclopaedia of Ancient History*, (26.10.2012).

⁶ *Green v The Queen* (2011) 244 CLR 462, 472 [28] fn 70.

traditions of the rule of law, mutual tolerance and participation in civic life manifested by a great Australian volunteerism. For Hellenic lawyers the mandate of Solon for civic engagement requires nothing less. There is a particular value in the contribution of members of the Australian legal community who know how to engage effectively across the boundaries of ethnic diversity within Australia and beyond with the countries with whose history and culture and language they are most familiar.

It is encouraging to see an outwardly directed civic perspective both within and beyond Australia reflected in the purposes of the Association. Those purposes include the fostering of friendship, trade, cultural and educational exchange between lawyers in Australia and in Greece, as well as lawyers in other countries. They also include the establishment of links between professional bodies in Australia, Greece, Cyprus and other countries, particularly those with an Hellenic diaspora.

An appropriate inwardly directed focus reflected in the purposes of the Association is on the assistance of those in need in the Greek Australian community in finding solutions to legal problems. As Australians, we welcome and are enriched by our diversity. Our people now come from 180 different countries. More than 40 per cent of Australians were born overseas or have at least one parent who was born overseas. That mix is a huge strength of our society, not least by its enhancement of our ability to engage at many levels in the international community. With that strength, however, come challenges, particularly the problems of adjustment for new arrivals and members of ethnic communities who arrive here later in life. Many in our migrant communities need support in a variety of ways to acquire a practical awareness of our constitutional and governmental arrangements, our legal system, and how our courts work. In their day-to-day work, as well as in public outreach on a voluntary basis, lawyers of particular ethnic heritage, including members of this Association, can assist with the generational process of adjustment and integration that is so important to the stability and strength of our civic culture.

In that connection, I should mention the Judicial Council on Diversity which has recently been formed, with the approval of the Council of Chief Justices. Its promoter was Judge Rauf Soulio, a District Court Judge from South Australia. The purpose of the Council is to develop a framework to support procedural fairness and equality of treatment for all

court users regardless of their race, colour, religion or national or ethnic origin and to promote public trust and confidence in the Australian courts and the judiciary. It will focus on proposing ways of adapting court policies and procedures to ensure that all Australians are treated equally before the law and have access to justice. The Judicial Council on Diversity is a body with which this Association could usefully engage. That should not be difficult. The Queensland representative on the Council is his Honour Judge Nick Samios of the District Court of Queensland.

The formation and evident strength of this Association, not only in Queensland but in Victoria and South Australia is an encouraging sign of the energy of the Hellenic legal community and the capacity that it has to contribute in a positive way to Australian society. I am delighted to declare the Association in Queensland launched.