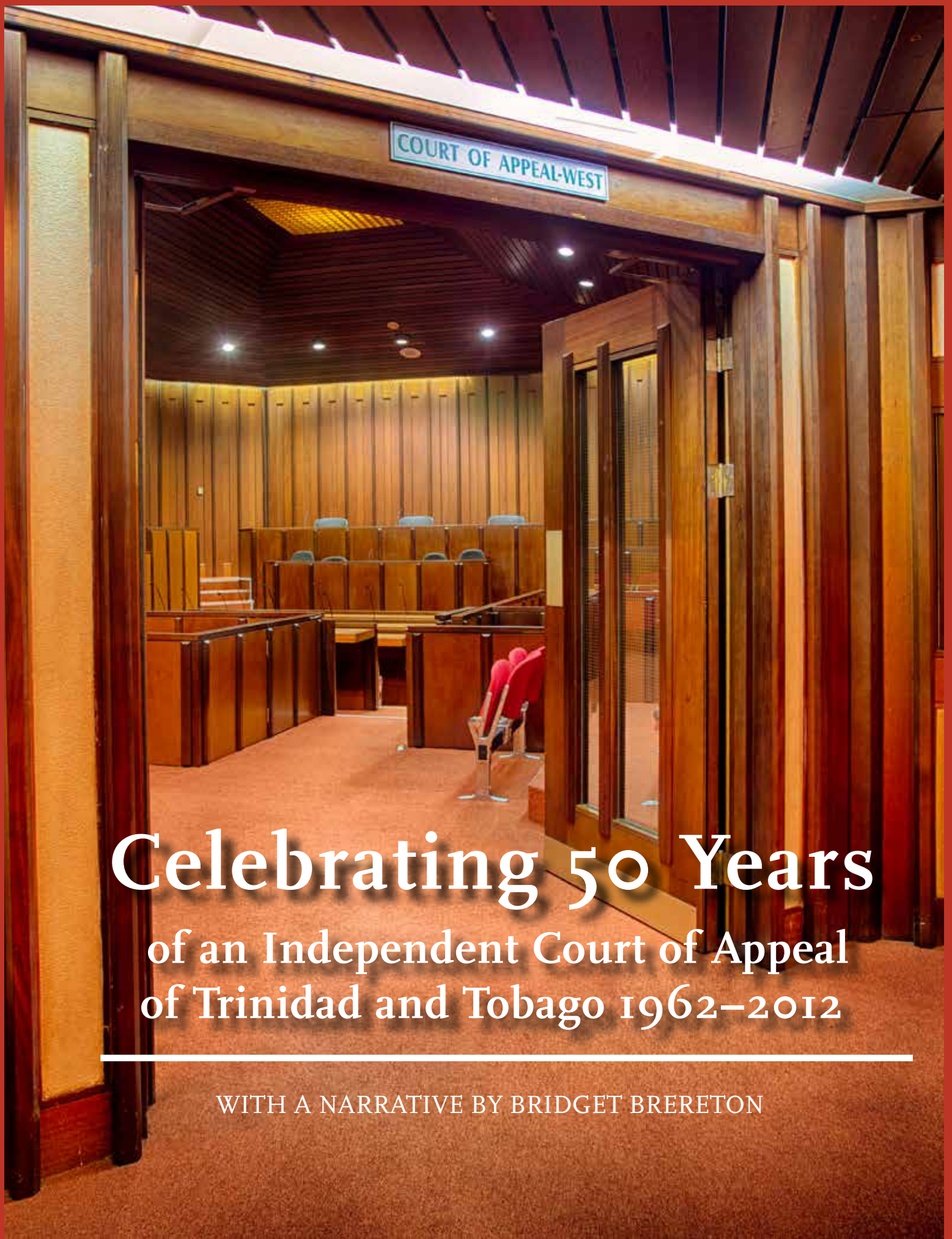

Celebrating 50 Years

of an Independent Court of Appeal of Trinidad and Tobago 1962–2012

WITH A NARRATIVE BY BRIDGET BRERETON

CELEBRATING AN INDEPENDENT COURT OF APPEAL OF TRINIDAD AND TOBAGO 1962–2012

JUDICIARY

TRINIDAD AND TOBAGO

CELEBRATING AN INDEPENDENT COURT OF APPEAL OF TRINIDAD AND TOBAGO 1962 – 2012

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BY BRIDGET BRERETON

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JUDICIAL EDUCATION INSTITUTE
TRINIDAD AND TOBAGO

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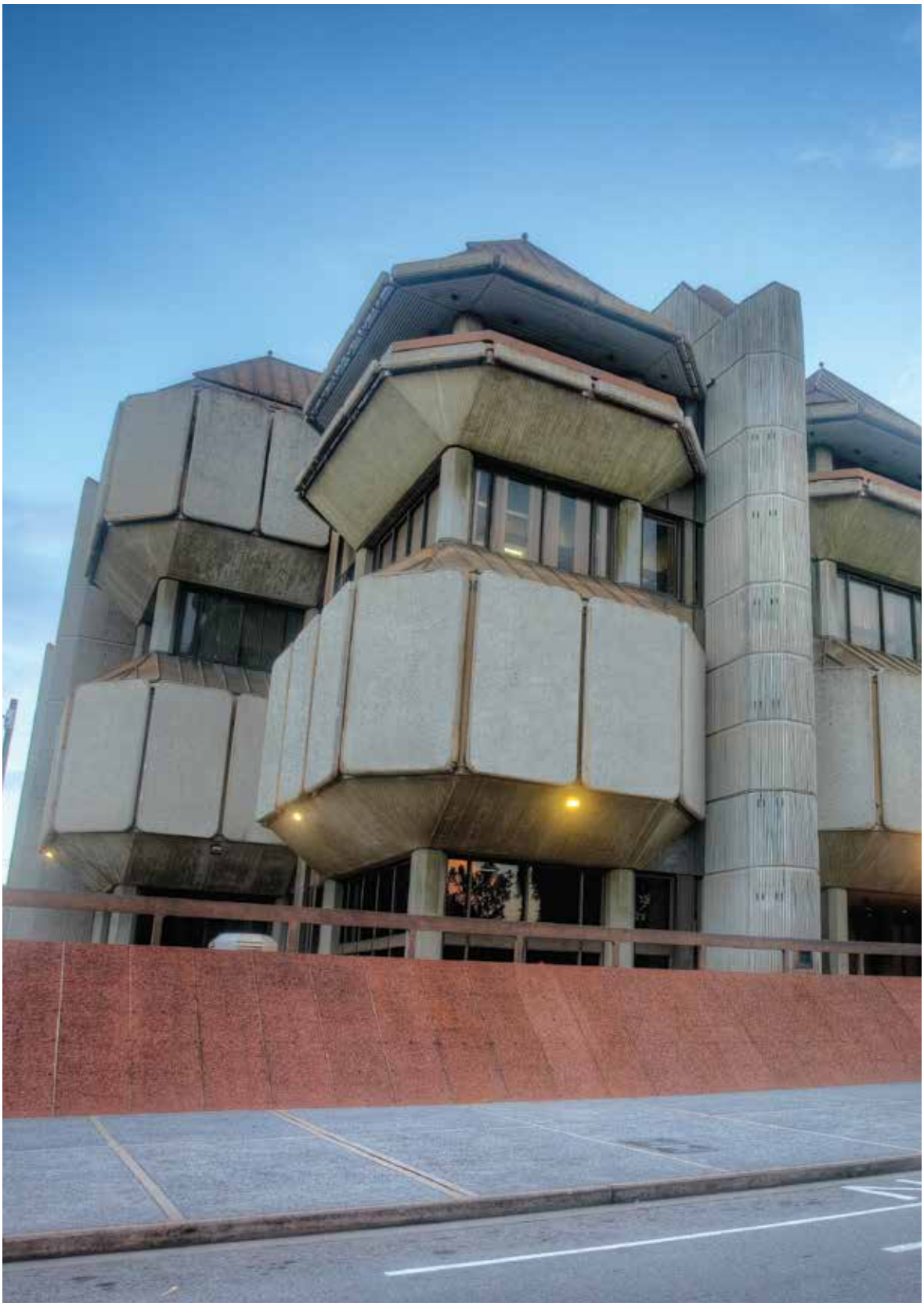
Mark Lyndersay



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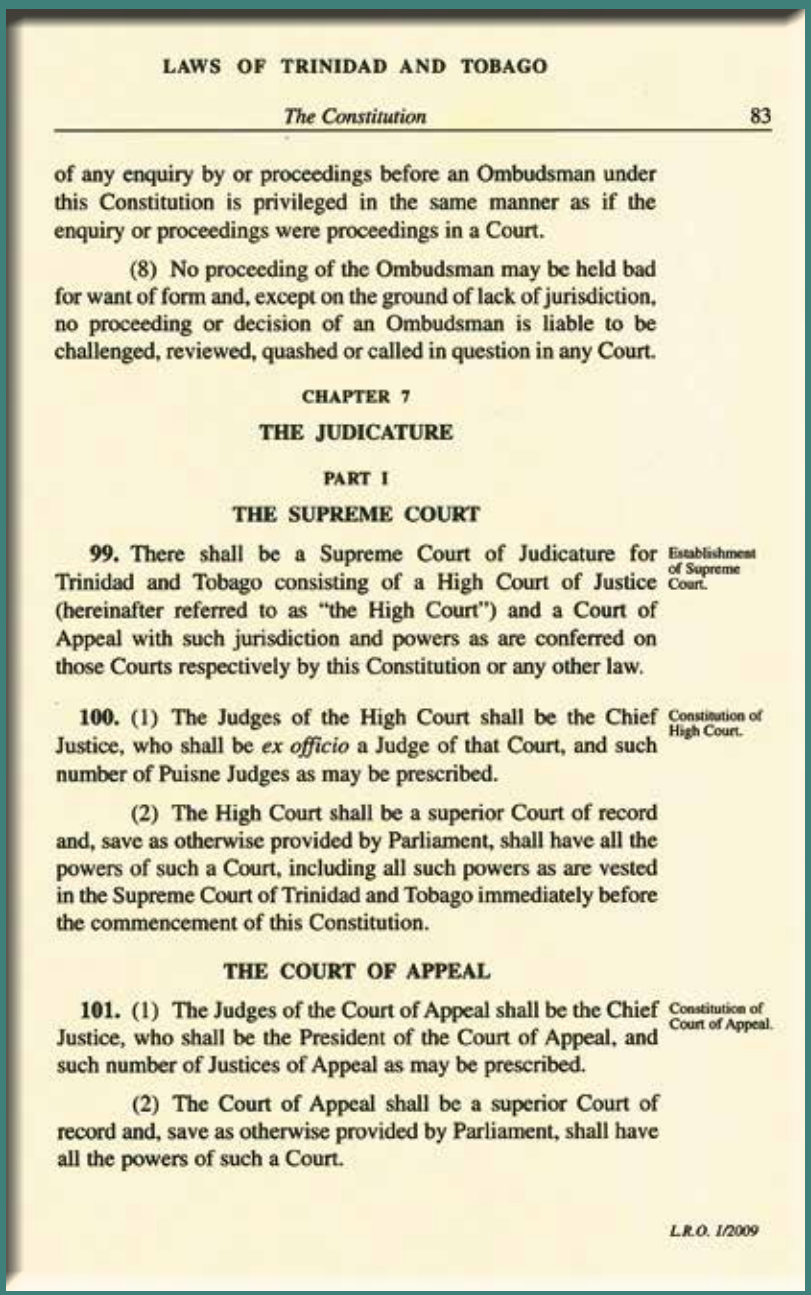


LAWS OF TRINIDAD AND TOBAGO

The Constitution 83

of any enquiry by or proceedings before an Ombudsman under this Constitution is privileged in the same manner as if the enquiry or proceedings were proceedings in a Court.

(8) No proceeding of the Ombudsman may be held bad for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of an Ombudsman is liable to be challenged, reviewed, quashed or called in question in any Court.

CHAPTER 7

THE JUDICATURE

PART I

THE SUPREME COURT

Establishment of Supreme Court.

99. There shall be a Supreme Court of Judicature for Trinidad and Tobago consisting of a High Court of Justice (hereinafter referred to as "the High Court") and a Court of Appeal with such jurisdiction and powers as are conferred on those Courts respectively by this Constitution or any other law.

Constitution of High Court.

100. (1) The Judges of the High Court shall be the Chief Justice, who shall be *ex officio* a Judge of that Court, and such number of Puisne Judges as may be prescribed.

(2) The High Court shall be a superior Court of record and, save as otherwise provided by Parliament, shall have all the powers of such a Court, including all such powers as are vested in the Supreme Court of Trinidad and Tobago immediately before the commencement of this Constitution.

THE COURT OF APPEAL

Constitution of Court of Appeal.

101. (1) The Judges of the Court of Appeal shall be the Chief Justice, who shall be the President of the Court of Appeal, and such number of Justices of Appeal as may be prescribed.

(2) The Court of Appeal shall be a superior Court of record and, save as otherwise provided by Parliament, shall have all the powers of such a Court.

L.R.O. 1/2009

The Supreme Court of Judicature was established by the Constitution, Chapter 7.

PREFACE

This publication celebrates the very rich legacy left by a group of outstanding jurists who took the administration of justice in our country from colonialism to independence and beyond. It also records the more contemporaneous efforts by a new generation of men and women to further transform the resulting creation—the Judiciary of the Republic of Trinidad and Tobago and especially the Court of Appeal—into a high performing professional institution.

As Professor Brereton observes in the historical narrative that introduces the book: "All in all, the Independence Court of Appeal and its Justices, led by successive Chief Justices, have contributed immeasurably to the maintenance of the rule of law and the independence of the Judiciary in the nation during its first fifty years. Though there have been many challenges to the efficient administration of justice, the Court has worked hard to ensure that, at the appellate level, judgments are given which are fair, well crafted, sensitive to social realities, and delivered in a reasonably timely manner. No Court of Appeal Justice has ever been removed for corrupt activities, and Chief Justices have robustly, and, on the whole, successfully defended the Judiciary from encroachments by the Executive."

The history will show therefore, that an independent Judiciary has always been at the heart of the Trinidad and Tobago judicial construct and at the helm of laying its foundation. For a fledgling, developing nation underpinned by a social compact to ensure respect for and protection of the inalienable rights of its citizens and the need for a well-entrenched establishment to be guardian of those rights, an independent judiciary was, accordingly, a sine qua non. It remains that way today.

It is also what has inspired the vision of an institution that would be a bastion of public trust and confidence, grounded in excellence, commitment and accountability; in hallmarks of service, timeliness and efficiency, and in rigid adherence to such principles as integrity, equality, fairness and accessibility.

This has brought us to a place where we believe that our population is being served by an institution that is modern in outlook and customer focused in practice. Our efforts remain fraught with challenges but we accept it as a work in progress.

We are encouraged by the achievements over the years, however, which include having improved our physical facilities in an effort to provide a safe and secure

environment for both our staff, the public, and all of our stakeholders; increasing and developing our work force - from trial judge to judicial trainees - to more adequately respond to the forever increasing demands on the institution; and tweaking and complementing our processes with the latest information technology to improve workflows, reduce delays and also for gathering data to enable us to measure our performance. We have also begun the establishment of special courts to tackle specific societal challenges in our country such as family matters and drug addiction, and we have begun encouraging mediation as a formula for a more timely and less costly approach to resolving disputes. All these have been pursued by deliberately embracing and instituting the modern concept of court administration to relieve Judges of administrative responsibilities and to allow them to concentrate on their core function of judging. In this latter regard we have initiated judicial administration as a cornerstone for the continuous development of all judicial officers, operating our own Judicial Education Institute with great success.

As we move forward, our emphasis will be on five major areas which are inextricably linked to the vision of our forebears and the work that has characterised their tenure. These include: operational excellence; inculcating a high performance and professional culture; creating a safe and productive workplace; strategic partnering with court users and stakeholders, and organisational stewardship.

We therefore envision a future in which the review and redesign of court processes, the development of case and case flow management, and the application of appropriate information and communications technology would have dramatically reduced the perennial challenge of delays in the justice system, making it an issue of the past.

We perceive an institution whose operations will be synonymous with a culture of high performance and professionalism populated by just as highly a motivated and appropriately skilled staff, working in purpose built, comfortable and safe spaces and providing optimum services to the Judiciary's customers at their respective locations, with immediacy and minimal hardship or inconvenience to our stakeholders.

And finally we see a Judiciary whose independence will be even more respected, strengthened and deepened to the extent that the allocation's accorded the institution by the State will be in line with the inexorable demands made on its operations and that it is ultimately given proper control and autonomy for managing its resources.

I am confident that we will realise these ideals as a Judiciary if we continue to draw on the inspiration of the people who are the subject of this publication.

IVOR ARCHIE ORTT

Chief Justice of the Republic of Trinidad and Tobago

FOREWORD

The Committee entrusted with the celebration of the 50th Anniversary of an Independent Trinidad and Tobago, in the context of the Supreme Court of Trinidad and Tobago, is extremely proud of this publication: 'Celebrating an Independent Court of Appeal of Trinidad and Tobago 1962 – 2012'. The year 1962 marked a significant threshold; with Independence, for the first time the Chief Justice became both President of the Court of Appeal and Head of the Judiciary. Our focus on this appellate court and the Chief Justices, celebrates the pivotal role of the Court of Appeal in creating an indigenous jurisprudence and developing a significant body of case law that has contributed to the maintenance of the rule of law and to the protection of the Constitution of Trinidad and Tobago. The period covered by the publication is 31st August 1962 to 31st August 2012.

There are many benefits to recalling and recording history. One benefit is the opportunity to discover 'patterns of truth', that emerge when one reflects intentionally on historical reality. From these revelations one can extract 'values'; core principles that underpin and guide persons and institutions over time. A non-judgmental and unbiased approach to uncovering these 'patterns' and 'values', allows one to more objectively assess their worth. Were they useful when deployed? Are they still useful at this time? If they should be changed, how so?

The value of this work is therefore not only in the historical information contained in the narratives – whether in the historical commentary on this period authored by Professor Bridget Brereton or in the biographies of the post-Independence Chief Justices - but also in the core values that can be gleaned through a reflective reading of the entire publication.

History is, however, always more than words can ever convey. Words seek to capture lived experiences, but by their very form are necessarily limited. Who was Sir Hugh Wooding? Who is Ivor Archie? We experience ourselves through the medium of our senses, sight being one of the most impactful. Hence we have chosen to include many images that are part of the history of the Court of Appeal since Independence. The biographies of the Chief Justices give some indication of the personalities and values of the Chief Justices of the day and their influence on the development of the jurisprudence of the Courts of Appeal over which they presided. These biographies compel us to ask of ourselves the question: To what

extent have the dominant values of the Chief Justices of the day, influenced the jurisprudence of the Courts of Appeal that they have presided over?

This publication includes a complete mapping of the evolution of the Justices of Appeal and therefore of the Court of Appeal from 1962 to 2012. One can easily trace the lineage of the court through this configuration and see the inter-generational linkages. One can also see the changing 'gender' face of the Court of Appeal over time and discern clear and obvious transitions. How has this evolution and these transitions influenced the jurisprudence of the Court of Appeal in the fifty years since Independence?

The Preface written by our current Chief Justice, The Honourable Ivor Archie, ORTT, gives us a window into the future. A vision that compels a mission of transformation and re-engineering of the entire way the Judiciary does its business, so as to make it more effective, efficient and relevant. In our fiftieth year of Independence, the Judiciary is led by its youngest Chief Justice, a Tobagonian. The freshness of his approach may be indicative of a changing generation. How will his court be judged in fifty years?

This book is intended to give an insight into our Court of Appeal over the past 50 years as it is part of the foundation upon which the Judiciary will go forward into the future. The Committee made a conscious decision to include two senior Justices of Appeal who acted as Chief Justice over extended periods and during that time ushered in the Law Term by delivering the addresses for those years. We have chosen an easy writing style that accommodates an interesting read from cover to cover or comfortable browsing of different sections of the work.

On behalf of the entire Committee, we express our deepest appreciation to Professor Bridget Brereton for so willingly undertaking the research and writing of the historical narrative. Her commitment to scholarly integrity shines through her entire narrative; as does her insight, fashioned no doubt from her life experiences and knowledge of Trinidad and Tobago together with her dedication to researching and interpreting the past, which emerges continuously as we journey with her through history from 1962 to 2012.

Also on behalf of the entire Committee, we wish to specially acknowledge the following: Ms. Dianne Nurse-Gittens, Retired Librarian of the Supreme Court and Consultant to the Committee; Mrs. Carol Ford-Nunes, Director of Court Library Services; Ms. Michelle Austin, Court Executive Administrator; Ms. Elitha Daniel, Court Executive Administrative Assistant; and Ms. Kelsea Mahabir, Research and Publications Specialist for the Judicial Education Institute of Trinidad and Tobago. If the reviews of this work are good, appreciation is due to them. If however, there are shortcomings, then I accept responsibility.

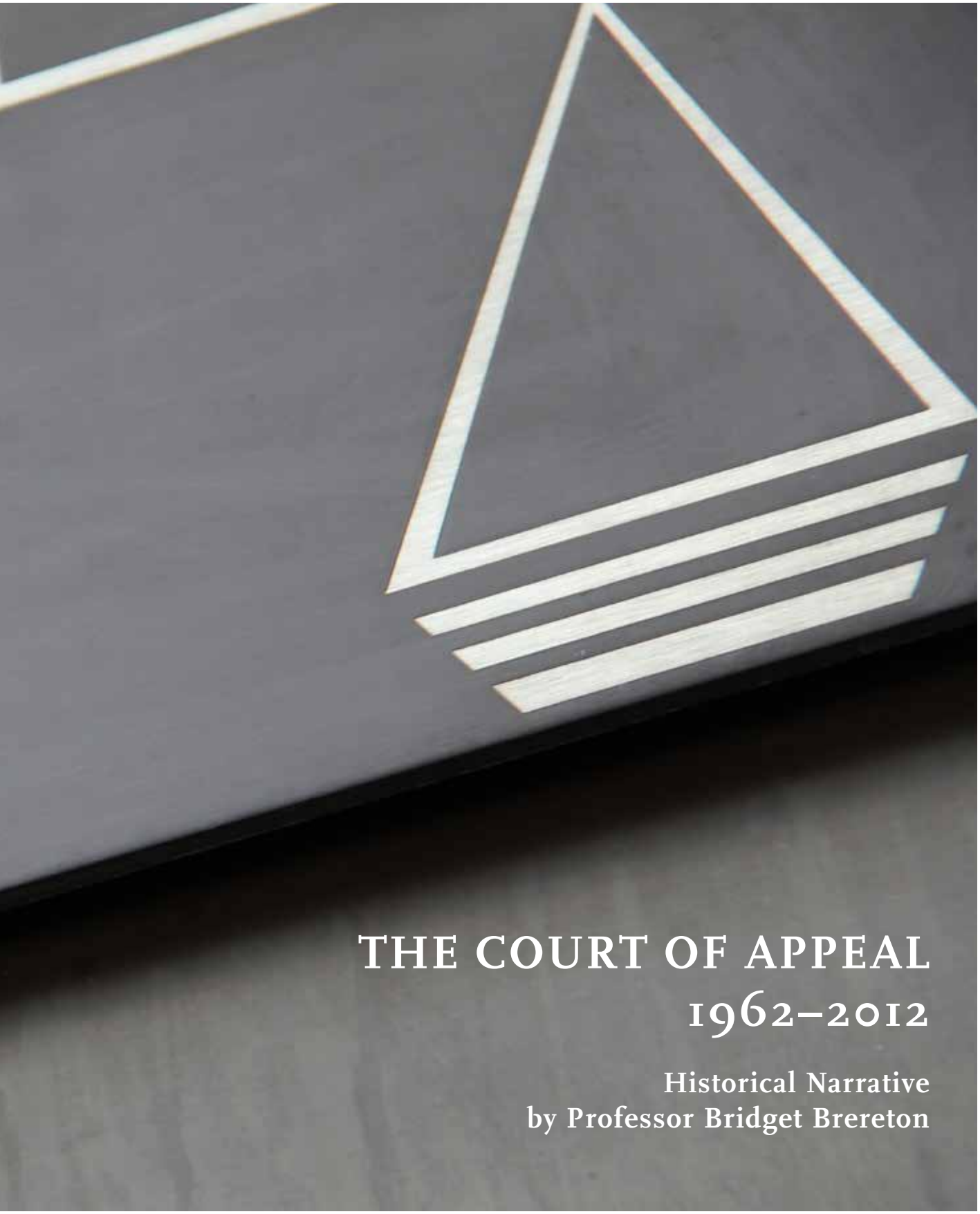
It is our hope that many will read this publication and reflect on its content. The knowledge and understanding of our history is a vital resource for the constructive and meaningful development of our society. The history of this country's Judiciary, which in Trinidad and Tobago is the third arm of the State and responsible for Judicial Governance under the Constitution, is critical to any understanding of who we are and why, in part, we are becoming what we seem to be. Judicial decisions influence changes not only in private affairs, but in the affairs of State. The decisions of an intermediate and final local court are of great significance, especially when the ultimate final court is not based in the territory or even the region. This is because, as the judges of the Judicial Committee of the Privy Council (our ultimate final court) have repeatedly stated, due deference must be given to local judicial opinions. Moreover, the clear and reasoned articulation of local opinion is one hallmark of Independence.

We therefore commend this work to all who may wish to know more fully, the history of Trinidad and Tobago in its fifty years since Independence in 1962. This is but an introduction to the Court of Appeal and through it, to the post-Independence Judiciary of Trinidad and Tobago. We consider it an outstanding publication; we hope you will also find it to be so.

PETER JAMADAR JA

Chairperson, Judiciary Fiftieth Anniversary Committee

September, 2013.



THE COURT OF APPEAL 1962–2012

Historical Narrative
by Professor Bridget Brereton

INTRODUCTION

Before Independence, the colonial Supreme Court of Trinidad & Tobago consisted of the Chief Justice, one Senior Puisne Judge, and an indeterminate number of Puisne Judges (five in 1956, making a Supreme Court of seven). It had an original and appellate jurisdiction, civil and criminal. In its appellate jurisdiction, it heard appeals from rulings of single Judges of the Supreme Court, from the Petty Civil Courts, from the magistrates, and from various Boards. The Court of Criminal Appeal had the same membership as the Supreme Court, and appeals to it were heard by three Puisne Judges (other than the trial judge in the case). There was no separate Court of Appeal for Trinidad and Tobago with civil and criminal appellate jurisdiction.

There was, however, a West Indian Court of Appeal, set up by a British Act of Parliament in 1919, which was composed of the Chief Justices of all the British colonies in the Eastern Caribbean and was presided over by the Chief Justice of Trinidad and Tobago. It was superseded, between 1958 and 1962, by the Federal Supreme Court, which heard appeals from the Supreme Courts of the members of the Federation of The West Indies (plus British Guiana). When the Federation was dissolved in 1962, and Trinidad and Tobago achieved Independence as a separate nation, a national Court of Appeal was established, with appeals from this Court going to the Privy Council in Britain.

In 1956, a Committee of Enquiry chaired by the English jurist Sir Albert Napier considered "the system of administration of justice in the Colony". It recommended the addition of five Supreme Court Judges, to make a Court of twelve. It also advocated creating two ranks of Supreme Court Judges, Senior Puisne Judges with special appellate powers, and ordinary Puisne Judges. The Napier Report noted that the former should not be called "Justices of Appeal" because they would still have to sit at first instance as part of their regular duties. As we shall see, this recommendation was not incorporated into the Independence Constitution. Instead, following the (then) situation in England where there was a Supreme Court divided into a Court of Appeal and a High Court, a separate Court of Appeal with Justices of Appeal was established.

The Napier Report was alarmed at the low salaries and pensions of the members of the Supreme Court, including the Chief Justice. "Unless a better salary is granted",

it noted, "there must be a progressive deterioration in the quality of the Bench". It recommended modest increases in the salaries of all the Court's members, better pension arrangements, and raising the retirement age from 62 to 65 in order to attract "good men" to the Bench, especially established practitioners at the Bar – but it advised that no one should be made a Puisne Judge unless he had been qualified for at least ten years, as opposed to five as was the current minimum. The first Chief Justice of the Independence era, Sir Hugh Wooding, would put the improvement of judicial salaries and pensions near the top of his agenda.

"After the inadequacy of the judicial salaries and pensions," the Napier Report stated, "the most striking feature of the courts is the amount of congestion," especially in the civil list. The backlog of suits had built up from year to year, and most suits took over three years to be determined. This was why the Report recommended the addition of five more Judges of the Supreme Court, as well as other measures to reduce delays. Reducing the backlog of cases would, again, be a priority for the Supreme Court after Independence.

The Napier Committee was struck by the inadequate accommodation allocated to the Supreme Court in the Red House (Port of Spain): no conference room, no robing room, a very poor room for the Library, Judges' chambers which were noisy and lacking in privacy. "We recommend that an entirely new building should be erected," it stated. Nearly thirty years would pass before this became a reality with the opening of the Hall of Justice in Port of Spain.

"We recommend that an entirely new building should be erected," the Napier Committee stated. Nearly thirty years would pass before this became a reality with the opening of the Hall of Justice in Port of Spain.

The Napier Report touched lightly on the question of the relationship between the Judiciary and the Executive. It stated that the Chief Justice must be in charge of the Judiciary and the Magistracy, and must make recommendations to the government on keeping the administration of justice in good order. But keeping the administration of justice in working order was the responsibility of the Executive. The government had an obligation, as in England, to accept and implement the Chief Justice's recommendations without in any way compromising the independence of the Judiciary or influencing the appointment of Judges in a partisan way. These issues, of course, would be fundamental in the decades which followed Independence.

The colony achieved Independence on August 31, 1962. Chapter 7 of the Independence Constitution of Trinidad and Tobago constituted a "Supreme Court of Judicature…consisting of a High Court of Justice…and a Court of Appeal." It went on to state that the Court of Appeal consists of the Chief Justice, its President, and "such number of Justices of Appeal as may be prescribed." It is a "Superior Court of Record" with all the powers of such a Court. These constitutional provisions were

supplemented by the Supreme Court of Judicature Act (Act Number 12 of 1962) which came into force at the date of Independence and prescribed the details about the Supreme Court, its constitution and functions. The Act has been amended from time to time since, including, for instance, to increase the maximum number of Justices of Appeal. The Court of Appeal hears appeals, civil and criminal, from the magistrates' courts and from the High Court, as well as from other special courts, tribunals or boards. Appeals from the Court of Appeal may be made to the Judicial Committee of the Privy Council (in the UK), the country's final court of appeal. In the Appeal Court, three Justices sit together for appeals from the High Court and two for appeals from the magistrates; one is assigned to write the first or main judgment, though each is entitled to write his/her own. From 1978, the Court could sit in two divisions simultaneously.

"The Chief Justice and President of the Court of Appeal will preside over the final Court of Appeal in Trinidad and Tobago." (Ellis Clarke, Memorandum to the Colonial Office, 16 April 1962)

Sir Ellis Clarke

When the Independence Constitution was being drawn up in 1962, its main author, Ellis Clarke, explained in a memorandum to the Colonial Office dated 16 April 1962: "It will be noted that no provision is made for the holder of the post of Chief Justice of the Supreme Court. The reason for this is that there will be no exactly comparable post on independence. The new post of Chief Justice in the draft Constitution is a joint post of Chief Justice and President of the Court of Appeal. In his capacity as Chief Justice the holder of that post is responsible for the administration of all the courts in the territory from the lowest to the highest. As President of the Court of Appeal he presides over the final court in Trinidad and Tobago." Clarke went on to argue that the position of the Chief Justice of Trinidad and Tobago was "more analogous to that of the Lord Chancellor in England than to that of the Lord Chief Justice" because the "Chief Justice and President of the Court of Appeal will preside over the final Court of Appeal in Trinidad and Tobago and as Chairman of the Judicial and Legal Service Commission will be largely responsible for judicial and other legal appointments" (In the 1962 Independence Constitution the Chief Justice was made the ex officio chairman of the Commission).

The Chief Justice was President of the Court of Appeal but, as a Judge of the Supreme Court, could also sit in the High Court (as Hugh Wooding, for example, sometimes did). In recognition of the superior position of the Court of Appeal, its members – known by the abbreviation 'J.A.' after their names – take precedence over the Judges of the High Court.

In the decades before independence, most Judges of the colonial Supreme Court were British. In a speech given in Toronto in 1966, Wooding – who was called to the Bar in 1927 – said that "in those ancient days when I joined the Bar, the Supreme Court Bench was reserved and preserved as a Colonial Office plum. Native Trinidadians had little hope of attaining that dignity." At that time, Wooding noted, of a Supreme Court Bench of three, only one was a West Indian, and he was not a Trinidadian. This was frustrating to local lawyers like himself: "We wanted on the Bench lawyers who belonged; lawyers who understood our people, our ways of speaking and our habits of thought; lawyers who knew and could comprehend our emotions and our motivations. It was frustrating to cross-examine a witness and get an answer which had subtle overtones which were lost upon the ear of the presiding judge." Wooding proudly noted that in 1966, of a Bench of 14, all were West Indians and ten were Trinidadians. Of the four non-Trinidadians, two were long-term residents in the country. "Moreover," he added, "sprung as we are from every ethnic group and mixture of groups, we are truly representative of a community that is perhaps more cosmopolitan than most." This development – the transition to a Supreme Court consisting mainly of locals and entirely of West Indians – was obviously one of the fundamental changes brought about by independence.

In the decades before independence, most Judges of the colonial Supreme Court were British. Of a Supreme Court Bench of three, only one was a West Indian, and he was not a Trinidadian.

The last substantive Chief Justice before independence was Sir Stanley Gomes, from the then British Guiana, who served up to 1960. Trinidadian Arthur Mc Shine acted in the post in 1961-62. The appointment of Hugh Wooding as the first Chief Justice of the independent nation was by no means a straightforward process.

Interestingly, at the Queen's Hall conference on the draft independence constitution early in 1962, Wooding, speaking for the Bar Association, argued that the Chief Justice should be appointed by the Prime Minister only after consultation with the Leader of the Opposition. Lawyers like himself who were not affiliated with the ruling party were anxious that the power to appoint the Chief Justice should not be exercised by the Prime Minister on his sole discretion. Wooding also objected to the proposal that the Chief Justice should act for the Governor-General in his absence, arguing that this would compromise the principle of the separation of powers. Consultation with the Leader of the Opposition was inserted into the Independence Constitution.

Dr. Eric Williams

When Wooding's appointment was announced, it was widely praised. The party in opposition welcomed it, correctly seeing in the new Chief Justice a man of fierce independence who would stand up to Williams and his government if necessary.

Nevertheless, it was clear that the soon-to-be Prime Minister, Eric Williams, would have the decisive voice in the appointment. Mc Shine, the acting incumbent and the senior Puisne Judge, no doubt believed he had a good claim to the substantive appointment; but he was not highly regarded as a Judge by other members of the Bench, according to Selwyn Ryan. Ellis Clarke was Williams' first choice, and indeed his appointment was publicly announced. But there was a widespread feeling that he was too close to Williams and the ruling party, and he wisely opted instead to take up a diplomatic posting in Washington. It is said that two others approached by Williams declined, including Gomes, the former Chief Justice of Trinidad and Tobago, then on the Federal Bench. So Wooding, probably the most successful and best known barrister in private practice in Trinidad, was not the first (or second, or third) choice of the new Prime Minister, who may well have regarded him as something of a rival (he had turned Wooding down for membership in his party in 1956-57).

But when Wooding's appointment was announced, it was widely praised. The party in opposition welcomed it, correctly seeing in the new Chief Justice a man of fierce independence who would stand up to Williams and his government if necessary. In his 1966 speech in Toronto, Wooding said that Williams told him he had chosen him because "no one in the community could possibly think that a seasoned practitioner at the Bar would be other than independent. His aim was that my appointment should be an earnest to the community of his [Williams'] resolve to maintain the Rule of Law." The legal profession was enthusiastic: he was the new nation's leading barrister, erudite and persuasive in argument. The highly talented members of the Bench in 1962, including Mc Shine, accepted him as their intellectual leader. And so Hugh Wooding became the first Chief Justice and President of the Court of Appeal of the Independence era and the first non-white Trinidadian to hold the top judicial position. The Wooding Court had arrived.

CHAPTER 1:

THE WOODING COURT AND AFTER (1962-1972)

Wooding's Court of Appeal included notably talented jurists, all of them independently minded men: Arthur Mc Shine, Clement Phillips (a famous legal scholar), Aubrey Fraser and Isaac Hyatali. Wooding encouraged team spirit among them, feeling that dissent from a collective Court ruling should be rare, reserved for situations where a Judge's conscience did not permit him to join the majority or consensus view. As Fraser told Wooding's biographer, Selwyn Ryan: "My experience of Wooding of the Court of Appeal was that there was always a serious discussion whenever there was a difference in points of view among the judges… It may mean sitting in Chambers as a judge until quite late at night, as frequently occurred, arguing with each other the way the advocates had done, so that…one could arrive at a reliable result."

When Ryan asked if Wooding was ever in the minority, Fraser replied: "Yes, indeed, but he was very effective, very forceful. He did not easily surrender a point; he was tremendously articulate. So if you wanted to retain anything of the independence you thought you had, you were driven to work really hard to meet this versatility that opposed you. Clement [Phillips] was not a man of easy surrender. Whatever you might say about Hugh [Arthur] Mc Shine, he was also not a man of easy surrender…I don't know that any of us was a push over. So that you did have a Court of members who respected each other." Georges (Justice of Appeal), who would soon leave to serve as Chief Justice of Tanzania, also held Wooding in great respect, as his biographers note, and supported him fully in his efforts to develop the judiciary.

One of the urgent issues that Wooding tried to deal with was the excessive delays in rendering rulings in the Court of Appeal; he found a considerable backlog when he took up office. This issue had been flagged by the Napier Committee just

a few years earlier. In his annual addresses at the opening of the new law term, he reported each year on the progress made in clearing this backlog and generally reducing delays. In October 1963, after he had been in office for just over a year, he announced that the Court of Appeal had "heard and finally determined" 658 cases over the preceding twelve months; this number rose to 680 over the next year, and had reached 959 in 1965/66. When he delivered his last address at the law term opening (October 1968), Wooding indicated that "a record high" was achieved in cases heard and determined in the Court of Appeal in 1967/68 – 973 – and boasted that outstanding appeals had fallen from 350 as at June 30, 1967 to only 78 one year later. He often complained that records for appeals took an "inordinately long" time to reach the Court of Appeal, but in 1964 he instituted required quarterly returns from the various courts, which allowed for the more timely arrival of the necessary documents at the Appeal Court. Other reforms in the registry function helped to reduce the backlog.

There can be no doubt that under his inspirational leadership, and supported by his able Appeal Court Judges, Wooding succeeded in ending the inordinate delays in hearing appeals in the nation's highest court.

There can be no doubt that under his inspirational leadership, and supported by his able Appeal Court Judges, Wooding succeeded in ending the inordinate delays in hearing appeals in the nation's highest court. Of course, he also worked hard to address delays at the High Court, and in his 1964 address, he said that he often sat as a Judge of the High Court in Port of Spain in order to help reduce the arrears of cases there.

Besides presiding over the Court of Appeal, and from time to time sitting as a Judge in the High Court, Wooding also had an administrative burden as head of the entire judicial system. He succeeded in getting a barrister appointed in 1966 as his administrative secretary to relieve him of some of this load, which had been recommended by the Napier Committee (the first incumbent was Hugh Howard).

Law reform was of great concern to Wooding: one of the reasons he had accepted this post in 1962, taking a huge cut in his income, was to help to shape a local or West Indian jurisprudence in the era of Independence. As Aubrey Fraser, his colleague on the Court of Appeal, put it in a private letter in 1965: "Appellate work provides many opportunities for creative development of legal principles and ideas, but there is the possibility that one can lose touch with the human problem. In the High Court, where cases are tried at first instance…one is working very near to the coal face…The ideal arrangement would be to have both appellate work and first instance work, but one cannot always have ideal arrangements."

Wooding constantly questioned how far colonial and English laws could be adapted to modern Trinidad and Tobago, especially land law, family law and the

law of evidence. For Wooding, the development of a Caribbean legal philosophy and jurisprudence was a must – hence his unrelenting work to create the Faculty of Law at the University of the West Indies and the Law Schools in Jamaica and Trinidad under the Council for Legal Education. The Law School in Trinidad was fittingly named for him after his death. Though there was a Law Reform Committee, another recommendation of the Napier Committee, it moved very slowly. Speaking in Toronto in 1966, Wooding complained that much of the law made or imposed in the colonial period "was totally unrelated to our social order" or "has become too antiquated to serve any longer any meaningful purpose." What was needed, he said, was "a Commission to inquire into the whole matter from the grassroots up. We need change – radical, almost revolutionary change – if we are to have a juridical system to meet the needs of our social order." He did not succeed in getting "radical" change in the laws, of course, but he did set the process of law reform into motion, and his own Appeal Court rulings influenced West Indian jurisprudence to a significant extent.

Mark Lyndersay

Trinidad House, Port of Spain

During his tenure the Appeal Court met in unsuitable quarters, first in the Red House, and then in Trinidad House, a modern building in downtown Port of Spain which had been used by the Federal Government until the demise of the Federation of the West Indies in 1962.

An issue that greatly vexed Wooding all through his tenure was the lack of a suitable venue for both branches of the Supreme Court. During his tenure the Appeal Court met in unsuitable quarters, first in the Red House, and then in Trinidad House, a modern building in downtown Port of Spain which had been used by the Federal Government until the demise of the Federation of the West Indies in 1962. The Supreme Court Library and other facilities remained at the Red House some distance away. In his 1964 address for the law term opening, Wooding spoke of the need for a "Hall of Justice" to impress all with the majesty of the law; he thought Trinidad and Tobago was probably the only country where "the Supreme Court was not independently

The Wooding Court. Left to right, back row: Justices C. Achong, E. Rees, K. McMillan, N. Peterkin, G. Scott, K. de la Bastide, D. Malone, N. Hassanali. Front Row: A. Fraser, H. Mc Shine, H.O.B. Wooding, C. Phillips, M. Corbin

housed." The following year he again made the case for an appropriate building for the Supreme Court, noting that it was likely that the country would soon be called on to host a major international legal conference (The second Conference of Commonwealth Chief Justices was held here in 1968, but it had to take place at Chaguaramas for lack of any other suitable venue). "Shall we be obliged," he asked in 1965 with a fine rhetorical flourish, "to bow our heads in apology for the lack of a building and amenities exhibiting our appreciation of the dignity and majesty of the Law?" He was on the case again in 1966. No one, he said in his address that year, with business in the courts could have any proper respect for the "symbol of Justice or for the administration of the Law." It was essential "for the stability of our country that practitioners, accused persons, litigants, witnesses and the general public alike should recognise and appreciate the place and function of the Law and Courts," which could only happen when the highest courts were properly housed. But the Court of Appeal continued to work with "shoddy, antiquated and in some respects non-existent facilities" (in his words), and without a suitable and dedicated building, until 1985, over twenty years after he first made the case for a proper Hall of Justice.

In his biography of Wooding, Selwyn Ryan devotes a chapter (15, pp. 168-197) to an analysis of specific rulings by the Wooding Court of Appeal. The cases considered dealt with a wide range of issues, including the rights of trade unions under the 1965 Industrial Stabilisation Act, the validity of laws in force before the Independence Constitution, the Governor-General's power to appoint the Commission of Inquiry into Subversive Activities (1964), tenure rights with respect to "chattel houses", and the proper grounds for disbarring a lawyer. Ryan notes that some "academic critics" have argued that Wooding's Court of Appeal was insufficiently "active" in its social

role, that it tended to defend the interests of the "establishment", that it was rarely creative in interpreting legislation in view of the new requirements of a democratic and independent nation.

It is clear, as Ryan states, that Wooding favoured judicial restraint; he believed the courts should never try to usurp Parliament's role. His Appeal Court was not an activist court and could fairly be described as a conservative one, not perhaps surprising granted the nature of the common law tradition in which he (like nearly all English-trained lawyers) was steeped. His colleague Aubrey Fraser pointed out that the Court of Appeal could only determine whether the ruling appealed against was well-fashioned or not; if it was not, only "modest" reforms could result from the Court's decision. Social "engineering" was rarely possible for a Court of Appeal of the Trinidad and Tobago kind, unlike, say, the US Supreme Court; the scope of such a Court was bound to be limited at best. And as Michael de La Bastide (a future Chief Justice) told Ryan, "so-called 'creative' and radical decisions which might well have received short, sharp treatment at the hands of the Privy Council" could easily have shaken public confidence in the Judiciary in those early days of Independence.

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There is general agreement that the rulings of the Wooding Court of Appeal influenced West Indian jurisprudence greatly. His decisions were brilliantly crafted, analytical and well-researched, clearly and succinctly written. His colleague P. T. Georges summed up: "The judgments of the Court presided over by Sir Hugh are a major contribution to the legal literature of the Caribbean common law world. They are marked by erudition, the legal analysis is comprehensive, the language is clear. All of this is achieved with great economy of words. His judgments are remarkably brief when regard is had to their breadth of learning." Supported by the talented men who sat with him on the Appeal Court, Wooding was able to set a very high standard for the Chief Justices and Justices of Appeal who would follow.

Chief Justice Wooding was a firm upholder of the independence and dignity of the Judiciary. While Prime Minister Williams shared with him a basic respect for the rule of law and an independent Judiciary, relations between Chief Justice and government were not always smooth. One clash had to do with precedence. Even before he became Chief Justice, Wooding had argued at the Queen's Hall constitutional conference that the holder of that post should be third in the order of precedence after the Governor-General and the Prime Minister, not placed after Cabinet ministers. Once appointed, he was inflexible on this issue, and refused to attend official functions until the order was changed, with the support of all his Judges

Sir Solomon Hochoy, GCMG, CBE

except Mc Shine. Another conflict was on the more substantive issue of salaries and pensions for Judges—flagged by the Napier Committee in 1956 as a serious deterrent to the appointment of talented barristers—particularly the pension entitlement of someone like Wooding, who had joined the Bench late in life and would be obliged to retire after just a few years. Wooding bargained hard, threatening to resign in a 1964 meeting with the Governor-General unless the matter was settled to his satisfaction – which it was; his resignation would have been disastrous for all parties.

Sir Solomon Hochoy, with whom [Wooding] had an excellent relationship, was at all times the intermediary through whom the judicial consensus was passed on to the executive.

As quoted by Ryan, Georges summed up Wooding's achievement: "He adhered strictly to the constitutional proprieties at every step. The Governor-General, Sir Solomon Hochoy, with whom he had an excellent relationship, was at all times the intermediary through whom the judicial consensus was passed on to the executive. The process of negotiation was no doubt lengthened by the adoption of this course but it was effective. Within two and a half years, judicial salaries were significantly increased, retroactive to the date of Independence. The rank of the Chief Justice in the protocol list was moved to third…These were significant administrative gains which would not have been achieved but for the fact that Sir Hugh brought to his office tremendous personal prestige and worldly experience which could not be ignored."

After the precedence and salary/pension issues had been settled to Wooding's satisfaction, the relationship between the Judiciary and the government improved. Indeed, the Wooding Court of Appeal was often accused by the more radical trade unionists and others from the Left of being too sympathetic to the government and the employers, and too wedded to British doctrine about the supremacy

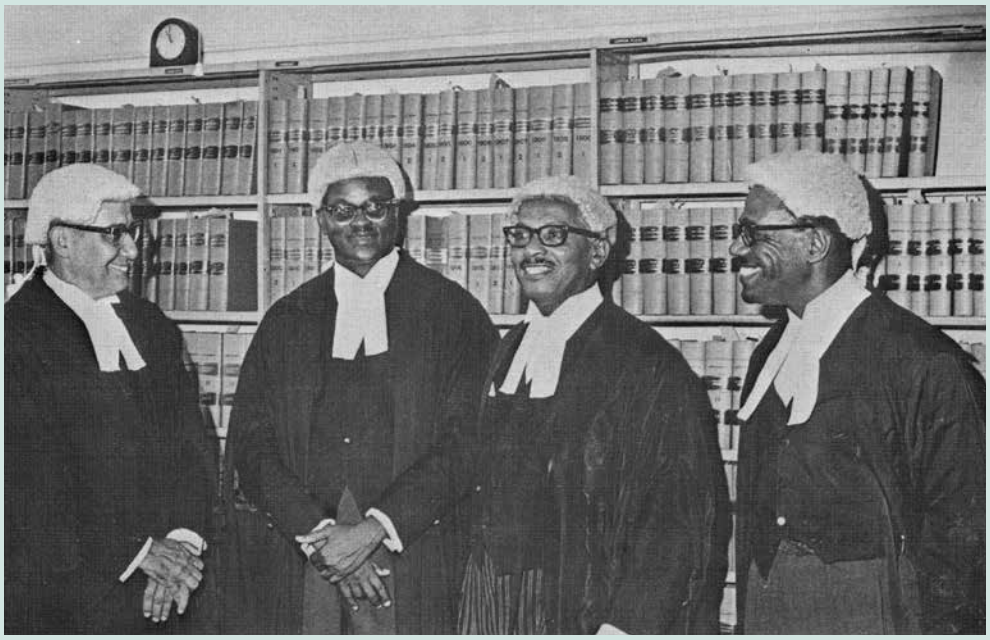
of Parliament; accusations which, as we saw, have also been made by some academic critics.

The Court of Appeal was the highest local tribunal, but the Privy Council remained the final arbiter even in the era of Independence. In the constitutional debates of early 1962, Wooding had agreed with his colleagues of the Bar Association that appeals to the Privy Council should be retained, feeling that there were not yet enough experienced West Indian lawyers for an effective Caribbean Court of Appeal which would win public confidence. But there was a consensus across the Commonwealth that a few Judges from the different countries making up that body should sit on the Judicial Committee of the Privy Council. Wooding was sworn in to serve on the Judicial Committee early in 1967, the first West Indian and only the sixth Commonwealth Chief Justice to receive that honour. His tenure on the Judicial Committee was short, since he left it when he demitted office as Chief Justice at the end of 1968, though he remained a Privy Councillor.

Interestingly, after he demitted office, Wooding changed his mind on the issue of retaining appeals to the Privy Council. As chair of the Constitutional Commission in 1971-72, he heard both the Bar Association and the Law Society (representing barristers and solicitors respectively) argue for the retention of the Privy Council. But he joined Georges and de La Bastide, both Commission members, in arguing against that position. Wooding, of course, had sat on the Judicial Committee. Using the three cases where the Privy Council had reversed the local Court of Appeal since 1962 – out of 45 appeals from the Trinidad and Tobago Court of Appeal between 1962 and 1973, 42 were dismissed – he criticised the quality of the Judicial Committee's work and argued for a break with the Privy Council. But, as Commission chair, he eventually accepted the majority view within the profession, to keep appeals to London because of a lack of confidence, at that time, in the local Judges.

The Wooding Court of Appeal had served the new nation well. When he retired at the end of 1968 he must have felt that the right standards had been set.

The Wooding Court of Appeal had served the new nation well. When he retired at the end of 1968 he must have felt that the right standards had been set to win public confidence in the work of the Court and in its Judges. He had asserted and maintained the independence of the Judiciary and had begun the work of creating a West Indian jurisprudence through the rulings of his Appeal Court. Yet Wooding's exit was followed by several years of instability in the local Judiciary at the highest levels, which has come to be known as the "Crisis in the Judiciary".



Justices Noor Hassanali, Clement Phillips, Arthur Mc Shine, and Telford Georges at the Farewell for Sir Arthur (1971).

The Crisis in the Judiciary, 1969-72

Arthur Mc Shine, bypassed for the top judicial post in 1962 when he had been acting Chief Justice, was appointed to succeed Wooding early in 1969, serving until his retirement in May 1971. Clement Phillips was then appointed to act. The Prime Minister claimed that, because there was no Leader of the Opposition with whom to "consult" on the appointment (following the 1971 election in which the ruling party had won all the Parliamentary seats after the opposition parties boycotted it), he ought not to appoint a substantive head. It should be noted that the Judges had made it clear that they disagreed with this position. Phillips acted until the middle of 1972. Then the Prime Minister announced the appointment as substantive Chief Justice of Isaac Hyatali, the President of the Industrial Court, even though there was still no Leader of the Opposition with whom to consult. These three or four years marked a difficult time in the history of the Court of Appeal and the Judiciary in general.

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An underlying factor behind these difficulties was the political situation in this period. After a build-up of trade union and political unrest in 1968-69, the Black

Power rebellion of 1970 rocked the nation, especially when combined with the mutiny in the Regiment led by a few young officers in April of that year. These events were followed by government efforts to restore and maintain law and order, judged by many to be excessive if not dangerous, and by continued armed resistance to the government. Two states of emergency were declared during this period. Chief Justice Mc Shine noted in his address at the opening of the law term in October 1970 "it is not easy to recollect when if ever there has been the ceremonial opening of term during a period of Public Emergency." Moreover, there were some controversial court rulings on cases related to the mutiny which certainly heightened the general sense of tension.

The Court of Appeal, consisting of acting Chief Justice Phillips, Aubrey Fraser and P. T. Georges (acting J. A.), early in 1972 reversed the conviction of the three officers who had led the 1970 mutiny, handed down by the special military tribunal which had sat in 1971. The Court did so on the grounds that the Judge Advocate of the tribunal had made a number of legal errors. This was certainly a blow to the government, and it was compounded when the same three Judges refused the State's application to appeal their decision to the Privy Council (February 1972). In May of that year, Fraser and Georges were part of the Appeal Court which freed another soldier who had been found guilty of mutiny by the 1971 tribunal. When the State went directly to the Privy Council to appeal this ruling, the Council dismissed its case; the government was obliged to drop all the treason charges and to free all the soldiers who had been convicted of mutiny by the military tribunal. There can be little doubt that these rulings both embarrassed and angered Eric Williams and his government. Certainly Phillips, Fraser and Georges believed that they had rendered them persona non grata with the Executive.

Just a few days after the press controversy over Hyatali's report on the Clarke affair that the former's appointment as Chief Justice was announced.

Another event which created or enhanced tension between the government and the Judiciary was the Neville Clarke affair. He was a magistrate whose home was raided by the police early in 1972, causing a great furor among the legal profession. Williams appointed Hyatali, President of the Industrial Court, as a one-man Commission of Enquiry into the police action and its implications. His report supported the police action. When it was made public, the Bar was furious, with Algernon Wharton, a QC, among the several members who condemned it. Former Chief Justice Wooding attacked the report in the press, stating that it was not an impartial or faithful account of the events. Wooding had been, up to then, publicly silent during all the turmoil and controversies of the 1970-72 period, so this intervention was especially striking (and he was in turn criticised for it). It was just a few days after the press controversy

Sir Solomon Hochoy at the swearing in of Sir Isaac Hyatali as Chief Justice (1972)

over Hyatali's report on the Clarke affair that the former's appointment as Chief Justice was announced. According to a member of the Court of Appeal (long after the event), a letter was sent from the Prime Minister's office to acting Chief Justice Phillips, informing him of Hyatali's appointment and stating that he would assume duty the following day (14 July 1972). There was "not a word of appreciation to the Acting Chief Justice."

Several members of the Court of Appeal believed that they had been treated harshly and unfairly by the government, and rivalries between them also soured relationships. Clement Phillips was widely regarded as an outstanding legal scholar and Judge. His appointment to act, rather than being given the substantive post in 1971, was a grievance, especially when the absence of a Leader of the Opposition was revealed as a flimsy excuse with Hyatali's appointment in 1972. Phillips and Hyatali were rivals, with the former being considered by the legal profession in general as the finer Judge by a wide margin. He was understandably angry at Hyatali's appointment in July 1972 and made it clear he was reluctant to serve under him.

P. T. Georges had his own grievances. He had been a member of the High Court when he left on secondment to serve as Chief Justice of Tanzania between 1965 and 1971. On his return in 1971 he was appointed an acting Justice of Appeal, when Phillips was acting Chief Justice; at that time, there were only two substantive Judges on the Appeal Court, Fraser and Karl de La Bastide. When Hyatali became Chief Justice, the Judicial and Legal Services Commission under his chairmanship met to consider the vacancies in the Appeal Court. Georges was passed over (Evan Rees and Maurice Corbin were chosen). It is said that Hyatali waited until Wooding, a member of the Commission, was out of the country to convene the meeting which passed over Georges. Georges was told that Hyatali informed the Commission that he had said he did not wish to work under the new Chief Justice; with Wooding out of the way, there was no one to challenge the decision or the alleged reason. When Georges requested a formal explanation from Hyatali as

chairman of the Commission, he was simply informed that the Commission never offered explanations for its actions. Of course, we have already noted that as an acting Appeal Court Justice in 1971-72, Georges had taken part in the "Mutiny" rulings which had embarrassed the government, as had Phillips and Fraser.

In fact, Hyatali's appointment as Chief Justice was greeted with dismay by several members of the Wooding Court, including Phillips (who had been passed over), Fraser and Georges, all key members of Wooding's judicial team. He was not considered to be Phillips' equal as a Judge or as a scholar, and he was felt to be too politically pliant, too close to the government. The Clarke affair could only have strengthened such a view. His appointment, and related events, triggered an exodus of several senior Judges from Trinidad. Fraser resigned in 1972, to head the Norman Manley Law School in Jamaica. So did Georges, first to be assigned full-time to the Wooding Constitutional Commission, then to join the UWI Faculty of Law in Barbados. In 1973, Wooding and Algernon Wharton resigned from the Judicial and Legal Services Commission, in protest against the non-appointment of Georges to the Appeal Court vacancy.

Hyatali's appointment ended the "crisis in the Judiciary". The Court of Appeal lost some very talented members, but the country had a substantive Chief Justice who would serve for over ten years.

In 1972, Williams was under some pressure from the legal fraternity and the press to appoint a substantive Chief Justice, after Phillips' acting tenure, in order to stabilise the Judiciary – but he could, of course, have confirmed the latter in the post, as many expected and wanted. Some felt that Phillips was eccentric and perhaps not in the best of health, or that brilliant and learned as he clearly was, he was unsuited to administrative duties (It should be noted that Wooding, Fraser and Georges all wanted Phillips to be appointed). Many believed that the Mutiny rulings had put Phillips, Georges and Fraser out of the race as far as the government was concerned; these people tended to regard Hyatali as too pliant, and feared that the tradition of independence, established by the Wooding Court of Appeal, would be eroded under him. A few thought that the hostility to Hyatali's appointment was largely racial in nature, from a profession which at that time was dominated by African-Trinidadians. But according to Selwyn Ryan, however, Hyatali's appointment was in fact part of an "ethnic deal" made by Williams: he had decided that Ellis Clarke should succeed Hochoy as Governor-General, and felt that an Indo-Trinidadian Chief Justice was politically expedient, even though he knew there would be opposition from the Judiciary and the legal profession.

Nevertheless, in a sense Hyatali's appointment ended the "crisis in the Judiciary". The Court of Appeal lost some very talented members, but the country had a substantive Chief Justice who would serve for over ten years. Consolidation and reform might both be possible under a more stable judicial regime.

Justices Ulric Cross, Cecil Kelsick, Maurice Corbin, Isaac Hyatali, Garvin Scott, John Brathwaite and Noor Hassanali.

courtesy Nicola Cross

CHAPTER 2:

CONSOLIDATION AND REFORM (1972-1995)

In this period, three men served as Chief Justice and President of the Court of Appeal: Isaac Hyatali (1972-83), Cecil Kelsick (1983-85), and Clinton Bernard (1985-95). It will be noted that Hyatali and Bernard both served for about a decade, bringing some stability to the judicial leadership. All three helped to consolidate the work of their predecessors and to effect reforms and improvements in the work of the Appeal Court (and in the administration of justice more generally).

In his first address at the opening of the 1972/73 law term, Hyatali noted that 1972 marked the tenth anniversary of "judicial independence" and called on his colleagues to "rededicate ourselves both to the lofty cause of dispensing justice fearlessly and impartially in our society, and to the noble task of promoting respect and reverence for the institution and majesty of the law." In particular, he referred to "the cardinal principle, that the independence of the Judiciary from the Executive is indispensable to the fearless and impartial administration of justice. There can be no compromise on this principle." In his address at the law term opening in October 1976, Hyatali pointed to the attainment of Republic status in August of that year. Now, he said, Supreme Court Judges were charged under the new Constitution with the duty of "bearing true faith and allegiance to the Republic, of upholding the Constitution and the law, of…discharging the functions of their offices and doing right to all manner of people after the laws and usages of the Republic, without fear or favour, affection or ill will." It seemed to him to offer another opportunity for rededication on the part of the Judiciary.

In fact, the annual addresses by the Chief Justices at the opening of each law term – following the precedent set by Hugh Wooding – came to be, in this period, the main medium in which they reported on changes in the administration of justice and discussed the issues of the day. Between 1972 and 1984, these addresses were

delivered in the main chamber of the Red House, where the Supreme Court was located. From 1985, they were given in the Convocation Hall of the long-awaited Hall of Justice on Knox Street. But in 1993, the ceremonial opening of the law term took place at the San Fernando Supreme Court building. Chief Justice Bernard expressed his joy and pride at this event, calling the city "beautiful and famous", "the mecca of the social and economic life of Trinidad and Tobago." It does not seem, however, that his experiment of holding the ceremonial opening of the law term outside Port of Spain was repeated. The tradition of holding an inter-religious service in the Holy Trinity Cathedral as part of the ceremony was inaugurated under Hyatali in 1973.

Reforms and Reorganisation

Changes affecting the Court of Appeal took place under all three Chief Justices during this period. In 1972, the hours during which the Appeal Court sat were changed, to 9.30 to noon and 2 to 4 pm, to conform with the sittings of the High Court. During the 1973/74 law term, the Judicature Act (1962) was amended to permit the Appeal Court to sit in San Fernando, a proposal favoured by the "overwhelming majority" of the Justices of Appeal, and also in Tobago "if the state of business warranted it." The Court of Appeal sat in San Fernando for the first time in May 1974. The occasion was marked by a parade, and the Chief Justice took the salute at a march past of police from the Southern Division.

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New Rules of the Supreme Court took effect on January 2, 1976, thirty years after the previous Rules were issued; Hyatali played a pivotal role in this development. In 1978, Section 7 of the Judicature Act was amended to allow the Court of Appeal to sit in two divisions at the same time (two or three Justices sitting in each division). Soon after this change, the number of Judges on the Court of Appeal was increased to seven. Chief Justice Kelsick, in his 1984 opening address, stated the need for a separate Registrar to be assigned to the Appeal Court, and advocated for two recently qualified lawyers to be employed as Law Clerks to conduct research for each division of the Court.

Under Chief Justice Bernard, modern technology was introduced into the Supreme Court, following funding from UWI/USAID under the Caribbean Justice Improvement Project. The main area was mechanical aids for note taking in the Supreme Court via Computer Aided Transcription (CAT). Up to then, Judges had taken their notes by long-hand, while court reporters used palantyping. As Bernard

TRINIDAD GUARDIAN, Monday, May 27, 1974 PAGE 13

South Appeal Court sits

CJ's promise comes true today

THE Appeal Court will sit in San Fernando today for the first time in the history of Trinidad and Tobago.

Preparations for the historical event were continuing up to late yesterday as workmen repaired the roadway in front of the Supreme Court building and the court itself was being spruced up.

During last week the curb walls in the vicinity of the court were white-washed giving a new appearance to Harris Promenade and the fountain in front of the Town Hall is now operating for the first time in many years.

Proceedings get underway at 9 o'clock this morning when Chief Justice Sir Isaac Hyatali will inspect a parade and take the salute at a march past of lawmen from the Southern Division as part of the formal opening ceremony.

In the afternoon a civic reception, organised by the San Fernando Borough Council will mark the occasion.

Among the invitees are the Governor-General Sir Ellis Clarke, the Attorney General Mr. Basil Pitt, the Commissioner of Police Mr. Tony May and legal practitioners.

The Appeal Court will sit in San Fernando during the last week of each month, according to a court official.

It is planned to use the Second Court in the Supreme Court buildings for the sittings. The Second Court is one of three in San Fernando and is one of the two air conditioned courts in the building.

However court officials could not say whether arrangements would be made for a building to house the Appeal Court in San Fernando on a permanent basis.

It is believed that in the first instance staff from Port-of-Spain serving the Appeal Courts would operate in San Fernando during the sittings.

EARLY STAGES

Court officials in San Fernando could not say of the situation with respect to permanent staffing of the court and what would be the position in the early stages.

But indications are that there would be no problem involved in staffing, for more than 40 matters are listed for hearing by the Appeal Court during its first session.

Today's parade would be under the command of Senior Superintendent Edmund Phillip in charge of the Southern Division.

During the parade rehearsal last week Sir Isaac Hyatali was on spot to view the preparations.

The Appeal Court formerly operated only in Port-of-Spain, however following a promise last year by the Chief Justice a special act was passed in Parliament to enable hearing of appeals both in San Fernando and Tobago.

SIR ISAAC HYATALI

Opening of Appeal Court in San Fernando Monday

SAN FERNANDO:

SIR ISAAC HYATALI, Chief Justice, will take the salute at the march past of uniformed policemen to mark the opening of the first sitting of the Appeal Court in San Fernando on Monday.

The parade will proceed around the bandstand on Harris Promenade and the Chief Justice will take the salute at 9.15 a.m. in front of the Supreme Court.

This is the first parade of the kind to take place in San Fernando. The Borough Council will mark the sitting with a reception at the Town Hall at 5 p.m. on the same day.

Councillor George Durity, Mayor of San Fernando, said: "The sitting of the court in San Fernando is a historic event and it is only fitting that we do something to mark the occasion."

Sitting of the Appeal Court in the South is in fulfilment of a promise made by the Chief Justice in his address to members of the legal profession at the opening of the 1973 lay term.

Newspaper clippings on the occasion of the opening of the Appeal Court in San Fernando (Above: Monday 27th May 1974 Below: Saturday 25th May 1974)

Ceremonial opening of Court at Sacred Heart RC Church. L-R: Chief Justice Sir Isaac Hyatali, Eyrmyntrude Clarke, ADC to Sir Ellis, Colonel Irwin Faustin, Sir Ellis Clarke and Fr. Rochard. (Trinidad Express, 1982)

Chief Justice Sir Arthur Mc Shine taking the salute at the Red House with fellow judges in 1967. (T&T Mirror)

explained in his 1991 opening address, "CAT is a system whereby the court reporter who is a trained steno-typist takes notes verbatim with a specialised input device. CAT software translates these symbols into English prose with accuracy rates of up to and sometimes over 99 per cent". At the end of 1990, CAT was introduced at the Court of Appeal, and in some matters in that Court, all proceedings were recorded using it. Court reporters were trained in CAT locally at the John Donaldson Technical Institute, and worked for the Court of Appeal and other courts. In his last opening address (1994), Bernard proudly reported: "In two divisions of the Court of Appeal and in civil matters in the High Court, arguments were taken by CAT reporters and transcribed immediately, so that transcripts of proceedings were available for the Judges the following morning. This allowed matters of national importance to proceed with dispatch from the High Court to the Court of Appeal and then on to the Privy Council." In addition, under Bernard the Law Library of the Supreme Court embarked on a programme to computerise much of its resources, with the aim of establishing "a National Legal Data Base and Legal Information System." This project began in January 1991, and aimed at "a complete computerisation of the decisions of the Supreme Court."

An important change affecting the Court of Appeal under Bernard was the admission of "skeleton" arguments to the Court in civil matters. This was intended to reduce the length of time taken up by oral submissions to the Appeal Court, as a way of helping to reduce backlogs.

An important change affecting the Court of Appeal under Bernard was the admission of "skeleton" arguments to the Court in civil matters. This was intended to reduce the length of time taken up by oral submissions to the Appeal Court, as a way of helping to reduce backlogs. Skeleton arguments summarised the main issues in the action, identifying each party's position and briefly stating how each proposed to prove its case. They often formed a useful supplement to the witness statements, expert reports and core documents that would be filed prior to the hearing. Bernard proposed this reform in his first opening address in 1986, suggesting it could be tried as an experiment at first and then, if successful, it could later be "established on a permanent basis in the Court of Appeal and be extended to the civil courts in the more important cases". He reported in October 1988: "On December 1, 1987, following consultation with the Law Association and with the concurrence of the other Judges of the Court of Appeal, a Practice Direction effective from January 1, 1988, was issued by me to permit of a submission of skeletal arguments in civil appeals. With regard to criminal appeals a difficulty has to be got over to permit of skeletal arguments in criminal appeals. As soon as this has been got over, steps will be taken to issue a similar Practice Direction for criminal appeals." In fact, filing of skeletal arguments was made a requirement in all civil appeals.

Another innovation under Bernard was an annual ceremony by which all newly qualified attorneys were admitted together to practice at the local Bar, at a sitting of the Supreme Court, to be held at the end of the first month of the new law term. This change was made to accommodate the graduates of the Hugh Wooding Law School, though all newly admitted attorneys were included. The first such ceremony was held in October 1987, and it was judged to be a success. It became a fixed item in the Supreme Court's calendar.

A surprising amount of space in the Chief Justices' addresses at the law term opening was devoted to questions of dress, for judges, practitioners, jurors and witnesses. In his first address in 1972, Hyatali stated that a committee had been set up to review the dress code for members of the Supreme Court. This committee reported in 1973 that "there were among the Judges and members of the Bar both a strong attachment to their wigs and robes, and a great anxiety for the due maintenance of dignity and decorum in the Supreme Court." So no change was made then, though Hyatali noted that "the imminent entry into the profession of graduates from the University of the West Indies and the proposed fusion [of barristers and solicitors]" suggested that the matter would need to be revisited. Indeed, in 1975 students at the local Wooding Law School reported that they should be "exempted from wearing wigs", and Hyatali announced in his opening address that year that he would recommend to the Judges of the Supreme Court that wigs be made "optional in every case". However, they appear to have turned down this proposal, as in October 1976 he stated that the Judges had decided that wigs and robes must be worn by barristers in the High and Appeal Courts "unless they are exempted for special reasons". Their opinions soon changed, however, and in his opening address in 1979 Hyatali announced that "the wearing of wigs in the Supreme Court by Judges and Barristers is to be discarded with effect from 8 October 1979". Further, the question of designing new gowns for Judges of the High and Appeal Courts, to better suit the country's status as a republic, and to differentiate them from the barristers, was under discussion by then. This obviously took some time, for it was not until October 1986 that Chief Justice Bernard, in his first opening address, noted that the Judges of the Supreme Court, including himself, were wearing "new robes in the national colours" which were "symbolic of our determination to forge a new image, a more indigenous concept and pride in our young nation".

In 1973 "there were among the Judges and members of the Bar both a strong attachment to their wigs and robes, and a great anxiety for the due maintenance of dignity and decorum in the Supreme Court."

Following the precedent set by Wooding in the 1960s, the Chief Justices of this period continued to report in their opening addresses on the work of the Court of

Mark Lyndersay

Kelsea Mahabir

Kelsea Mahabir

Mark Lyndersay

Robes and wigs through the years.

Appeal and its progress in hearing matters without undue delays. In 1975, Hyatali noted that the Appeal Court had 650 appeals on its list in 1972 and heard and determined 620; the figures in 1973 were 709 and 601, and 591 and 534 in 1974, suggesting that delays were not a major problem. In October 1980, he announced: "In the Court of Appeal there are at the moment 100 appeals ready for hearing. All but 20 of them are listed for hearing in October. The work of this Court is well in hand and gives no cause for concern." By the 1983/84 law term, however, some arrears in appeals from the magistrates' courts had built up which, Kelsick stated in 1984, seemed to be on the increase. Things improved in the next few years; by the end of the 1985/86 term only 13 appeals to the Court of Appeal in Port of Spain from the magistrates remained outstanding, and only six in San Fernando.

The Chief Justices of this period continued to report in their opening addresses on the work of the Court of Appeal and its progress in hearing matters without undue delays.

In his opening address in October 1987, Bernard stated that he had asked the Appeal Court to give priority to criminal appeals in the 1986/87 law term. As a result, 42 criminal appeals had been listed, and 35 were determined by the end of the term. The failure to complete the remaining cases was due to circumstances beyond the Court's control. He announced that "the way things are going in criminal appeals, by the end of the current year the Court will be dealing with the 1987 appeals". The priority given to criminal cases had reduced the number of civil appeals that could be listed, but overall, said Bernard "the picture in the Court of Appeal can be regarded as heartening, bearing in mind that during the then term and for perfectly justifiable reasons, the Court of Appeal was operating well below its normal strength—that is to say with only four Justices of Appeal and not its full complement of seven" (because of retirements and unfilled vacancies).

Reporting in October 1989, Bernard noted that during the 1988/89 term, 1215 matters had been listed for the Court of Appeal, but only 593 had been heard and determined. "Although the picture with regard to civil appeals is not as bright as the rest," Bernard noted, "a number of reasons, among them being applications for adjournment, the prospect of settlement, non-compliance with the Practice Direction regarding submission of skeletal arguments and the length of some of the matters were contributing factors…Albeit that this is so, I am happy to record that most of the old appeals were given priority and dealt with. Also, among the matters listed and even completed were appeals as recent as 1988. So that, all in all, there is much to be said for the work that is being done in this area [and]…the picture for the future looks very encouraging." Two years later, in October 1991, Bernard stated that in Tobago, the Court of Appeal was engaged with appeals filed as recently as 1991; in Port of Spain, it "had long embarked upon appeals" filed in

1990; in San Fernando, it was dealing with appeals filed between 1989 and 1990 – lack of accommodation for the Court of Appeal in that city being the main reason for the "apparent shortfall in this jurisdiction which, incidentally, caters for the whole of the southern part of the island". "What we need now," Bernard concluded, "if the system is to be properly serviced, particularly in San Fernando, are at least two more Judges in the Court of Appeal, or, if not, amend the Constitution further to provide for retired Judges to sit on the Court of Appeal."

The Appeal Court Justices

Despite his reservations about Hyatali's appointment, Clement Phillips, who had acted as Chief Justice in 1971-72 and had been part of the Court of Appeal which ruled on the "Mutiny cases", continued to sit as the senior Justice of Appeal up to the 1978/79 law year. P. T. Georges, who had not been confirmed as a Justice of Appeal in 1972, and Aubrey Fraser, had both left Trinidad by 1973. Other Justices of Appeal under Hyatali were Karl de La Bastide, Maurice Corbin, Evan Rees, Garvin Scott, Noor Hassanali (the future President of the Republic), Cecil Kelsick and Clinton Bernard (both future Chief Justices), Ulric Cross (the war hero) and John Braithwaite. During Kelsick's short tenure as Chief Justice, four men joined the Court of Appeal: Alcalde Warner, Gerard des Iles, Guya Persaud and Ralph Narine. It was still an all-male Court.

"What we need now," Bernard concluded, "if the system is to be properly serviced, particularly in San Fernando, are at least two more Judges in the Court of Appeal.

Under Clinton Bernard, new members of the Court of Appeal included Kester McMillan, the future Chief Justice Satnarine Sharma, George Edoo, James Davis, Lloyd Gopeesingh, Roger Hamel-Smith, Mustapha Ibrahim and Zainool Hosein. It is interesting to note that both Gopeesingh and Hamel-Smith had been Masters and then Judges of the High Court, before their elevation to the Appeal Court.

One notable change occurred in 1993. For decades Chief Justices had referred to their fellow Judges as "my brothers". Now, a woman was elevated from the High Court to the Court of Appeal for the first time: Justice Jean Permanand. Going outside the chronological limits of this chapter, we can note that she was the only woman on the Court up to the 1997/98 law year. Then, Margot Warner was appointed. Permanand was the first woman to act as Chief Justice. In the early years of the new century, three women were elevated to the Appeal Court, all of whom still sit on it: Paula-Mae Weekes (2004/05), Alice Yorke-Soo Hon (2008/09) and Maureen Rajnauth-Lee (2012/13). Both in the 2008/09 and the current 2012/13 law years, three women have sat together on the nation's highest court. Noting this trend, the eminent attorney Russell Martineau said at a panel discussion in 2012 that

soon "the whole of the Court of Appeal, or certainly the majority, will be women" – which he declared to be "a good thing".

courtesy Nicola Cross

Members of the 1976 Supreme Court Bench
1st row: (L-R) Justices Maurice Corbin, Evans Rees, Clement Phillips, Isaac Hyatali, Elizabeth Bourne
2nd row: (L-R) Justices Kester Mc Millan, Noor Hassanali,Sonny Maharaj, Garvin Scott, John Brathwaite, Ulric Cross, Dennis Malone

In Chapter 1, we considered the "crisis in the Judiciary" which followed the retirement of Wooding and the dissolution of the Wooding Court of Appeal. In the more stable period that was ushered in with Hyatali's appointment in 1972, concerns were still raised from time to time about recruitment to the Appeal Court Bench. It was in his 1978 opening address that Chief Justice Hyatali made a comment that would become famous: "The present salaries and terms of service of Judges have not only failed to make the Bench an attraction, let alone the dominant attraction, to the legal profession, but we are headed for a situation in which the brandy will have to be watered considerably in order to fill future vacancies on the Bench." He was even more blunt in his 1980 address, in which he said that "only the less worthy and able" sought seats on the Bench. While he linked this primarily to the low salaries and poor conditions of service, he also noted that the government paid no attention to the need for more Judges or to succession planning, to replace those retiring or resigning, so that "instead of renewal and regeneration, attrition and decay constitute a growing threat to the strength and integrity of the Judiciary".

For decades Chief Justices had referred to their fellow Judges as "my brothers". Now, a woman was elevated from the High Court to the Court of Appeal for the first time: Justice Jean Permanand.

When the Salaries Review Commission (SRC) was established under the Republican Constitution in 1976, it was naturally anticipated that higher judicial salaries and better conditions of service would follow in due course. The Judges were invited to make submissions to the SRC, which duly recommended increases and improvements to the Executive, recommendations which were "far from extravagant", in the words of the journal of the Trinidad and Tobago Bar Association, and fell far short of the Judges' own requests. To the profound dismay of the Judiciary, even these modest recommendations from the SRC were rejected by the government in December 1980. As Hyatali said in his 1981 opening address, the reasons given for the rejection of the SRC's recommendations by the government were "by the common consent and agreement of the Judges unconvincing, illogical and unfair—a conclusion in which we were fortified both by a strong public opinion as reflected in the news media", and by the protests made by the legal profession.

"The present salaries and terms of service of Judges have...failed to make the Bench an attraction, let alone the dominant attraction, to the legal profession." (CJ Hyatali, 1978)

He went on to admit that the rejection of the SRC's report "stirred up a spirit of rebellion among the Judges of the Supreme Court and fomented a crisis which was only contained by the timely intervention of His Excellency the President [Ellis Clarke]. That crisis however, though contained, lies astir nevertheless beneath a seemingly static surface", for the Judges had not yet received a reply to their "representations made to the powers that be" through the President early in 1981. In his last opening address (October 1982), Hyatali noted that salaries of Court of Appeal Judges were $7500 in 1981 as compared to $2800 in 1971. As part of the compromise reached in 1981 (to avert the "rebellion"), each Judge was entitled to a tax-free personal allowance of $2000 per month and a daily subsistence allowance when on duty in San Fernando or Tobago. Even with the new allowances, however, it was clear that the Judges were seriously underpaid, both in the light of the economic circumstances of the country in 1980-81, and "in the light of making judicial office a final goal to which the cream of the legal profession might aspire", in the words of the Bar Association's journal. It is interesting to note that by October 1992, Chief Justice Bernard could state with obvious pride that "the terms and conditions of serving and retired Judges were considerably enhanced with particular reference to their salaries and pensions which have been made exempt from tax. As far as I am aware, this does not occur in any other place. We are indeed the envy of the other Commonwealth countries".

Inadequate salaries and pensions—at least for some of this period—were not the only disadvantages faced by Appeal Court Judges. Another was the failure to have vacancies on the Court filled in a timely manner. In his last opening address (1982),

Hyatali said: "What gives serious cause for concern is the rapid depletion which has taken place in the membership of the Court over the past six years, by the retirement of five Judges in the persons of Rees, Phillips, Scott, Cross and Corbin, J.A., and the consequent loss to the Court of their wide experience, knowledge and expertise". By the end of 1982, he noted, there would be only four Justices of Appeal, which would seriously affect the Court's ability to carry out its work. Even so, Hyatali said, "it is better to leave vacant posts on the Bench of the Supreme Court unfilled than to fill them with unsuitable members of the legal profession". Chief Justice Kelsick, in his last opening address (1985), noted that "the present Court of Appeal Judges have all been appointed comparatively recently: one in 1982 [Bernard, who would succeed Kelsick], two in 1983 and one in 1984. Only one of them had previous appellate experience. I was appointed in 1978 and Mr. Justice Braithwaite in 1980"—but both had retired by the end of 1985.

"What gives serious cause for concern is the rapid depletion which has taken place in the membership of the Court over the past six years, by the retirement of five Judges." (CJ Hyatali, 1982)

In his last opening address, Chief Justice Bernard asked, rhetorically, "would it surprise the country to know that, while some people have been continually going about the place belly-aching about the quality of our Judges here and elsewhere in the Caribbean, our judgments are cited or used abroad? It was done in Australia where a judgment of Sharma J. (as he then was) was cited in court there. Another recent example is the case of Burroughs and the Attorney-General of Trinidad and Tobago v. Katwaroo—a decision of this Court of Appeal (40 W. I. R. 287)—which has been cited with authority in the modern book on Judicial Review…Isn't it about time we rid ourselves of this negativity about the quality of our courts?" Justice Satnarine Sharma, elevated to the Appeal Court in 1983, would become Chief Justice in 2002.

Of course, judgments of the Court of Appeal might, from time to time, be reversed by the Privy Council. Two such high-profile cases occurred during Hyatali's term as Chief Justice. In 1972, P. T. Georges, then a High Court Judge, ruled that a "guerilla" (Terrence Thornhill) captured by the police in 1972 was entitled to have access to a lawyer after being taken into custody. The State appealed; Clinton Bernard was the lawyer for the State. The Court of Appeal, with Hyatali, Corbin and Rees, reversed Georges' ruling. The case went to the Privy Council, which ruled that it would be tantamount to an abuse of power to hold that a man, when arrested, was not entitled to consult with a lawyer.

Another much reported case involved the jailing (for one week) of attorney Ramesh Lawrence Maharaj for contempt of court in 1975, on the order of High Court Justice Sonny Maharaj. The former filed a constitutional motion, alleging that the Judge had not given him particulars of the charge, and that the rules of natural justice had been

violated because he had not been allowed to defend himself. When the case was taken to the Court of Appeal, it was heard by Hyatali, Corbin and Phillips. The first two ruled against the constitutional motion, but Phillips dissented, holding that the rule of law demanded that a person, before he can be jailed for contempt, must be given particulars of the charge and an opportunity to defend himself. When the case reached the Privy Council, it sided with Phillips' interpretation and ruled against the decision of the Court of Appeal.

Inevitably, the Court of Appeal at times dealt with highly controversial and deeply "political" cases. A good example is provided by appeals from rulings connected to the attempted coup in July 1990 by the Jamaat Al Muslimeen. In 1992, High Court Judge Clement Brooks ruled that the amnesty granted to the Jamaat at the height of the coup attempt was valid. The State appealed, and the Court of Appeal, in 1993, upheld the Brooks ruling by a two to one margin. Justices of Appeal Sharma and Mustapha Ibrahim agreed with Brooks on the validity of the amnesty and ordered the release of the 114 Jamaat men in jail through a writ of habeas corpus. They also ordered that damages should be paid to them for the time spent in jail, and that the State should pay costs in both the High Court and the Court of Appeal matters. The third Justice of Appeal, Roger Hamel-Smith, dissented, holding that the amnesty was invalid because the acting President was acting under duress when he signed it. (This last view was subsequently upheld by the Privy Council, though it also said that to arrest the Jamaat men again would be an abuse of process.) By the same two to one margin, the Court of Appeal in 1994 threw out an appeal by the State against another decision of Judge Brooks, this one to award damages to the Jamaat for the demolition of their buildings at Mucurapo at the height of the coup attempt in 1990. Needless to say, these decisions were immensely controversial, the subject of heated newspaper commentary as well as more temperate legal debate.

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Controversies and Disputes

In addition to Court of Appeal rulings on sensitive and "political" cases, from time to time the Chief Justices or the Court became embroiled in other kinds of controversies. Two such involved the extension of Kelsick's tenure, and the suspension of High Court Judge Richard Crane.

As we have noted, vacancies in the Appeal Court caused by retirements were usually not filled swiftly, causing difficulties for its work. This happened in 1985,

when John Braithwaite and Kelsick both reached retirement age between May and July of that year. Both sought and were granted extensions of time of several months to complete their outstanding judgments. In Kelsick's case, the grant of an extension by the President (up to December 21, 1985) raised the issue of whether a new Chief Justice could be appointed—as the Constitution required—while he was still in office. President Clarke did, in fact, so appoint the senior Justice of Appeal, Clinton Bernard, the appointment "to take effect from the date on which the Chief Justice [Kelsick] vacates office". The issue was seized on by the Opposition Leader, Basdeo Panday, and by his ally Ramesh Lawrence Maharaj. A constitutional motion was filed by a schoolboy and his father (engineered by Maharaj) asking the Court to declare whether the President could allow Kelsick to continue in office after retirement age. High Court Judge Lennox Deyalsingh ruled on July 22, 1985, that the President had no power or authority to allow Kelsick to continue in office after he turned 65. His ruling further asserted that Kelsick's action—requesting and accepting an extension from the President—had "brought about a situation which constituted disservice to an institution over which he had the great honour to preside, an institution which should always stand solemn in the public eye".

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Naturally, this aspect of Deyalsingh's ruling attracted considerable comment in the media. For instance, an editorial in the *Guardian* argued that the Judge "was called upon to adjudicate on a constitutional issue, not to pronounce on the conduct of the Chief Justice who was not a defendant in these proceedings…we consider it grossly unfair for Mr. Deyalsingh to have launched such a blistering attack on Mr. Kelsick's conduct and, by obvious implication, his character when the Chief Justice was not a defendant in this issue and especially since he had no way of defending himself and no opportunity for reply".

The State appealed, and the Court of Appeal, comprised of Alcalde Warner, Gerard des Iles and Ralph Narine, heard the case early in August 1985. In a unanimous main judgment, written by des Iles, the Appeal Court held that the President had the power to extend Kelsick's tenure in office to December 21. Further, it chastised Deyalsingh for his attack on Kelsick's conduct: "Mr. Kelsick has broken no law, committed no breach of the Constitution, infringed no principle of natural justice and has performed no disservice to the Judiciary. On the contrary, in an effort to permit both divisions of the Court of Appeal to function for as long as possible with a view to reducing the delay in determining matters pending before the Court", he continued to hear new matters up to his retirement age; but, "instead of being commended for his industry,

he has become the target of a wholly unwarranted castigation by the learned trial Judge in the court below". In an unusually severe rebuke, des Iles concluded: "It is difficult for me to understand how a Judge of the High Court of Justice in whom the highest degree of confidence must be reposed could fail to appreciate the harm that would be caused to the Judiciary by the use of language that would of necessity bring the head of that institution into ridicule and disrepute and I can only express the hope that there will be no repetition of this". Clearly seeing the importance of the case to the Judiciary, the Court of Appeal and the Chief Justice, all three Justices of Appeal in this case gave full-length, unanimous judgments. Warner's rebuke to Deyalsingh was as strong as that of des Iles: "What is certain is that serious adverse reflections have been cast upon Kelsick C. J. on issues which were not before the Court and on which he was given no opportunity to state his explanation…The violation of the rights and dignity of Kelsick C. J. by the Judge in his unwarranted comments was a grievous wrong".

The Court of Appeal...chastised Deyalsingh for his attack on Kelsick's conduct: "Mr. Kelsick has broken no law, committed no breach of the Constitution, infringed no principle of natural justice and has performed no disservice to the Judiciary."

As another *Guardian* editorial noted, the Court of Appeal decision "removed the problem of two Chief Justices which conflicting judgements in the High Court had created, since its ruling establishes that Mr.. Kelsick is fully entitled to continue in that office until he completes the matters before him". The schoolboy and his father, presumably at the behest of Maharaj, appealed this ruling to the Privy Council. In September 1985, the Judicial Committee upheld the judgment of the Court of Appeal that the President had the right to extend Kelsick's tenure as Chief Justice to December 1985, and granted the State costs for the entire matter, in the High Court, the Court of Appeal and the Privy Council. This brought this seemingly unnecessary contention to a close. Kelsick continued in office until December 1985, and delivered the opening address for the new law term in October of that year.

His successor, Chief Justice Bernard, became embroiled in a controversy surrounding the suspension of High Court Judge Richard Crane. Following complaints that Crane's performance as a Judge was unsatisfactory and erratic, Bernard "de-rostered" him at the start of the new law term in October 1990. Crane was informed that the Judicial and Legal Services Commission (JLSC) had agreed with Bernard that he should not preside in court because of his poor performance and his state of health, and had further agreed that the President should be requested to appoint a tribunal to investigate the allegations against him. A tribunal was appointed, consisting of retired Justices of Appeal Garvin Scott and Evan Rees, as well as High Court Judge Lennox Deyalsingh, and on its recommendation, Crane was suspended

from duty in November 1990. Meanwhile, Crane filed for judicial review of the Chief Justice's decision to "de-roster" him, and also filed a constitutional motion against the appointment of a tribunal to investigate him, in the High Court. His grounds were that the JSLC had never informed him of the allegations against him, nor had it given him an opportunity to be heard; and that the Chief Justice was actuated by "bias" against him which had existed for some years. Justice Ivol Blackman dismissed both suits.

Eventually the matter reached the Court of Appeal. In November 1992, it ruled by a two to one margin that Crane had been unfairly treated by the JLSC and should be restored to his position as a High Court Judge. This was the view of Justices of Appeal James Davis and Mustapha Ibrahim, while Satnarine Sharma dissented. The Chief Justice and the JLSC appealed to the Privy Council, which upheld the Appeal Court's ruling in February 1994. The Judicial Committee ruled that Crane's suspension was unlawful and ordered that he be paid damages, to be assessed by a Judge in chambers, as well as the full costs of the matter. The British Law Lords, agreeing with the local Appeal Court's majority decision, said that Bernard had been wrong to de-roster Crane, and that Crane had a right to be heard with respect to the allegations against him sent to the President by the JLSC. (They also dismissed Crane's cross-appeal on the issue of bias against him by the Chief Justice.) Crane was accordingly reinstated as a Judge of the High Court. It is said that when he died in 2002, long after he had retired, he was still awaiting an order for damages as ordered by the Privy Council.

A very different kind of controversy, one that is still very much alive, was the question whether appeals to the Privy Council from the local Appeal Court should be retained in an Independent Trinidad and Tobago, and especially after it became a Republic. Chief Justice Hyatali, in his address at the law term opening in 1973, raised the issue. He believed that the creation of a "Caribbean Court of Appeal", which could replace the Privy Council, was "a considerable distance away"—in which, of course, he was correct. He thought the alternative was to work towards a "new model Privy Council" in which Judges and jurists from the Commonwealth Caribbean would sit on the Judicial Committee (as Wooding had, for a short time), which would sit from time to time "in at least three centres in the Caribbean". Hyatali asked his Judges, and local members of the legal profession, for their views on this idea. When the country became a Republic in 1976, it was announced that appeals to the Privy Council would be retained pending the establishment of a Caribbean Appeal Court. In his opening address that

Crane was accordingly reinstated as a Judge of the High Court. It is said that when he died in 2002, long after he had retired, he was still awaiting an order for damages as ordered by the Privy Council.

year, Hyatali again raised his idea of a reconstituted Privy Council and repeated his call for opinions on it.

In his first opening address, in 1986, Chief Justice Bernard referred to the arguments for and against retaining appeals to the Privy Council, without directly stating his own views. He did, however, make this interesting statement: "I consider that the provision in the Constitution for appeals to the Privy Council in civil proceedings respecting property or a right of the value of $1,500 is ridiculously low and is, to my mind, a sad reflection upon our loud claims to and/or boasts of our constitutional attainments….It seems to me consistent with our advanced status that an appeal in these matters should be on a question of law alone, and only where the particular property or right is of the value of $30,000 and upward. For myself also I find it difficult to comprehend why matters relating to contempt of court should go further than our local Court of Appeal. After all it is elementary knowledge that no one could understand and appreciate the behavioural patterns and idiosyncrasies of a tribe of people better than the indigenous members of that tribe". Of course, debate on appeals to the Privy Council would continue, even long after the Caribbean Court of Justice (CCJ) was finally established in 2005; at the time of writing, only three Caribbean jurisdictions have abolished appeals to the Privy Council in favour of the CCJ, and Trinidad and Tobago is not one of them.

"I find it difficult to comprehend why matters relating to contempt of court should go further than our local Court of Appeal. After all it is elementary knowledge that no one could understand and appreciate the behavioural patterns and idiosyncrasies of a tribe of people better than the indigenous members of that tribe". (CJ Bernard, 1986)

Generally speaking, relations between Judiciary and Executive seem to have been relatively smooth during the period under consideration. In his first opening address, Hyatali, after asserting the principle of an independent Judiciary, continued: "A vital corollary to that principle is the independence of the Executive from the Judiciary; and just as it would be an impertinence for the Executive to arrogate unto itself a right to interfere with the independence of the Judiciary, so it would be an impertinence for the Judiciary to arrogate unto itself a right to interfere with the independence of the Executive…It is certainly not their business as some in the society seem to think, to wage war against each other or to undermine the foundations on which the other is secured". By 1981, however, Hyatali was less sanguine. In his opening address that year, he complained that government officials were "eroding" the status and independence of the Judiciary by failing to carry out decisions agreed to by Cabinet—such as giving Judges proper secretarial assistance, and repairing or constructing court buildings.

He concluded: "The stark reality then is that by reason of the total dependence on the Executive for its material and human resources, the constitutional independence of the judicial arm is susceptible of erosion by indirect but nevertheless effective means. So that the individual Judge, the one insulated in his own high-mindedness and personal integrity, may nevertheless be successfully hampered and impeded in all his judicial efforts, whilst another of frailer mettle may be driven." Such issues were to become particularly salient during the terms of Chief Justices de La Bastide and Sharma, as we shall see.

The Hall of Justice

A most important event during the period under consideration was the opening of the Hall of Justice on Knox Street, Port of Spain, in 1985, to house the Supreme Court and related facilities. As far back as 1956, the Napier Committee had noted the inadequacy of the accommodation for the Supreme Court and the Judges in the Red House, and had called for a separate building worthy of the judicial arm. This call was echoed by every Chief Justice from Wooding to Kelsick. It became a standing item in their annual addresses at the opening of each law term.

After 1962, the Court of Appeal was located in "Trinidad House", a modern building in Port of Spain previously occupied by the Federal Government (see pictures on pages 9 and 38). But the High Court, the Supreme Court Registry, the Supreme Court Library and related facilities were all still at the Red House, some distance away, creating considerable inconvenience for all concerned. The new building would house the whole Supreme Court and all its related agencies under one roof. Active planning began in the mid-1960s. In 1966, the chief architect in the Ministry of Works, Peter Bynoe, visited the new Ontario Supreme Court buildings in Toronto to study the arrangement of the courts and related offices. In a private letter from Justice of Appeal Aubrey Fraser to the Assistant Registrar of the Supreme Court of Ontario about this visit, he noted: "Sir Hugh [Wooding] and Mr. Bynoe are both agreed that, in addition to being aesthetically attractive, the new building should be functionally adequate having regard to current trends in Court design including up-to-date techniques to facilitate the conduct and recording of court proceedings". In September 1967, Wooding chaired a meeting, which included Fraser and Bynoe, on plans for the new building. Unfortunately, though a detailed schedule of requirements and specifications had been given to, and discussed with, Bynoe, there were still no funds available, nor was there confirmation as to the site. With considerable optimism, the meeting agreed that the cornerstone "may" be laid in April 1968, during the conference of Commonwealth Chief Justices scheduled to be hosted in Port of Spain that month. (It was not to be laid for another ten years.)

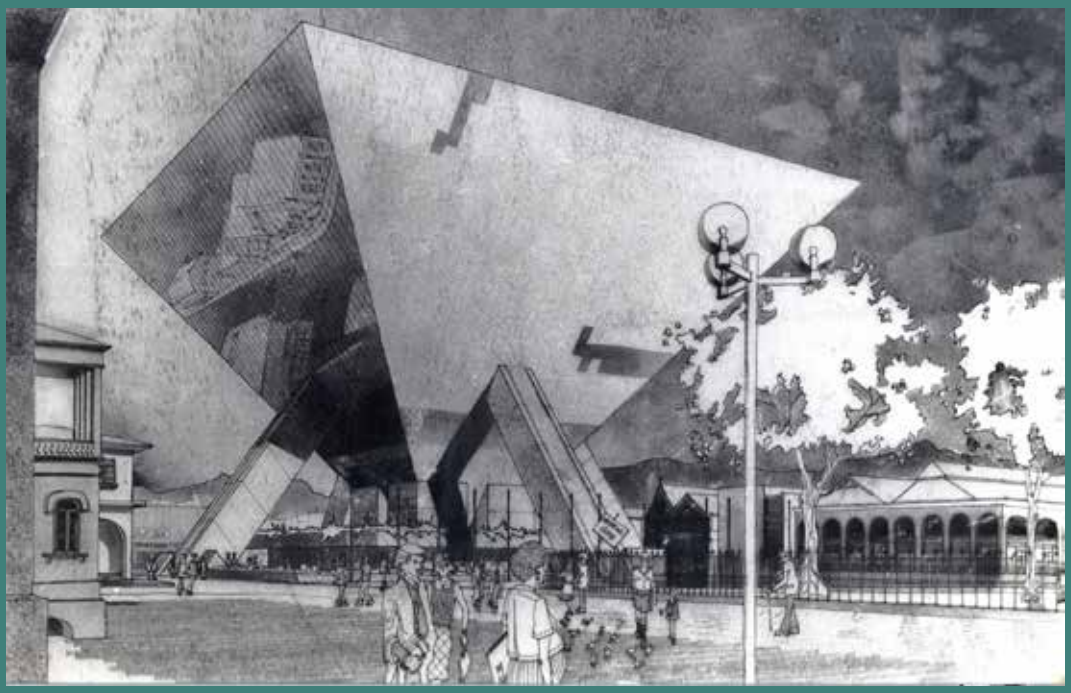
Mark Lyndersay

Red House

Mark Lyndersay

Trinidad House

courtesy acla:works



Anthony Lewis' first design idea for the Hall of Justice

LUMIS Photography

The actual building of the Hall of Justice.

Mark Lyndersay

Interior of the Court of Appeal, Hall of Justice


FIRE EXIT

Six years later, in his 1974 address at the law term opening, Chief Justice Hyatali could only report that "representations have been made for the erection of a new Hall of Justice in Port of Spain and I trust that Mr. Attorney [the Attorney-General] will be in a position to say something in that connection". The news was better by October 1977. The Attorney-General (Selwyn Richardson) had assured Hyatali that "he was deeply committed" to making the building a reality "without any further delay". As a result, "it is now confidently expected that this important and long-awaited project will soon get off the ground". The building would house the Court of Appeal, with at least two court rooms and related facilities, the High Court, the Tax Appeal Board, Judges' Chambers, the Library, the Supreme Court Registry, and a number of auxiliary offices and facilities. It would also contain a convocation hall and a restaurant. "One significant feature", Hyatali stated, "is that the Judges will have separate entrances to and exits from their chambers and to their respective courts, and will consequently not come into contact with anyone except themselves and perhaps authorised members of staff". His audience must have felt encouraged by the news that "instructions for the demolition of the Lucien building [on Knox Street] and the clearance of that site have already been issued".

In 1978, a design competition for the building was held. One of the leading local architects, Anthony Lewis, was awarded the commission, in association with the British firm Howell, Killick, Partridge and Amis. After many months of discussions and meetings to settle the requirements and needs of the Supreme Court and its related offices, construction began in October 1979. On November 1, 1979, the foundation stone was finally laid by Chief Justice Hyatali and Attorney-General Richardson. In his October 1979 address, Hyatali paid tribute to Richardson as 'the moving spirit behind this prestigious project—the first of its kind to grace our country",

Mark Lyndersay

who "richly deserves the unqualified thanks of the Judges, the legal profession and the community for the crucial part he played in getting the plans approved and duly delivered to the contractors—Higgs & Hill—for the commencement of its construction". It would be, thought Hyatali, "an edifice that will magnificently reflect the deep respect and strong attachment which our Country possesses for justice according to the Law and under the Rule of Law".

The lead architect, Lewis, had to abandon his original and innovative design of an "inverted pyramid". But his final designs were both attractive and practical. As we learn in *Manikin: The Art and Architecture of Anthony C. Lewis* (2009), his designs effected significant cost savings. Lewis introduced "an ingenious scissor approach, slicing huge tracts of square footage on his drawings that actually effectively solved this problem, resulting in commencement of the project on a fast track basis with only nine drawings" at the outset. During construction, however, Lewis completed "thousands of drawings…the building was meticulously detailed". Interesting information on Lewis' designs, reproductions of some of his drawings, and fine photographs (exterior and interior) of the Hall of Justice can be found on pages 111-121 of *Manikin*.

Though Hyatali had hoped in 1979-80 that the building would be complete by 1982, this proved to be overly optimistic; it took six years to complete. He had demitted office by the time that the Hall of Justice was opened on September 21, 1985; the honours were done by Chief Justice Kelsick and Attorney-General Russell Martineau at an impressive ceremony, during which the keys to the building were given to the Chief Justice by the President. A few days later, Kelsick delivered his address at the opening of the 1985/85 law term in the fine Convocation Hall of the new Hall of Justice. Interestingly, he told his audience: "My information concerning the missing Foundation Stone which was laid in 1979 is that it was to have been delivered this

Interior of the Hall of Justice

morning [October 3, 1985] by the building contractors, Higgs & Hill, into the custody of the Registrar of the Supreme Court. I shall endeavour to ensure that it is embedded in an appropriate place at an early date. I shall also recommend that a plaque to commemorate the handing over of the Hall of Justice be suitably located". Reporting on the handing-over ceremony, Kelsick said that the history of the construction of the building was recalled in the various speeches, and "tribute was paid to those who had conceived and implemented the idea". The Attorney-General noted that it was expected that "it will provide us with a new opportunity to improve and enhance the administration of justice by providing a quick, sure and inexpensive service", a sentiment endorsed by Prime Minister George Chambers "who indicated the support of the government for keeping alive a vibrant and independent Judiciary".

The Hall of Justice was opened on September 21, 1985; the honours were done by Chief Justice Kelsick and Attorney-General Russell Martineau at an impressive ceremony.

A slightly more downbeat note was struck when Kelsick announced that "the original furnishings planned for the Hall of Justice have been curtailed, and maximum use is being made of the furniture now utilised by Judges and staff", due to financial limitations (the first oil boom had long ended). But he nevertheless hoped for "the provision of the requisite goods and services for equipping and maintaining the Hall". Only seven years later, Chief Justice Bernard announced in 1992 that "the Hall of Justice, contrary to some thinking, is bursting at the seams". Even if that was so, the Court of Appeal, and the Judiciary in general, had finally got a building worthy of their status and work.

Paria Publishing

Knox Street before the construction of the Hall of Justice

Laying of the foundation stone for the Hall of Justice. L–R: Attorney General Selwyn Richardson, Chief Justice Sir Isaac Hyatali, contractor David Hill and Chief Magistrate Roland Crawford (Trinidad Express, 1979)

Mark Lyndersay

Supreme Court Buildings in San Fernando.

Mark Lyndersay

Tobago Hall of Justice.

Mark Lyndersay

Door to the Court of Appeal in Tobago.

CHAPTER 3:

INTO THE NEW MILLENNIUM (1995 - 2008)

This period saw the tenure of Chief Justices Michael de la Bastide (1995-2002) and Satnarine Sharma (2002-2008). In the case of de la Bastide, his appointment marked the second time since Independence that the top judicial post was filled from outside the Judiciary; like Wooding, he was a distinguished member of the Bar. The others who held the post—Mc Shine, Hyatali, Kelsick, Bernard—had all been members of the Court of Appeal when they were appointed. Sharma was in fact the senior Justice of Appeal in 1995, but he had to wait until de La Bastide's retirement in 2002 before he was appointed Chief Justice. Under both men, the Court of Appeal and, indeed, the Judiciary as a whole, faced serious conflicts with the Executive, but this was also a period of reforms and changes. De La Bastide began the practice of issuing published annual reports on the Judiciary, the first one covering the 1998/99 law term, which has continued up to the present. But the Chief Justices' addresses at the opening of each law term continued to be important for outlining the Judiciary's plans for the coming year.

The Work of the Court of Appeal

Two new Justices of Appeal joined the Court in the 1997/98 law year, Lionel Jones and the second woman, Margot Warner. The following year, Rolston Nelson entered the Court directly from the Bar, the only attorney in private practice to be appointed a Justice of Appeal. (He eventually resigned to take up a seat on the Caribbean Court of Justice (CCJ.) Towards the end of de La Bastide's tenure, Anthony Lucky, Wendell Kangaloo and Stanley John were elevated to the Appeal Court. During Sharma's term, Ivor Archie, the future Chief Justice, was elevated in the 2003/04 term; he had moved from the High Court to the Court of Appeal in an unusually short time. Other

new appointees under Sharma were Allan Mendonca and Paula-Mae Weekes, the third woman member.

Several changes were inaugurated or implemented during this period, all intended to increase the productivity of the Appeal Court (and the whole Judiciary) and reduce delays. In his first opening address (October 1995), Chief Justice de La Bastide announced that he intended to shorten the Long Vacation so that the new law term would start on 16 September, instead of the beginning of October. This was implemented for the 1996/97 law term, with the concurrence of the Judges. In addition, he arranged for the Court of Appeal to sit for a few days during the Long Vacation in 1995 to hear magisterial appeals in San Fernando and Tobago, in order to reduce the backlog. Three days were added to the Court break at Easter, which meant, de La Bastide said in 1996, that "there are now three terms, rather than two, in each law year". Another effort to reduce delays was announced by de La Bastide in 1995: "I intend to abolish by Practice Direction the reading of [reserved] judgments in Court…Instead, the Court will give its decision orally and copies of the judgment will be made available to the parties or their attorneys". This was implemented during the 1995/96 law year.

In his first opening address, de La Bastide stated that the number of permanent Judges of Appeal should be increased "immediately" by three, to "enable the Court of Appeal to hear appeals from the Assizes on a continuous basis without causing its other work to fall in arrears". He was able to report in September 1996 that this had happened: "By an amendment of the Supreme Court of Judicature Act, the maximum number of Judges has been increased in the Court of Appeal from six to nine", exclusive of the Chief Justice. If fully staffed, therefore, the Court of Appeal would have ten members. But the challenge, de La Bastide noted, was to fill the new vacant positions with suitable persons. As several of his predecessors had complained, few successful lawyers in private practice felt inclined to make the financial sacrifice required in accepting a judicial appointment. In September 1997, however, de La Bastide was able to report that Cabinet had accepted the report from the Salaries Review Commission recommending improvements in salaries and other terms and conditions for the judiciary. These changes would, he thought, "make the Judges' remuneration package more attractive", and might "help to persuade more successful and talented attorneys to accept permanent appointment on the Bench, even though one can never hope to match the rewards of private practice for those at the top".

If fully staffed, therefore, the Court of Appeal would have ten members. But the challenge, de La Bastide noted, was to fill the new vacant positions with suitable persons.

de La Bastide made administrative reform and improved case management central to his agenda as Chief Justice. The Judicial Sector Reform Project was a key part of this thrust, out of which came the Greenslade Report on the Review of Civil Procedure (1998). The overall aim was a more structured administrative system to manage the flow of civil cases through the courts. In the 1998/99 law term, a Department of Court Administration was established, to manage the whole court system. Several senior managerial posts were created under the Court Executive Administrator. This was an obvious step forward; as de La Bastide said in September 1998, "it is totally unrealistic to expect judicial officers such as the Chief Magistrate, the Registrar and the Chief Justice, in addition to performing their judicial duties, to assume responsibility for the management of a large and complex court system without the assistance of a properly staffed management team". What was called a "single non-bifurcated docket system" was introduced, by which cases are randomly assigned to a Judge (taking into account the likely complexity and length of the trial), who will take that case through all its stages. As the computerisation of the court system was gradually implemented, a software application was used by the Registries of all the courts, including the Court of Appeal, to keep track of every case that was started in each Registry and every event that occurred in its progress. In 1998/99, the Court of Appeal clerks were re-trained in the software application, and it was planned to implement a system "to generate forms, notices and court lists from the Court of Appeal Registry electronically".

Crucial to these changes was a fundamental ideological shift: from a "lawyer-driven court" to a "Judge-controlled court". ... This was a far more contentious development, which generated much controversy in the legal profession.

Crucial to these changes was a fundamental ideological shift: from a "lawyer-driven court" to a "Judge-controlled court". To force lawyers to manage their cases more efficiently, thus allowing Judges to control the work of their courts, de La Bastide championed the new Civil Proceedings Rules of 1998 (based on the Greenslade Report), to replace the Rules of the Supreme Court introduced by Chief Justice Hyatali in 1975. This was a far more contentious development, which generated much controversy in the legal profession. Many lawyers, including their representative body, the Law Association, either disapproved altogether of the new Rules, or felt that the Chief Justice was "rushing things" without adequate consultation. Indeed, the Rules were one reason for the stormy relationship between de La Bastide and Attorney-General Ramesh Lawrence Maharaj; the latter, when approached by the Law Association on the issue, apparently undertook to delay the implementation of the new Rules. So it was several years later that Sharma announced, on September 16, 2005, that these Rules "as amended, will apply to all new civil proceedings filed in the High Court and

to all appeals filed in the Court of Appeal from today".

Outgoing Chief Justice de la Bastide shakes hands with incoming Chief Justice Sharma (2002)

In September 2003, Sharma took up the issue of skeleton arguments for cases in the Court of Appeal, which had been made a requirement a few years earlier. "For some time now", he stated, "matters have had to be adjourned simply because attorneys failed to file the arguments within the required time limits. Invariably, the arguments would reach the desk of the appellate Judges either late the day before the scheduled hearing or the very morning of the hearing, if at all". Sharma had referred the issue to the Rules Committee, which was to come up with proposals for sanctioning attorneys who defaulted in filing the skeleton arguments for appeals in a timely manner.

An area which both de La Bastide and Sharma took up was continuing legal education and training for the Judiciary. The former initiated annual retreats for the Judges and conceptualised a Judicial Education Institute, which was actually established under Sharma in 2002/03. "Its main mission", Sharma announced in September 2003, "is to promote excellence in the administration of justice with continuous training and the development of Judges…[and] to develop in every officer a commitment to learning so as to enhance the quality of service delivered by the Judiciary".

A Judicial Education Institute was established under Sharma in 2002/03. "Its main mission", Sharma announced in September 2003, "is to promote excellence in the administration of justice with continuous training."

Like their predecessors, both de La Bastide and Sharma reported on the progress of the Court of Appeal in carrying out its work and reducing backlogs, as well as outlining new initiatives and plans, in their annual addresses at the opening of the new law term. In his first such address, given in October 1995, de La Bastide noted the effect of the Privy Council ruling in the case of Pratt & Morgan vs Attorney-

General for Jamaica [1994] 2 A.C.1—that a convicted murderer could not be executed if more than five years had elapsed since his conviction. "As a result of that decision, the Court of Appeal quite understandably gave priority to murder appeals. In fact it devoted itself almost exclusively to the hearing of such appeals in an effort to keep within the timetable set by the Privy Council. As a result there was a rapid growth in the backlog of appeals in civil matters and from Magistrates' decisions." Since the same appellate Judges dealt with civil and criminal appeals, "the effect of concentrating judicial attention on one type or category of case is inevitably a rapid escalation of the arrears in all other types or categories of cases". Another issue was cases where the Record of Appeal had not been filed. In fact, over one thousand such appeals existed, de La Bastide said, some over twenty years old: "Later this month the Court of Appeal will begin getting rid of this dead wood". (This was done, and 679 of these cases were dismissed for want of prosecution in the 1995/96 term.)

"The Court of Appeal is doing its best to ensure that delay by it does not prevent the death sentence when lawfully imposed from being carried out." (de la Bastide, 1997)

The 1995/96 law term saw a great improvement in the number of cases heard and determined by the Court of Appeal: 139 civil and 115 criminal appeals from the High Court—an increase of 325 per cent over 1994/95—and 892 from the magistrates' courts. de La Bastide attributed this to the hard work of the appellate Judges, the cooperation of the attorneys, and "a new approach by the Appeal Court marked by its reluctance to grant requests for adjournments and its preparedness to curtail oral submissions". During the 1996/97 term, the Appeal Court heard and determined 272 appeals from the High Court, as compared to 254 the previous term. De La Bastide noted that the percentage of capital appeals in the total of criminal appeals which had been determined had increased from 32 in 1995/96 to 54 in 1996/97. "It's fair to say", he said in September 1997, "that the Court of Appeal is doing its best to ensure that delay by it does not prevent the death sentence when lawfully imposed from being carried out. I should mention that last term's results were achieved notwithstanding that two other judges and I devoted the better part of two months to preparing for and hearing a single criminal appeal". This was the appeal by Dole Chadee and eight others against their conviction and death sentence. The Appeal Court, consisting of the Chief Justice, Sharma and Mustapha Ibrahim, dismissed their appeal in May 1997; the Privy Council upheld this ruling, and the nine men were duly executed.

In September 1998, the Chief Justice reported that the Court of Appeal determined 141 criminal appeals in 1997/98, compared with 81 in the previous term; as a result, he said, there was no backlog of criminal appeals either from the High Court or

from the magistrates, considering only those cases in which the Appeal Court had the necessary documents. (There were about 65 non-capital criminal appeals, filed between 1990 and 1997, which lacked the necessary documents for the Appeal Court to hear them.) But the Court had only determined 81 civil appeals in 1997/98 as compared with 191 in the preceding year. This reduction was partly because the Chief Justice had reduced the number of new civil appeals listed each week from five to three, partly because the Appeal Court had from time to time been depleted by illness and because the ninth seat had not yet been filled. de La Bastide noted that in response to a request from the Southern Assembly of Lawyers, a Justice of Appeal had begun to sit in San Fernando once a month to hear Chamber applications in appeals coming from the South. In his last opening address, in September 2001, de La Bastide compared Appeal Court statistics in 1995 (when he took up office) and in 2001. In 1995 there were 37 murder appeals pending in the Court, some dating as far back as 1988, in 2001 only 12; in 1995 there were 123 non-capital criminal appeals pending, some dating back to 1987, in 2001 there were 102, but the oldest dated only from 1998. The improvement in pending appeals from the magistrates was dramatic: 201 in 2001 compared with 992 in 1995. Only in civil appeals from the High Court was the picture less satisfactory, with 122 appeals pending as compared to 87 in 1995—partly the result of a generally more litigious society.

In his first opening address in September 2002, Chief Justice Sharma simply stated "I would just like to say that the Court of Appeal's performance has been extraordinary". He did point out the difficulties with appeals from the magistrates: as of June 2002, there were 648 appeals from their courts which had not been submitted to the Appeal Court because the notes and reasons were not yet ready. "The reason for this pile-up is clear", Sharma stated; "an archaic and ineffective system of note taking and reproducing evidence. All done by hand. The need for technology is clear." In 2003 he reported on various measures to address this problem: "A full month of magisterial appeals was heard in June", which dealt with a large number of appeals in Port of Spain, San Fernando and Tobago. In addition, a more efficient system of monitoring appeals (the JEMS application) was being implemented "so that matters requiring immediate attention could be dealt with expeditiously". These and other measures did yield results; for in September 2004 Sharma announced that the Court of Appeal was "now dealing with Magisterial Appeals for the year 2004".

"The reason for this pile-up is clear: an archaic and ineffective system of note taking and reproducing evidence. All done by hand. The need for technology is clear." (Sharma, 2002)

As Sharma noted in 2004, an idea that had been discussed for many years was "the creation of a separate Criminal Division of the Court of Appeal to deal exclusively with the growing volume of specialised criminal casework at the appellate level".

Recently, in 2003, the Administration of Justice Sub-Committee of the Government's Vision 20/20 initiative had recommended the creation of a separate Criminal Division. Sharma thought the idea had merit: "The rationale behind this is that such a Division would be staffed primarily with Judges who are specialists in criminal law. The development of highly specialised criminal jurisprudence at this level would be encouraged by those of proven competence and experience in the field; and there is no more opportune time for this to be done than in the near future, with the establishment of the Caribbean Court of Justice"—chaired by his predecessor, Michael de La Bastide.

Judiciary versus Executive: Chief Justice de La Bastide

Under Chief Justice de La Bastide, serious conflicts developed over the proper relations between the Executive, especially the Attorney-General, and the Judiciary. Both de La Bastide and the Attorney-General in the UNC Government, Ramesh Lawrence Maharaj, set out and maintained their respective positions robustly.

Serious conflicts developed over the proper relations between the Executive, especially the Attorney-General in the UNC Government, Ramesh Lawrence Maharaj, and the Judiciary.

In his 1999 address at the opening of the law term, delivered on 16 September, de La Bastide fully and publicly outlined his position, in what became famous as his "descend into the arena" speech. He spoke at length about the independence of the Judiciary from the "influence" of the Executive. It was not a matter of directly pressuring Judges to rule in ways pleasing to the government, or interfering with their rulings once made. "By controlling the Judiciary's access to the funds voted to it by Parliament, and by assuming control of the services and staff on which the Judiciary depends, i.e. the administration of the Judiciary, the Executive can in effect operate a system of reward and punishment that will make the Judges think twice before they make decisions which they know will antagonise the Executive". This, he said, would inevitably compromise judicial independence.

The Chief Justice gave concrete examples of what he meant: "Suppose the ability of a judge to go abroad to attend an important legal conference depended not on the availability of funds or the approval of the Chief Justice but on the whim of the Attorney-General. Suppose again that the power of the Judiciary to hire staff was subject to approval by the Attorney-General, so that he could prevent them filling posts which had been created with Cabinet approval and for which funds had been voted and were available. Suppose further that the Attorney-General was given power to decide who among staff of the Judiciary…should go abroad for training and when and for what kind of training. One consequence of giving the

Attorney-General powers of this kind is that he would be able to frustrate the plans for development and reform made by the Chief Justice. Moreover, he would have a powerful leverage which he could use to extract an ever-increasing degree of administrative submissiveness from the Judiciary". Even further, the Chief Justice asked, what would happen if the Attorney-General claimed the power to require the head of the Judiciary to report to him at any time on any matter concerning the courts, and the power to investigate complaints from Judiciary staff who were dissatisfied?

Clearly, de La Bastide argued, if all these powers were exercised by the Attorney-General, the Judiciary would become just like any department which formed part of the Ministry of the Attorney-General. None holding that office, before the incumbent, had sought to exercise them since Independence; no Attorney-General was ever regarded "as the repository of such powers in relation to the Judiciary". He was always a major participant in the justice system, a frequent litigant as representing the State. "To vest in him powers of this kind would be not only a departure from what has obtained in the past, but a most dangerous and unwarranted derogation from the independence which the Judiciary of Trinidad and Tobago has up to now enjoyed". It was not true, as the Attorney-General claimed that his office was "accountable" for the Judiciary both to Cabinet and to Parliament. Accountability implied control, and no Attorney-General since Independence had ever been given responsibility for the Judiciary.

It was not true, as the Attorney-General claimed that his office was "accountable" for the Judiciary both to Cabinet and to Parliament. Accountability implied control, and no Attorney-General since Independence had ever been given responsibility for the Judiciary. (de la Bastide 1999)

It was clear, said de La Bastide, that there were "serious differences" between himself and the Attorney-General, "as to the scope and application of the principle of judicial independence", and he had thought it necessary to disclose this publicly; but he hoped for the amicable resolution of those difficulties, so that the "co-operative and productive relationship" which previously existed between them could be resumed. These words were conciliatory, but his closing peroration was robust and deserves to be quoted in full: "It would be foolish of me not to recognise, and cowardly not to acknowledge, that I am the target of much, if not all, of this. I assure you it is not a comfortable position to be the target of a combination of such powerful forces. But I give you the assurance that I will not turn and run. My only regret is that those who wish to destroy me seem to be prepared to destroy, or at least damage, the institution of the Judiciary in the process….I have seriously considered whether I ought not to bow out in the interest of preserving the integrity of the institution.

But I realise that by doing so, I may actually weaken it and make it more vulnerable to attack in the future. Once a thing has been done once, it becomes easier to do it again—the "thing" in this case being to drive out of office a Chief Justice whom you do not like. My resolve is considerably stiffened by the support of my brothers and sisters on the Bench…What I stand for is a Judiciary that is independent; one that is impartial; one that is efficient and competent; one that is well paid and well housed; and one that is united. These are not just my policies, they are my principles; and I will descend into the arena with anyone who attacks them".

This remarkable speech naturally caused immense controversy, and led to two separate enquiries into the Chief Justice's publicly expressed concerns about the independence of the Judiciary. The Law Association, representing the legal profession of the country, asked P. T. Georges, the eminent jurist who had been part of Wooding's Supreme Court for a time, to investigate the issue; he reported in February 2000. Meanwhile, the Prime Minister (Basdeo Panday) announced in December 1999 that a three-man Commission headed by British jurist Lord MacKay would be appointed under the Commissions of Enquiry Act; this Commission reported in October 2000.

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The Georges Report concluded that the jurisdiction claimed by the Attorney-General as the "relevant Minister" could not extend to the Judiciary, which was not a "department" for which he was responsible. Disbursements from the Judiciary vote did not require his approval. Accountability of the Judiciary (the Attorney-General's argument) was secured by the scrutiny of the Ministry of Finance in all budgetary and financial matters, and subsequently by the Auditor-General. Georges noted that the published and expanded Annual Report on the Judiciary, a de La Bastide initiative which first appeared in 1999, also helped to ensure accountability. He recommended that the Prime Minister, not the Attorney-General who was an active litigant in the courts, should be the "channel" between the Chief Justice and the Cabinet and Parliament. Finally, Georges chastised the Chief Justice for his "immoderate" language; he should have spoken "as a judge" and should not have "descend[ed] nor threaten[ed] to descend into the arena". There was no "adequate evidence to support the charge of an attempt to drive him from the Bench, eliciting the response that he would not be so driven". But he also chastised the lawyers, saying that whatever their current differences with the Chief Justice (mainly over the proposed new Rules for civil proceedings), they should unite to defend the independence of the Judiciary. Not surprisingly, granted that his substantive findings upheld the Chief

Justice's views, the Attorney-General described the Georges Report as "flawed" and "largely oblivious to critical issues", and dismissed its importance in comparison with the MacKay Commission which had just been appointed.

When de La Bastide gave his opening address in September 2000, he admitted that he and his fellow Judges were suffering from "battle fatigue", for the difference between the Judiciary and Executive on the issue of the Attorney-General's claimed responsibility for or control over the administration of justice had not been resolved. He welcomed the Georges Report, saying that he accepted the rebuke about immoderate language and his charge of an attempt to drive him from office, and would be "guided" by it. The Report's substantive conclusions, detailed above, of course were fully endorsed by de La Bastide. Meanwhile, the MacKay Commission had been appointed in February 2000, and the Judiciary (including himself) had co-operated fully with it. "It is obvious that the Commission must cover the same ground traversed by Mr. Justice Georges", de La Bastide noted; "it will be very interesting to see whether it arrives at the same conclusions. If it does, presumably this will mean the end of our differences with the Executive over the role of the Attorney-General". The Commission reported in October 2000.

The MacKay Report "disappointingly failed to identify and address the issue which was at the heart of the dispute, namely whether under our Constitution the Attorney-General has, or could properly be given, any responsibility for, or control over, the Judiciary." (de la Bastide 2001)

According to a newspaper report of September 16, 2001, headlined "High Noon at High Court", "the big question looming over the 2001-2002 law term opening tomorrow is whether Chief Justice de La Bastide will initiate round three of the heavy-weight match between himself and the Attorney-General"—the "match" having begun with his famous "arena" address in 1999. In fact, in his opening address, the Chief Justice was muted in his references to the conflict. He did speak to the MacKay Report, saying that it "disappointingly failed to identify and address the issue which was at the heart of the dispute, namely whether under our Constitution the Attorney-General has, or could properly be given, any responsibility for, or control over, the Judiciary. Happily the Commission did go some distance towards affirming the administrative autonomy of the Judiciary, although it did not do so as clearly and as consistently as one would have wished….Because of its failure to address some of the fundamental issues (as Mr. Justice Georges did) and to give clear and consistent answers to those questions which it did address, the Report was a disappointment". And the Chief Justice left the matter there.

By the next year, neither de La Bastide nor Attorney-General Maharaj was still holding office. Although the specific issue of the unprecedented claims made by

Attorney-General Maharaj to be "responsible" for the Judiciary seems to have faded, conflicts with the Executive would continue, and take alarming forms, during the tenure of Chief Justice Sharma.

Judiciary versus Executive: Chief Justice Sharma

In his first address at the opening of the 2002/03 law term, Sharma looked back to the stormy tenure of his predecessor: "I can safely say today that during the period in which Mr. de La Bastide was Chief Justice, the Judiciary has undergone one of its most challenging periods. We are happy that he was then at the helm. The independence of the Judiciary has been reinforced and the unity and commitment of the Judges strengthened". But Sharma took up one of his predecessor's key issues when he asserted that "the failure to provide the judicial arm of the State with the necessary funds…undermines the independence of the Judiciary. In the light of the problems in the past and given the present situation, I wish to join the pleas made by my predecessors to enable the Judiciary to have its own vote. The question of accountability which has historically been used as an excuse is no longer valid on the ground that there are enough mechanisms in place to ensure that this is achieved". Sharma returned to this issue in his address in September 2003. He complained of the tendency of important officials to treat the Judiciary "as if it were some Government department", a tendency "most poignantly illustrated when the Judiciary has to approach the Executive for funds". He accepted that funds must be fairly allocated and efficiently utilised, but "if we are to adhere to the rule of law, or if we are to have a proper and civilised system of justice, then there must be an absolute minimum which, in my respectful view, we have yet to achieve".

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Of course, funds were not the only issue. Sharma raised the vexed question of the Attorney-General's role in his 2003 address. Speaking very frankly, he said that "it is not acceptable to have the interest of the Judiciary dependent on the idiosyncratic behavior of the Attorney-General. There must be found a more effective way to have the problems of the Judiciary assessed and canvassed in the Cabinet by someone who is objective and independent." Perhaps, he said, following the suggestion of P. T. Georges in his 2000 Report, it should be the Prime Minister, though he acknowledged that this suggestion had its own difficulties. Sharma announced that the Judiciary intended to "embark on a programme to educate the public about its constitutional position, its role and function in society", and the problems it faced in delivering justice efficiently.

Another issue affecting relations with the Executive, which Sharma took up in his opening addresses in 2003 and 2005, was the granting of "silk" (Senior Counsel status). He noted that it had always been the gift of the Executive—that is, politicians. The Prime Minister had the final say, though the President formally appointed. In his view this was a "constitutional anomaly" which should be removed. Instead, appointments should be made by the President on the advice of the Chief Justice, who should consult with the Attorney-General, the President of the Law Association, and any other person thought necessary. In 2005, Sharma noted that the Judges of the High and Appeal Courts were "ideally suited to assess whether an attorney is worthy of Silk" since they appeared regularly before them. He felt that the President should make appointments on the advice of a selection committee chaired by the Chief Justice and including retired Judges, among other persons. These remarks are interesting in view of the controversy over silk which emerged during the tenure of Chief Justice Archie.

The granting of "silk" (Senior Counsel status) ... had always been the gift of the Executive—that is, politicians. The Prime Minister had the final say, though the President formally appointed. In Sharma's view this was a "constitutional anomaly" which should be removed.

But controversies over silk, or even over the relations between the Attorney-General and the Judiciary, paled into insignificance in comparison with the events of 2005-2007, which led to Chief Justice Sharma being twice suspended from his post. This complicated and often mysterious story can only be briefly told here.

Early in 2005, Attorney-General John Jeremie, and Director of Public Prosecutions (DPP) Geoffrey Henderson, alleged that Sharma had sought to improperly influence the DPP with respect to bringing a murder charge against prominent surgeon and University professor Vijay Naraynsingh, for the killing of his second wife in 1994. (He was in fact charged but was freed by the magistrate at the preliminary hearing.) Sharma was a friend and former patient of the surgeon. The Chief Justice firmly denied these allegations, but the Prime Minister (Patrick Manning) requested the President to appoint a tribunal to investigate them, under Section 137 of the Constitution which addressed the removal of Judges. In July 2005, the Chief Justice filed for judicial review in the High Court, and the President announced that he would hold his hand on the tribunal until all the court matters had been determined. Sharma's lawyers succeeded in blocking the appointment of a tribunal via judicial review, and none had been convened by the start of 2006. In the meanwhile, of course, Sharma continued to function as Chief Justice.

It was early in 2006 that an entirely different set of allegations about his conduct surfaced. This time, Chief Magistrate Sherman Mc Nicholls complained that the Chief Justice had sought to improperly influence him with respect to the trial of former Prime Minister Basdeo Panday and his wife, for filing incomplete or false returns of income under the Integrity in Public Life Act. Again, Sharma denied these accusations, and alleged in turn that Mc Nicholls had been revealed (by Sharma) to be involved in shady land transactions and was seeking to get his own back. In May 2006, it was widely reported that the Attorney-General and the Prime Minister had both told Sharma that, if he did not resign, he would face criminal charges of perverting the course of justice. Sharma declined to resign. In July, a warrant for his arrest was made out and an abortive attempt was made to arrest the Chief Justice at his residence. This shocking and wholly unprecedented event culminated in the President suspending Sharma from office on July 28, 2006, under Section 103 of the Constitution. Hamel-Smith was appointed to act as Chief Justice from that date.

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Sharma sought judicial review with respect to the criminal charges, and between August and November 2006, his case went to the High and Appeal Courts. In an extraordinary development, the Court of Appeal (of which Sharma had so recently been the President) ruled against him—Hamel-Smith was to cite this "agonising" decision, in his opening address in September 2007, as proof of the impartiality and independence of the Court of Appeal. On 30 November, 2006, five members of the Judicial Committee of the Privy Council upheld the Court of Appeal and ruled that Sharma's challenge to the decision to charge him for perverting the course of justice "was not a case where judicial review proceedings ought to be permitted". This was a stunning blow to the beleaguered Sharma. The next day, he surrendered to the court, was formally charged and granted bail. But when the case came to trial, in March 2007, all the charges were abruptly dropped. The Chief Magistrate, for reasons still not clear, refused to testify, and the prosecution had no case without him. Sharma said at the time that he did not feel vindicated because he had never done anything wrong. His suspension was lifted and he returned to office on March 26, 2007.

But in another extraordinary turn of events, the President announced in May 2007 that he was appointing a tribunal, under Section 137 of the Constitution, to investigate the allegations with respect to the Panday trial. In other words, even though the criminal charges had failed, an attempt was now to be made to remove the Chief Justice under the Section 137 route on the same allegations. No wonder many

people thought that this indicated a determination, on the part of the Government, to get rid of Sharma by any means possible—even though it was well known that he would retire in January 2008. Once the tribunal was appointed, the Chief Justice was suspended from office for a second time, on 13 June, 2007. Hamel-Smith was again appointed to act.

The tribunal was chaired by Lord Mustill, a British member of the Judicial Committee of the Privy Council, and also included a Jamaican QC, Dennis Morrison, and the President of the Eastern Caribbean Court of Appeal, Sir Vincent Floissac. In a unanimous decision, announced in December 2007, the tribunal cleared Sharma of the charge of perverting the course of justice and recommended that the question of removing him from office "should not be referred to the Judicial Committee of the Privy Council" (the final arbiter in the removal of judges in the Commonwealth Caribbean). Though the tribunal did criticise Sharma for what it considered to be imprudence—"a propensity to speak and write more freely than was wise…without the balanced sensitivity and distance which should be the hallmark of a senior judge"— it was clear that the allegations were unproven and could not form the basis for a recommendation for "impeachment", or removal.

This declaration came just a few weeks before Sharma was scheduled to retire. His suspension was of course lifted, and he returned to office on December 21, 2007. "I am glad I did not resign", he told a newspaper reporter; "I had to leave summarily and now my name has been cleared and I am going to work tomorrow. I have plenty to do…administrative work to complete". Sharma did return to office, and retired on 24 January, 2008. Nearly three years of his tenure as Chief Justice had been consumed with these legal battles, and he had been formally suspended for fourteen months (in two separate periods). The beleaguered jurist had fought hard to clear his name and had succeeded in doing so; but there can be no doubt that the whole protracted affair weakened the Judiciary and the Court of Appeal over which the Chief Justice presided.

Sharma's suspension was of course lifted, and he returned to office on December 21, 2007. "I am glad I did not resign", he told a newspaper reporter; "I had to leave summarily and now my name has been cleared and I am going to work tomorrow."

In his address at the opening of the law term in September 2006, Hamel-Smith—in the surely awkward position of acting Chief Justice—referred obliquely to the "difficulties that the Judiciary has had to face over the last Law Term and will likely continue to face during the current one" (2006/07). "No one can deny, these are challenging times for the Judiciary", he said: but he had no doubt that "as in the past, so also now, we shall emerge stronger and wiser". In September 2007, acting in the top post for a second stint, Hamel-Smith insisted that whatever the public concerns

about "the independence and impartiality" of the Judges, it must be remembered that "the administration of justice and the Judiciary are greater than any single judicial officer, whoever he may be". He went on: "Let me demonstrate how this past year [2006/07] has shown that our Judges are capable of the highest standards of impartiality and independence. The Court of Appeal, no doubt agonisingly, has ruled against its own Chief Justice and has been upheld by five Law Lords of the Privy Council. Your Court of Appeal has quashed a conviction and sentence by the Chief Magistrate against a former Prime Minister [Basdeo Panday] and ordered a retrial on the basis of apparent bias, and has done so explicitly in order, to quote Justice of Appeal Warner, 'to keep the streams of justice pure'…Indeed, the Court of Appeal, in two separate matters involving a former Prime Minister, has ruled in one instance in favour of, and in the other, against him". This was a spirited defence of the Judiciary and the Appeal Court during a difficult period in their development; but there could be no doubt that the Chief Justice who succeeded Sharma would have to embark on a healing and unifying process.

"The Court of Appeal, no doubt agonisingly, has ruled against its own Chief Justice and has been upheld by five Law Lords of the Privy Council." (Hamel-Smith, 2007)

CHAPTER 4:

THE COURT OF APPEAL AT FIFTY

The Archie Court

Ivor Archie was appointed Chief Justice early in 2008. He was not the most senior Justice of Appeal, having been a member of the Court of Appeal only since 2004; he was the youngest person ever to hold the top judicial post, and the only Tobago-born Chief Justice.

The size of the Court of Appeal had been steadily increasing, though there were always frequent vacancies. From a small Court in Wooding's time (the Chief Justice and three Justices), in 2008/09, nine Justices in addition to the Chief Justice sat on the Court, and in the 2012/13 term, there were ten. Archie's Court of Appeal has been a relatively "young" one. Two of the senior Justices, Roger Hamel-Smith and Stanley John, resigned in 2009, the latter to take up an appointment on the Court of Appeal of the Bahamas. New appointees during Archie's term up to 2012/13 have been Peter Jamadar, Alice Yorke-Soo Hon (the fourth woman), Nolan Bereaux, Humphrey Stollmeyer, Rajendra Narine, Gregory Smith and Maureen Rajnauth-Lee (the fifth woman member).

For Chief Justice Archie, the challenge was to "de-mystify" the Judiciary, to bring it closer to the people it served, to make it more transparent and accountable. Of course, he wanted to improve its performance in all aspects, and to make the courts more "customer-service" driven. This was all part of winning the public's confidence in the Judges and the court system. Standing as it did at the apex of the system, the Court of Appeal would be central to his reform agenda.

The new Chief Justice paid generous tribute to his predecessor, Sharma, in his first public address at the opening of the law term in September 2008. "I would not wish the controversy that marked his last years at the helm to detract from

Outgoing Chief Justice Sharma shakes hands with incoming Chief Justice Archie (2008)

the contribution he made during a long judicial career", he said. "During his time on the Bench he delivered a number of landmark decisions and his tenure at the helm of the administration of justice featured such milestones as the implementation of the new Rules of the Supreme Court, the introduction of Audio-Digital Court Reporting, the acquisition and refurbishment of a number of new judicial facilities…" Archie also paid tribute, in 2009, to retiring Justice of Appeal Roger Hamel-Smith, whom he thanked "for his leadership in difficult times" as well as to Margot Warner Senior Justice of Appeal.

Like his predecessors, Archie used his addresses at the opening of each new law term to report on the work of the Court of Appeal. In 2009 he announced that 430 appellate matters had been heard and determined in the 2008/09 law year, and noted that "of those jurisdictions that still cling desperately to the Privy Council, the percentage of the decisions of our Court of Appeal that are upheld is slightly better than the average". In 2010, he reported that 502 appeals had been filed in the preceding law year and 448 were disposed of, a disposal/filing ratio of 0.89, well above the six-year average of 0.60. This meant, he said, that the backlog at the Court of Appeal was being "steadily eroded": of the 448 cases disposed of, 243, or 54%, had been filed within the year, and 77% were less than two years old. "Of particular interest is the fact that the number of civil appeals disposed of this past year increased by 31%", Archie noted, "and that I attribute to the increase in numbers on the Court of Appeal Bench"—the Court was now up to nine Justices (exclusive of the Chief Justice). The improvement in the rate of disposing of appeals, noted by Archie in 2010, continued over the next law year. In 2011, he reported that "at the level of the Court of Appeal, disposition remained constant although filings were up by 8%. Of the matters dealt with, 58% were determined in the same year of filing and 73% were less than two years old at the time of disposition". But in 2012, the nation's Golden Jubilee of Independence, Archie stated that 482 matters had been filed in the 2011/12 law year and 385 had

been disposed of: "A backlog is beginning to build and a Judge will be elevated to the Court of Appeal next month to assist with the workload. The statistics confirm what I have been saying for some time, which is that we are being challenged to keep pace with the workload".

At the end of 2011, it was announced that the Chief Justice, and the late Justice of Appeal Wendell Kangaloo, had been awarded "silk" (Senior Counsel status) by the President (on the advice of the government) and had accepted it. (There was a precedent, in that Chief Justice Clinton Bernard had accepted silk while in office.) This action was criticised by senior members of the legal profession, on two grounds: that silk was intended only for practicing attorneys, not for sitting Judges; and that accepting an award from the government compromised the independence of the Judiciary and breached the principle of the separation of powers. The former view was expressed, very forcibly, in a letter to a newspaper by former Chief Justice Michael de La Bastide; the latter point was made by several, notably former Attorney-General Karl Hudson-Philips.

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At first, Archie defended his and Kangaloo's action. The Chief Justice compared accepting silk to the acceptance by a sitting Chief Justice of a national award; both de La Bastide and Sharma had been granted the nation's highest award while in office. Both, Archie stated in a press release (January 6, 2012), might be said to have compromised the principle of separation of powers. "One is left to wonder whether in the case of the recent award of silk, the real objection is to the particular award, the particular judges or the particular Prime Minister [Kamla Persad-Bissessar]". But on the same day, both the Chief Justice and Kangaloo returned the instruments which conferred Senior Counsel status on them to the President. A second press release emphasized that the two men believed that they had committed no wrong and breached no protocol in accepting silk, but "they are deeply concerned that the heightening controversy has the potential to impact negatively on the Judiciary… Their action was also taken in the interest of preserving the integrity and dignity of the Judiciary…which they are committed, not only to robustly defend, but also to scrupulously uphold".

Their action was generally praised. Attorney-General Anand Ramlogan stated that the "decision of the learned judges is one which places the Judiciary, the administration of justice and, most importantly, country before personal recognition… The growing chorus of strong adverse sentiment expressed had the potential to

undermine and damage the judicial arm of the State. The action of the learned judges is consistent with the dignity, humility and honour that inspired their appointment as Senior Counsel". Hudson-Philips said that he was "relieved that the proper thing has been done", while former Chief Justice Sharma expressed pride that his successor, and Kangaloo, had done "the right thing" and had "put themselves last and the Judiciary first". Several commentators, including Sharma and Ramlogan, thought that the whole controversy had raised the issue of government involvement in the award of silk and the process by which new Senior Counsel were selected—an issue that Sharma had brought up in his addresses at the opening of the law term in 2003 and again in 2005.

Archie strongly criticised elements in the draft constitution then being publicly discussed (a draft prepared by Ellis Clarke at the request of the Patrick Manning government) which, in his view, would vest crucial aspects of the administration of justice in a government Minister. That draft more or less died along with the Manning government in 2010.

There can be no question that Archie was (and is) a robust defender of the independence of the Judiciary, especially in relation to the Executive. In his 2009 opening address, he returned to an issue which had been salient during the tenures of de La Bastide and Sharma: what should be the proper responsibilities of Judiciary and Executive in providing for the administration of justice. "We need independent and effective court administration to make the Separation of Powers and Judicial Independence a reality. Effective court administration provides the Judiciary with the necessary device to protect Judicial Independence". Archie strongly criticised elements in the draft constitution then being publicly discussed (a draft prepared by Ellis Clarke at the request of the Patrick Manning government) which, in his view, would vest crucial aspects of the administration of justice in a government Minister. That draft more or less died along with the Manning government in 2010, yet in September 2012 Archie felt impelled again to raise these issues. "It is by no means the first time", he stated. "that the ability of the Judiciary to control not only financial but also human resources, has been mooted by a Chief Justice…Our frustration is more acute when, with regard to substantive posts in the organisation, the Judiciary has no control over the coming and going of Public Service staff, even at the most senior levels". Perhaps it was time for the Judiciary to become a "closed department"; "as we look forward to the next 50 years, it is critical that the Judiciary exercise more control over its most critical resource, its people".

Judicial salaries continued to be a difficult problem. In his address in September 2012, Archie referred to the "plight of those of us whose terms and conditions are

prescribed by the Salaries Review Commission (SRC)". The last SRC review was in 2008, Archie noted, "so we will be playing catch-up five years later when the value of any back pay we receive would have been decimated by inflation. In the meantime we have to face HiLo and PriceSmart at 2012 prices". "We can't go on like that", Archie insisted; "the State has a responsibility to treat with us on the basis of fairness and good industrial relations practice". In a newspaper interview in March 2013, his predecessor strongly endorsed these sentiments and urged the new President, himself a former High Court Judge (Anthony Carmona), to refer the matter to the SRC for urgent action. Sharma noted that some retired Judges were receiving "a few hundred dollars a month", while sitting Judges often worked well into the night to prepare judgments so as to reduce the backlog of cases. Another former Chief Justice, de La Bastide, was quoted in this article as also endorsing Sharma's call for increased salaries and pensions for judges, though he was uncertain whether the new President had the power to intervene in the matter.

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Chief Justice Archie's views on the retention of appeals to the Privy Council were as robust as his defence of judicial independence. In his 2010 opening address, he asserted "after 49 years of supposed Independence, it astonishes me that there is even a debate about whether the Caribbean Court of Justice should be our final Appellate Court. If we have the moral and intellectual capacity to run our own countries in the region, why can we not judge ourselves?" Archie went on to note the "world class legal luminaries" produced by the region, making nonsense of the idea that a "superior form of justice" could be had from London: it simply "bespeaks a self-doubt and an unwillingness to take responsibility for our jurisprudential self-determination". Ironically, he pointed out, the Privy Council had clearly accepted that local judges were best suited to understand the context in which laws were applied and justice administered. Moreover, in recent times a senior Law Lord had publicly wondered how long English tax-payers could be expected to subsidise the appellate systems of foreign countries. "Do we have to await the final humiliation of being asked to leave?" the Chief Justice demanded. The CCJ was up and running, its expenses were paid for by a trust fund, and the procedures for appointing its Judges had been internationally recognised as "models for securing judicial independence". "Those who resist the adoption of the CCJ as our final appellate Court owe us better explanations than the ones that have been proffered thus far", he concluded.

As the nation achieved its Golden Jubilee in 2012, Archie reflected on what Independence should mean for the Judiciary. In his opening address in September of

that year, he said "while the efficient disposition of cases, the reduction of backlogs etc, are important and necessary tasks, we are in search of something much more fundamental that I hope will be the legacy of this Bench. It is the definition of our place in the nation in a manner that is accepted by the public who will have trust and confidence in us to be relevant, understanding of their needs and interests, and able to do justice in the broader sense". In the revitalisation of the nation as it entered its next fifty years, Archie said, there must be "a very definite role for the Judiciary in that process". He noted that "one of the major jurisprudential shifts in the post-Second World War, post-colonial era is the rise of an international human rights jurisprudence and the explosive growth of administrative law, where the courts are increasingly called upon to pronounce on the validity of executive and even on occasion, parliamentary actions. What implications does that have for the approach to judicial interpretation and for the separation of powers?" The Chief Justice concluded: "As we seek to consolidate the gains of our first half-century and forge a path into the future, may I suggest to the nation that meaningful Constitutional reform should remain high on the national agenda as a platform for the development of our people. It is that vision that energises the Judiciary's efforts to transform and position itself as a critical support pillar. We recognise that the maintenance of public trust and confidence in the administration of justice is central to our remit".

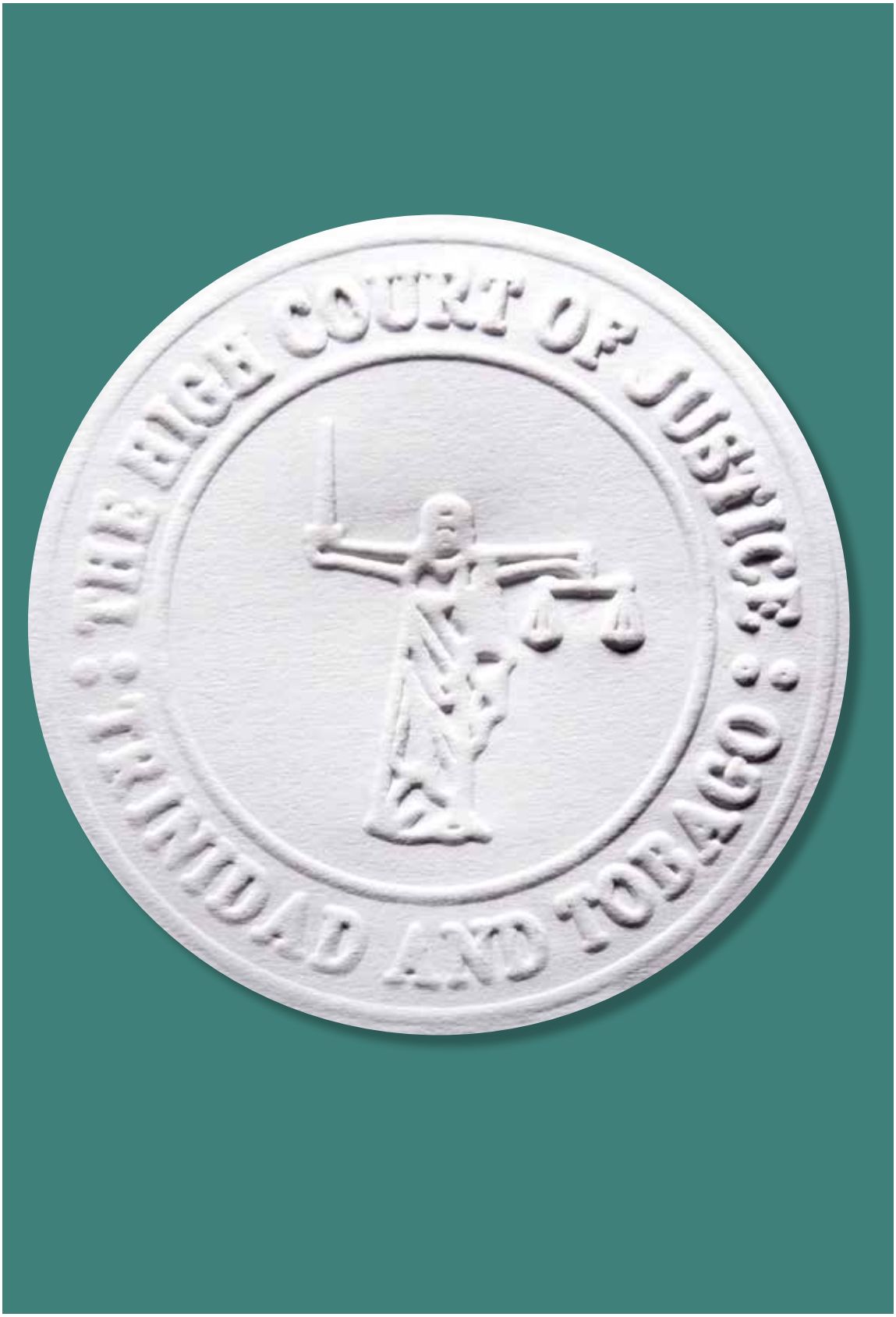
"As we seek to consolidate the gains of our first half-century and forge a path into the future, may I suggest to the nation that meaningful Constitutional reform should remain high on the national agenda as a platform for the development of our people." (Archie, 2012)

Archie had reflected on these issues already, in a talk delivered in July 2012 when he took part in a panel of the Judicial Education Institute's lecture series "The Role of the Court of Appeal in Developing and Preserving an Independent and Just Society". He called on Judges to be bolder in their judgments, to "grasp the public policy nettle explicitly and say so", particularly "in matters that pertain to the way in which our society functions and the way in which we see things, as opposed to the way in which an Englishman, for example, might perceive it". In his view, the common law would only develop when Judges found "creative means to solve novel problems", in order to come to a just resolution of social problems. Legal precedent was only one aspect of law; other sources must also be tapped by lawyers and Judges in shaping their arguments and reaching their conclusions. "We need to move away from the notion that resort to precedent is the search for the answer, rather than a means of identifying the interest and the jurisprudential philosophy that lay behind the particular decision".

The Chief Justice said that in a society with no "back bench" in Parliament, it was the role of the Judiciary to be the nation's "conscience vote". He posed three questions: To what extent should Judges "intervene in the substantive as opposed to the merely procedural aspects of processes and controversies in the other branches of Government; what are our legitimate boundaries?" How far "does so-called judicial activism promote or undermine democracy?" And, a closely related question, "is the supremacy of the judicial branch in constitutional matters incompatible with the democracy idea of popular sovereignty?" The context of the law was all important, Archie insisted; Judges must understand their society in order to make the law fit its developmental needs, and must be bolder in shaping a "jurisprudential philosophy" suited to a just society.

The context of the law was all important, Archie insisted; Judges must understand their society in order to make the law fit its developmental needs, and must be bolder in shaping a "jurisprudential philosophy" suited to a just society.

The Chief Justice expressed the hope that the legacy of his Bench would be "to dispense justice while earning the public's trust and being the ultimate protectors of the Judiciary's independence". It was a fine statement of the role and scope of the Judiciary in the nation as it celebrated—not without contention and anxieties—its Golden Jubilee of Independence.



Mark Lyndersay

Conclusion and Assessment

The fiftieth anniversary of the nation prompted reflections about the Judiciary, and the Court of Appeal, from several commentators in addition to Chief Justice Archie. In an important lecture on "The Role of the Court of Appeal in Developing and Preserving an Independent and Just Society", delivered in July 2012 under the auspices of the Judicial Education Institute, Justice Adrian Saunders of the CCJ reflected on the role and responsibilities of an appellate court.

Saunders outlined the reasons for having an appellate court. It allowed aggrieved litigants to have their decisions, made by a single judicial officer, reviewed for error by a multi-judge Bench. By correcting such errors, public confidence in the courts was promoted, and there was a higher likelihood that the "right result" would be achieved. Courts of Appeal enhanced judicial accountability, by exposing decisions by first instance Judges to the scrutiny of a panel of more experienced Judges. Since the Appeals Court is at the apex of the system, and officers are "elevated" to that Court, it is assumed that its members are, in fact, the most able and experienced Judges in the whole system. They can "develop and refine legal doctrine" in a way that first instance Judges rarely can: they can "apply the law to narrower, more focused questions". Through their rulings, Appeals Courts help to promote consistency of decision making among the lower courts and thus contribute to maintaining the rule of law. Finally, Saunders noted, appellate courts provide for trial Judges "a means of assessing their mettle" and receiving valuable and informed feedback on their work.

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Saunders then considered whether the role of an Appeals Court like Trinidad and Tobago's was "diminished" by the fact that appeals still lay to the Privy Council and so it might be seen as "an intermediate court" only. He thought not. First, only a tiny number of cases ever went to the Privy Council. Second, the Law Lords often, and increasingly, upheld the local Justices of Appeal on the grounds that they were best situated to understand the overall context of a case. Regional appellate courts were "intermediate only so far as the adjudication of disputes is concerned", Saunders concluded; "for all other purposes their role is indistinguishable from that of a final court and so for those purposes they must function as such".

For Saunders, the Judges of a Court of Appeal like Trinidad and Tobago's had many responsibilities. They should always be guided by the social context of the law—he called for more dialogue between them and social scientists—and they

should link their judgments to the society's developmental needs. They should be "creative" in interpreting and applying the law; after all, they enjoyed security of tenure and had no need to bend to the whims of an electorate. They could challenge established conventions or mores without needing to worry about public reactions. They should become more involved in criminal law reform, granted the menace of crime which threatened to overwhelm the society. Justices of Appeal should fully cooperate with, and give every support to, the officers of the lower courts, and should never in their judgments appear to be rebuking or "putting down" the first instance Judges. Finally, Saunders said, the Court of Appeal must seek always to build public confidence in the whole judicial system, by the quality of their judgments and the timeliness of their delivery. In this way, democracy and the Constitution could best be protected, and the rule of law promoted.

"Despite decades of independence, some evidence of having been a colonised people remains in our lack of self-belief and self-worth which, still at some level, prevents us from acknowledging that we can produce the best—be it in sports, academia or the Judiciary". (Seetahal, 2012)

In a thoughtful newspaper column (Express, 13 July 2012), prominent Senior Counsel Dana Seetahal analysed Justice Saunders' lecture. She agreed with his arguments, and concurred that Justices of Appeal were best suited to give fair and creative judgments, insulated as they were from the pressures faced by politicians and also, for other reasons, by the first instance trial judges. Seetahal concluded her interesting analysis with this statement: "Despite decades of independence, some evidence of having been a colonised people remains in our lack of self-belief and self-worth which, still at some level, prevents us from acknowledging that we can produce the best—be it in sports, academia or the Judiciary".

Well-known academic and public intellectual Selwyn Ryan, in his contribution to the panel discussion already mentioned and in two related newspaper columns (Express, 15 and 22 July, 2012), also reflected on the performance of the Judiciary over the fifty years since Independence. In his view, the Judiciary had done well, both in defending its independence from the Executive, and in administering a system of justice that was free of corruption (at least at the higher levels)—"so far as I know, no judge in Trinidad and Tobago has ever been involved in a corrupt transaction". The Wooding Court had established solid foundations in both respects, and the Chief Justices and the Courts of Appeal which followed had maintained that standard. "The fear once expressed by Chief Justice Hyatali that too much water was being mixed with the brandy has proven to have been exaggerated". But Ryan noted that opinion surveys he had done in 2000 and 2006 revealed a serious lack of public confidence in the Judiciary. The 2000 survey found that 56% of those polled

said they had "no trust" in the Judiciary, that in 2006 found that 49% had "little" and 20% had "no" confidence in the courts of the land. Though Ryan was clear that he thought the Judiciary in fact deserved the confidence and respect of the nation, he found this lack of trust "deeply troubling". He noted that Chief Justice Archie was well aware of it and was determined to change public perceptions; but "it is hard to rebuild trust once it is lost".

Another panelist at the July 2012 discussion on the Court of Appeal was well-known Senior Counsel Russell Martineau. His overall view, like Ryan's, was that the Appeal Court and the Judiciary in general had "done well" over the fifty years since 1962. Like Saunders, he felt that the Court was, for all intents and purposes, the "final court" for Trinidad and Tobago, and should function as if it was—that is, it should seek to interpret the law in the context of the local society and its needs. "The Court has the opportunity to say what the law is and what it should be" in the nation. Like the Chief Justice, Martineau believed that the Justices should be "a little bolder in this area". But he also noted that the quality of the Appeal Court's judgments had been generally "excellent" and that there was a clear recent trend towards more creative rulings suited to local conditions. He concluded that "it is part of the duty of the Court of Appeal to develop our society and give us a just society".

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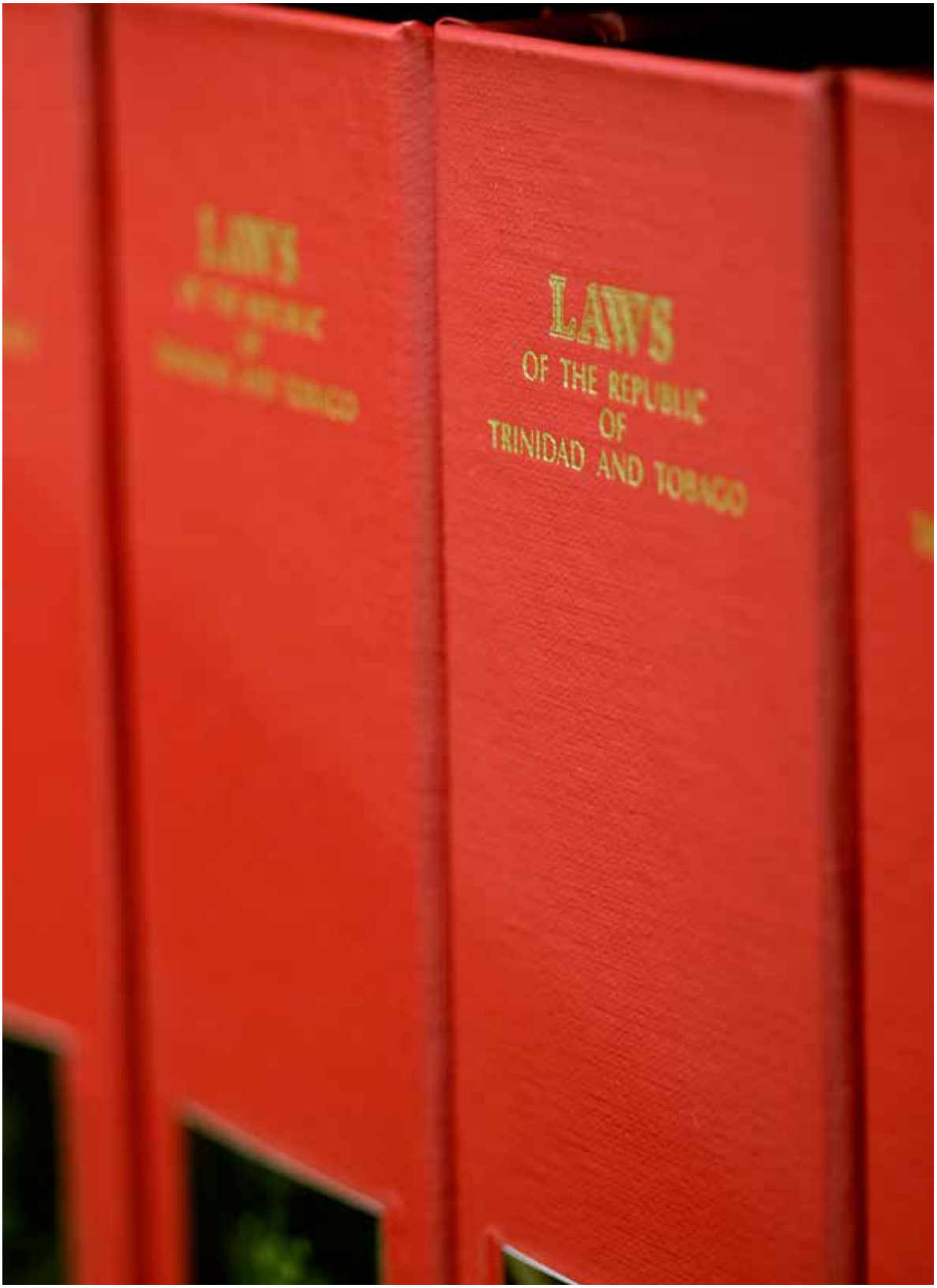
The veteran journalist Tony Fraser reflected on the judiciary's performance in a column early in 2013 (*Guardian*, 23 January 2013). He rehearsed some of the notable conflicts between Judiciary and Executive under Chief Justice de La Bastide, and noted that both Sharma and Archie had expressed concerns "over issues such as the Executive having some form of control over the human resources of the Judiciary". Succeeding Chief Justices had been robust defenders of judicial independence, wrote Fraser, but "there is clear need for further institutional safeguards to create an impenetrable firewall between the Government and the Judiciary". The provision of funding, and control over staff appointments, were two critical issues in creating that separation: "So, while clearly the Judiciary is not subjugated to the fiat, likes and dislikes of the Prime Minister, as the Cabinet and Parliament are, a full and institutional separation of the powers between the Executive and the Judiciary has to be achieved". Almost certainly, these issues will continue to exercise the minds of Chief Justices and Justices of Appeal as they seek to guard judicial independence from encroachments—not always carried out with ill intent—from the Executive.

All in all, the Independence Court of Appeal and its Justices, led by successive Chief Justices, have contributed immeasurably to the maintenance of the rule of law and the independence of the Judiciary in the nation during its first fifty years. Though there have been many challenges to the efficient administration of justice, the Court has worked hard to ensure that, at the appellate level, judgments are given which are fair, well crafted, sensitive to social realities, and delivered in a reasonably timely manner. No Court of Appeal Justice has ever been removed for corrupt activities, and Chief Justices have robustly, and, on the whole, successfully defended the Judiciary from encroachments by the Executive. The solid foundations laid by the Wooding Court in the 1960s have been built on in the succeeding decades, despite challenges to and even attacks on the Judiciary which Wooding never had to face.

But in recent years particularly, there are signs that Justices of Appeal are responding to the challenge made by Chief Justice Archie and several others—to be bolder in their judgments and to ensure that they reflect changing national conditions, expectations and aspirations.

Perhaps the Court of Appeal has been less successful in the area of developing a local or regional jurisprudence, though it certainly has made a contribution there, from the days of Wooding's Court onwards. But in recent years particularly, there are signs that Justices of Appeal are responding to the challenge made by Chief Justice Archie and several others—to be bolder in their judgments and to ensure that they reflect changing national conditions, expectations and aspirations. As Justice Saunders said during the panel discussion in July 2012 already mentioned, "I think it is fair to say that the Trinidad Court of Appeal judgments in recent times, have been showing quite a great level of creativity and boldness, whereas in the past, you may have had more judgments that simply just reflect a precedent without that kind of original analysis". Perhaps the Court of Appeal judgment given by A. Mendonca, P. Jamadar and R. Narine, J. A. (written by Jamadar, J. A.), in the case Israel Khan v. Sherman Mc Nicholls (12 January, 2012)—infused as it is with a deep understanding of the social and cultural history of Trinidad—may be taken as an example of this new trend. In the next fifty years in the life of the nation, it is to be hoped and expected that the Court of Appeal of Trinidad and Tobago will continue its work of developing a Caribbean jurisprudence, with the CCJ becoming—sooner rather than later, it is to be hoped—its final appellate authority.



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SOURCES

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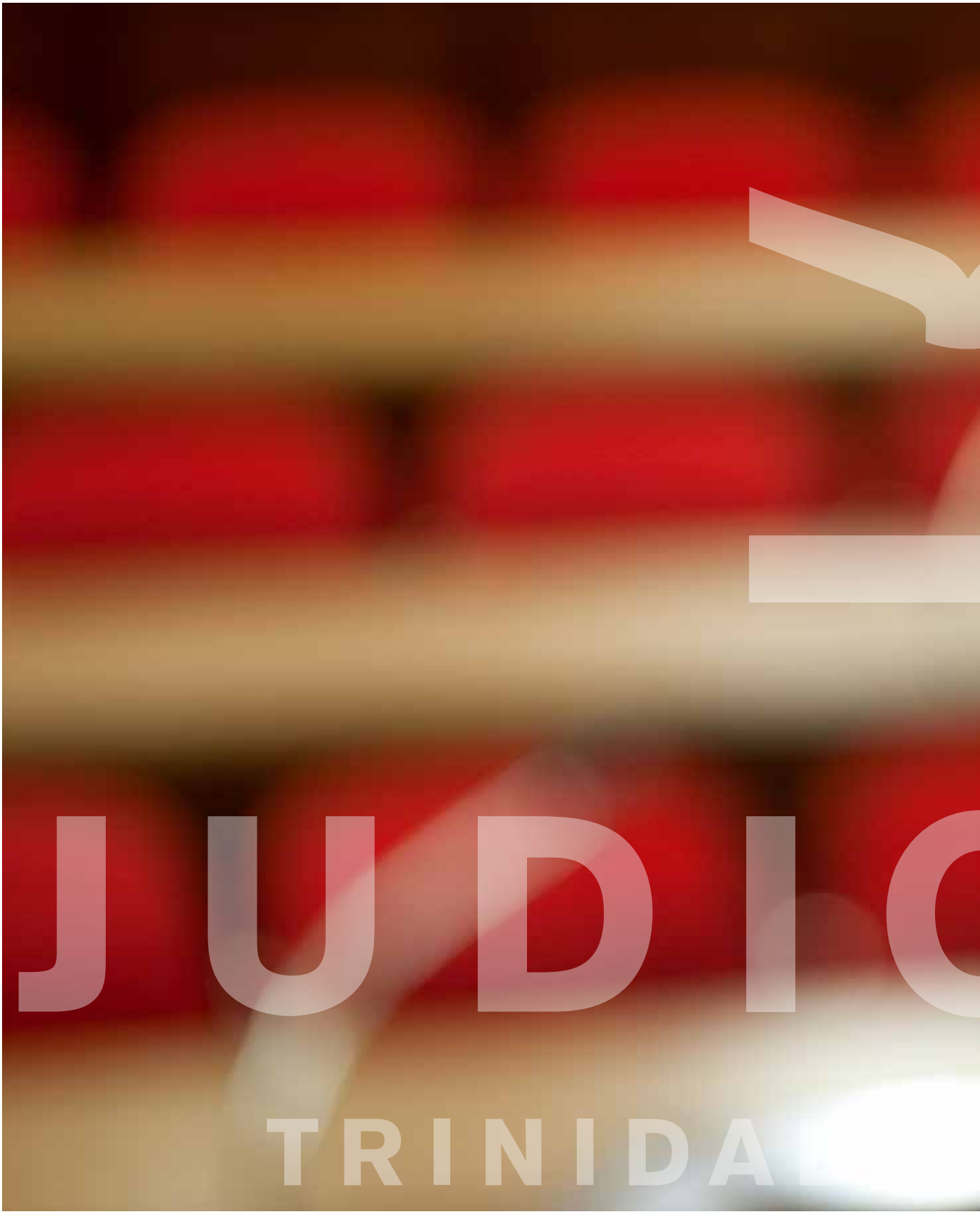
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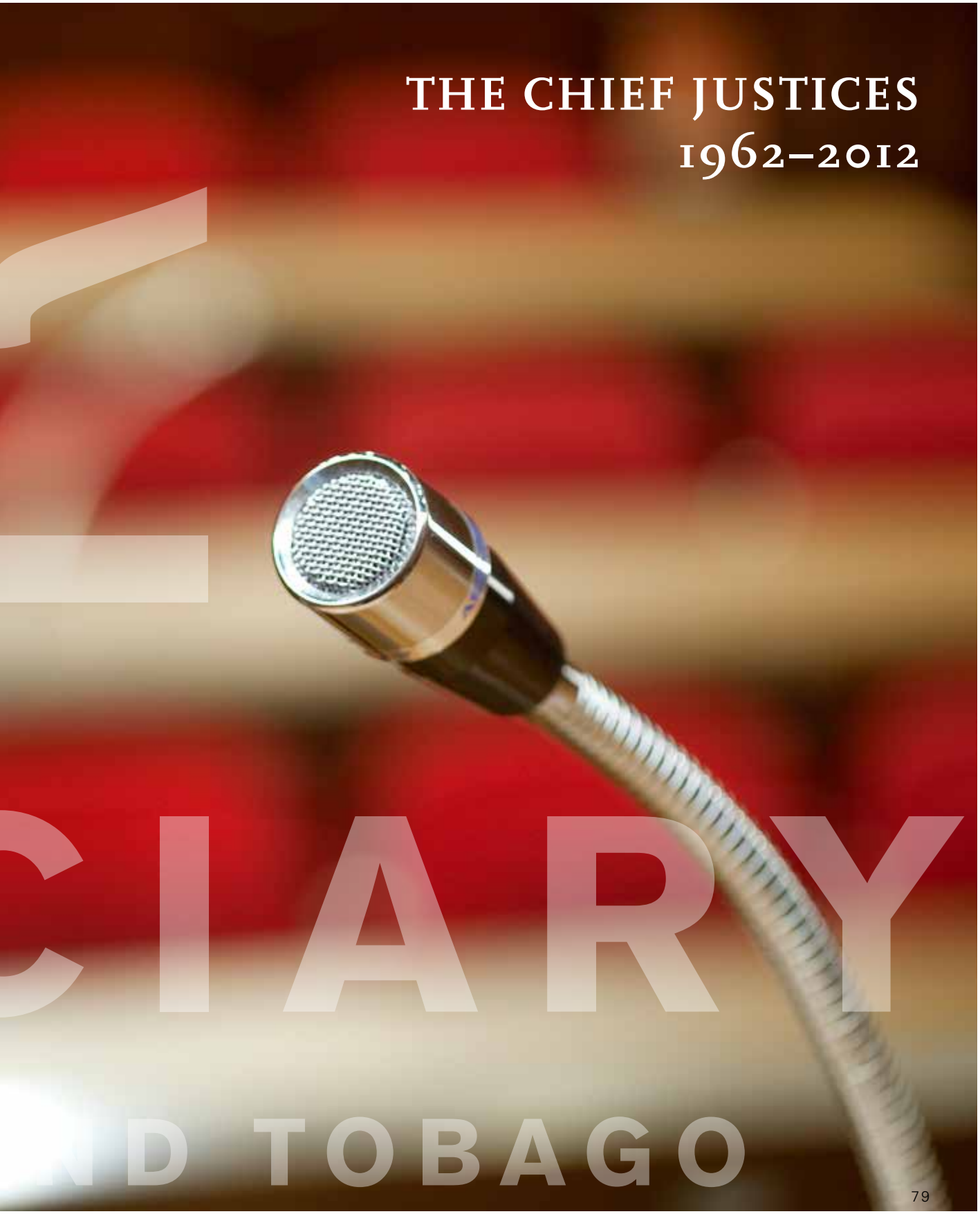


Mark Lyndersay

HUGH O.B. WOODING

Chief Justice Hugh Olliviere Beresford Wooding, T.C, K.C, C.B.E., Kt. Bach., Chief Justice 1962 - 1968

"Mind stimulates mind and sharpens wit. This process is necessary if the work of the courts is to be done with efficiency, dignity and dispatch. But it is no less necessary that both Bench and Bar should maintain an independence of spirit and integrity of purpose which will be transparent for all to see. That is the beacon by which we of the Bench have persisted in charting our course. It is likewise the beacon by which we hope the Bar will insist in avoiding the shoals and shallows of the law in operation in our workaday world."

Address delivered by Sir Hugh Wooding on the Occasion of the Ceremonial Opening of the Law Term of the Supreme Court of Trinidad and Tobago on 4th October 1967.

1962 Independence Parliament

1964 Parliament

Top: Chief Justice Wooding at the Ceremonial Opening of the High Court in 1968.

Bottom: Chief Justice Wooding and Justice Karl de la Bastide in 1968.

Hugh Ollivere Beresford Wooding was born on the 14th January, 1904, the second of five children of Barbadian parents Iddo Arthur Reginald Wooding, a sanitary inspector, and Rosina Isador Cadogan, a seamstress. Both parents had migrated from Barbados to Trinidad in the 1890s in search of a better life. A Methodist, he obtained first place in the Government Exhibition in 1914, from the Moulton Hall Wesleyan School, and entered Queens Royal College. In 1923 he won the only Island Scholarship and Gold Medal and entered Middle Temple at the Inns of Court in London to read Law in 1924. He obtained First Class Honours in several subjects and won the prize for Best Candidate of the Year from the Council of Legal Education in 1925. He ended his legal studies with First Class Honours in his final examinations, winning the prestigious Studentship prize of three hundred guineas and a special Middle Temple prize of 50 pounds sterling. He was called to the English Bar in 1927. He was married in 1928, to Anne Marie (née Coussey) of Ghana. There were four children of the marriage, two sons and two daughters.

On his return to Trinidad in 1927, Wooding entered private practice, building his reputation at the Civil Bar. He was also admitted to practice in Barbados, Guyana, St. Vincent, Grenada and Belize. His legal acumen allowed him to develop an extensive legal practice throughout the English Speaking Caribbean. He took silk (became King's Counsel or KC) in 1948 and was made a Commander of the Order of the British Empire in 1957. He was Vice-President of the Bar Association from 1956 to 1962 and a member of the Bar Council from 1932 to 1962.

Wooding served his country in several public capacities prior to his installation as the first Chief Justice of an Independent Trinidad and Tobago in 1962. In 1941 he was elected a Councillor of the City of Port of Spain; he served as Mayor from 1943 to 1944 and as an Alderman from 1944 to 1947. He served on the Slum Clearance Committee; Planning and Housing Commission; The Trinidad and Tobago Electricity Commission; Social Welfare Committee; Central Board of Health. He was the Chairman of the Trinidad and Tobago Railway Board and the Port of Spain Municipal Service Commission. He was the Chief Registration Officer from 1941 to the end of World War II and Founder and Chairman of Trinidad and Tobago Welfare: 1944-1954. He also served as Chairman, Association for Child Care of Trinidad and Tobago and as the first Chairman of the Carnival Development Committee from 1957 to 1958, and also held Directorships of several major corporations, including British West Indian Airways; Furness Withy and Company, and the Caribbean Development Company. He was also the founder and first President of The Trinidad Manufacturers' Association.

A lover of the arts, sports and culture, and appreciative of the role of education in human development, Wooding was a foundation member and Chairman of Beryl McBurnie's Little Carib Theatre from 1948 to 1962; President of the Arima Race Club, and was associated with the Cycling Federation. He was Chairman of the

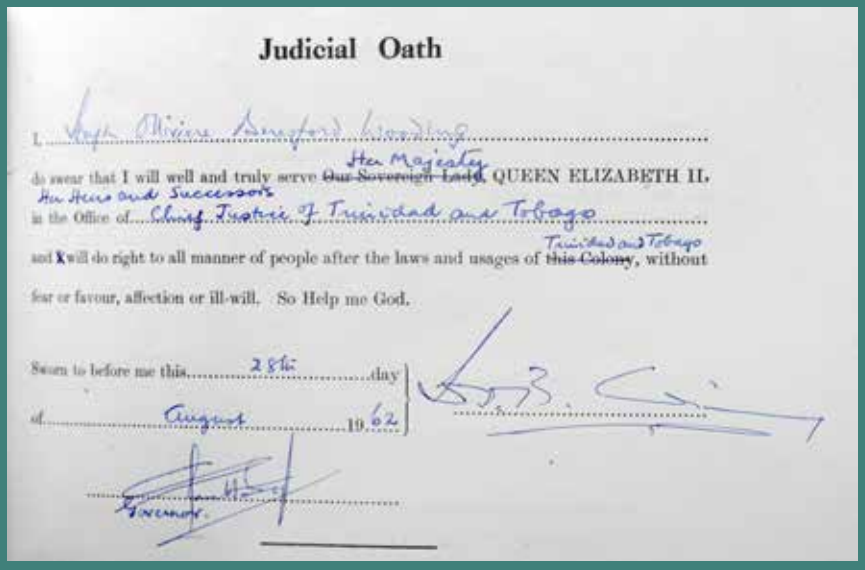
Friends of The University of the West Indies, an advocacy group, and served as Senior Steward of the North Trinidad Circuit of the Methodist Church. Wooding was also a respected Freemason, holding the rank of Scottish Grand Master.

Wooding was invited by the Prime Minister, Eric Williams, to be the first Chief Justice of an independent Trinidad and Tobago in 1962. At that time he had been practicing at the Bar for 35 years. He was knighted in 1963, and invited to become a member of the Judicial Committee of the Privy Council in 1966; he was the first West Indian jurist to be appointed and the sixth Chief Justice from the Commonwealth. This appointment meant that the Supreme Court was named as a Superior Court of the Commonwealth.

Wooding was sworn in as Chief Justice and President of the Court of Appeal on the eve of Independence (28th August, 1962) which followed within six months of the dissolution of the Federation of the West Indies. In his first address to the legal fraternity at the Ceremonial Opening of the law Term, 5th October, 1962, he signaled his intention to seek to have the Executive implement recommendations of the 1956 Napier Report, not yet in effect. He addressed the need for the reduction of arrears in the list of cases; and he invited the members of the profession to work with the courts to expedite matters. As he addressed the responsibilities of lawyers in a changing society, Wooding stated that lawyers must be visible examples, in his words: "It was not enough for the lawyer merely to formulate new ideas and new views. In his day to day professional life, he must be a visible example of his profession - efficiency, personal integrity and courage." Wooding also indicated that court sittings would commence from 9:00 am to 1:15 pm with a short adjournment at 11:00 am; the former times of sittings were 9:30 am to 11:45 am and from 1:30 pm to 3:30 pm.

Throughout his six year tenure Chief Justice Wooding introduced measures to reduce the perennial backlog in both the High Court and the Court of Appeal. For instance, he utilised as a court the former Chief Justice's Chambers and designated for use as an additional High Court the Judges' Library and Conference Room. He increased the number of sittings in San Fernando to dispose of arrears and "seized advantage of his dual role and took time off from the Court of Appeal to serve as a judge of the High Court." In the Criminal Courts, Mr.. Justice Camacho rejoined the Bench in 1964, as a temporary judge, and this enabled three assize courts to sit for six months. He also instituted the submission of quarterly returns from the various registries of courts to observe "the incidence of delays and the causes therefore." Administratively he followed on the suggestions of the Bar to introduce "mechanical aids to accelerate the works of the courts, hence the introduction of tape recorders in the criminal assizes for summing-up to juries."

Despite his efforts to introduce methods to cope with the delays, he was unable to stem the tide of rising backlog in the court. Wooding was concerned with the



Judicial Oath

I, Hugh Mervyn Stafford Wooding

do swear that I will well and truly serve Her Majesty ~~Our Sovereign Lady~~ QUEEN ELIZABETH II, Her Heirs and Successors in the Office of Chief Justice of Trinidad and Tobago and ~~I~~ will do right to all manner of people after the laws and usages of Trinidad and Tobago ~~this Colony~~, without fear or favour, affection or ill-will. So Help me God.

Sworn to before me this 28th day of August 1962

Governor.

Mark Lyndersay

Dinner

by the Judges of the Supreme Court of Trinidad and Tobago

in honour of

The Rt. Hon. Sir Hugh Wooding, P.C., C.B.E.

Chief Justice

on the occasion of

his appointment to the Privy Council by Her Majesty the Queen

on Friday, December 2, 1966

at Hotel Normandie

at 7.30 p.m.

Mark Lyndersay

Above: Oath of Office signed by Chief Justice Sir Hugh Wooding on 28 August 1962, three days before the granting of independence to Trinidad and Tobago.

Below: Dinner menu on the occasion of the appointment of Chief Justice Sir Hugh Wooding to the Privy Council, 1966

upsurge in serious crime and worked together with the Bar Association and Law Society to promulgate The Judge's Rules, (1964) "to serve as a guide to the Police when investigating offences against the law." He reiterated the need for speedy criminal trials and postulated the need for radical re-organisation of the courts.

Constant themes that arose in his addresses at the opening of the law term were the need for a Hall of Justice, a feasibility study for which was completed in 1967; the need to project the image of justice in the community; and the need "to cultivate respect for all who are appointed to administer the law, a respect which must be accorded because of the significance of the office they hold, a respect which must be merited also by their own recognition of the importance of the charge they have assumed." He also emphasized that "training and qualification as lawyers is a responsibility and not a privilege."

Chief Justice Wooding also identified the need for radical restructuring of the judicial system. He cited for immediate attention persons in custody; expanded jurisdiction of the magistrates' courts and petty civil courts in respect of monetary limits; abuses to the system of bail applications; and the urgent need for law reform. He submitted for discussion by members of the Bar and the Executive, proposals for the introduction of a legal aid scheme. Wooding urged the creation of a post of Ombudsman. It was during his tenure that women began to serve as jurors (1963). His tenure also saw the appointment of a barrister to assist the Chief Justice with administrative work (1966); the expansion of the collection of the Supreme Court Library with Commonwealth material; and the provision of space for a Law Library at the San Fernando Supreme Court.

In 1966 Chief Justice Wooding was elected as the first Honorary Secretary to the World Association of Judges. Both regionally and internationally he participated in several conferences associated with legal and social reform and held membership in the Association for World Peace through Law Centre and in the International Commission of Jurists and Societies for the Observance and Recognition of Human Rights. He hosted the Second Conference of Commonwealth Chief Justices, in 1967, in Port of Spain on the theme, "The Judiciary and the State".

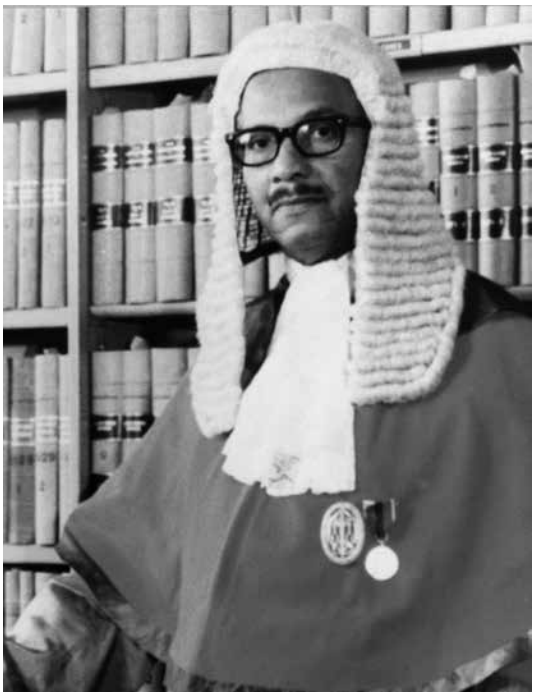
Chief Justice Wooding retired from the bench in December 1968. He ended his address to members of the profession at a special sitting held in his honour on 18th December, 1968 thus: "I have laboured in these courts for close on 42 years, so you will understand when I say that the Law was, is and will always be my first and enduring Love. It is the root of social justice…" It is therefore a fitting tribute to his life that the first Law School in the Caribbean, sited in Trinidad and Tobago, was named The Hugh Wooding Law School.

Wooding was conferred with an honorary degree of Doctor of Laws by the University of the West Indies in 1967 and appointed an Honorary Bencher of the Inner Temple in 1968. He was a recipient of the Trinity Cross in 1969.

In 1971, he was appointed Chancellor of the University of the West Indies, the first Caribbean person to hold that office, succeeding Princess Alice, Countess of Athlone. He also served as a member of the Judicial and Legal Services Commission from 1969, but he resigned from that body in 1973. Wooding accepted the Chairmanship of the Constitutional Reform Commission, constituted in 1971 in the wake of the national disturbances of 1970 and 1971. Prior to this he had served on several Royal Commissions throughout the Caribbean.

Chief Justice Hugh O.B. Wooding died at age 70 years on July 26, 1974. He was interred the next day in the family allotment at Lapeyrouse Cemetery after funeral services at Hanover Methodist Church.

ARTHUR H. MC SHINE



Chief Justice Arthur Hugh Mc Shine, T.C., Kt. Bach.
Chief Justice 1969 - 1971

"The maintenance of peace and order of this country rests largely upon, and is the special province of the administration of justice, and so the administration should present such an image that the ordinary citizen, becoming increasingly aware of the responsibility he bears for the welfare of the country, feels duly impressed as has been said, not only with the majesty of the law but with the law's intent and meaning. Without law there can only be chaos."

Address delivered by Sir Arthur Mc Shine on the Occasion of the Ceremonial Opening of the Law Term of the Supreme Court of Trinidad and Tobago on 5th October 1970.

Arthur Hugh Mc Shine was born on 11th May, 1906, in Port of Spain, one of the two eldest twin sons of Dr. Arthur H. Mc Shine and his wife, Marie Leontine (née Robertson), and the eldest of twelve children. His father was a prominent surgeon, who served as Mayor of Port of Spain and as a member of the Executive and Legislative Councils.

He received his primary education at Tranquility Intermediate School. Though a Roman Catholic, he attended Queen's Royal College, his father's alma mater. Successful in the Junior Cambridge examination in 1923, but underperforming in 1924 and 1925 at the Senior Cambridge, he and his twin brother were sent to England in 1926 for their tertiary education.

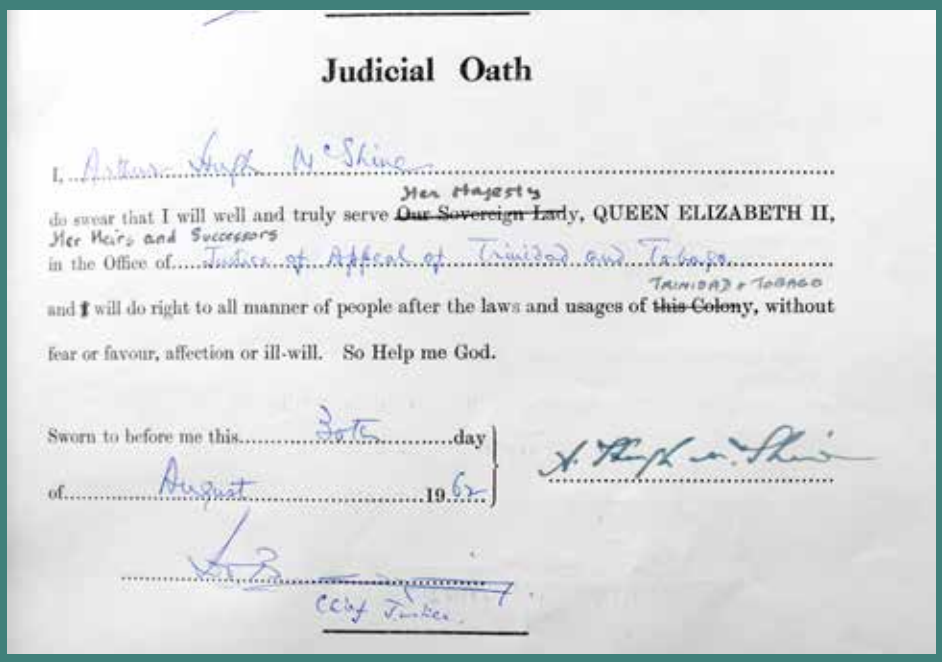
Mc Shine read law at the Middle Temple and was called to the Bars of the United Kingdom and Trinidad and Tobago in 1931. He was married to Dorothy (née Vanier), daughter of Archdeacon Vanier of St. Kitts, in 1943. They had one son and one daughter.

He was engaged in private practice as a barrister from 1931 to 1942. His practice included appearances before the West Indian Court of Appeal. He accepted a magistrate's post in 1942 and in 1951 he became a senior magistrate, having had the distinction of serving in all the magisterial districts of the country. In 1953 he was appointed a Puisne Judge and was awarded the Queen's Coronation Medal in that year for his contribution to law.

In 1962 Mc Shine was elevated to the Court of Appeal, becoming one of the first three Judges of the post-independence Court of Appeal. He had previously acted as Chief Justice in 1961 to 1962 just before Independence. He was sworn in as Chief Justice and President of the Court of Appeal on the 1st January, 1969, succeeding Sir Hugh Wooding, and was knighted that same year. The Trinity Cross was conferred on him in 1971. He also acted as Governor-General on several occasions, the most notable being in 1970 and 1972. He was tasked with declaring the State of Emergency during the 1970 civil disturbances and he was Head of the Judiciary during the mutiny trials arising out of those disturbances.

Mc Shine was particularly concerned with the slow pace of transcription of evidence in criminal appeals and the length of time it took to complete such cases. In this regard, to avoid a backlog of cases and to increase productivity within the courts, he implemented the return of sittings at the Criminal Assize Courts to two daily periods from October, 1969. In his first address as Chief Justice he reiterated the need for law reform, a proper building to house the Law Courts and improved conditions for the magistrates' courts.

On his retirement in 1971, Mc Shine served on the Boards of the Royal Bank of Trinidad and Tobago Limited, Texaco, Guyana Fire Insurance Company and the Trinidad Cooperative Bank. His hobbies included cricket, yachting and horse racing.



Judicial Oath

I, Arthur Hugh Mc Shine

do swear that I will well and truly serve ~~Our Sovereign Lady~~ Her Majesty, QUEEN ELIZABETH II, Her Heirs and Successors in the Office of Justice of Appeal of Trinidad and Tobago TRINIDAD & TOBAGO and I will do right to all manner of people after the laws and usages of ~~this Colony~~, without fear or favour, affection or ill-will. So Help me God.

Sworn to before me this 30th day of August 19 62

A. Hugh Mc Shine

CCJ Judge

Mark Lyndersay

Paria Publishing

Above: Chief Justice Arthur Mc Shine's Judicial Oath

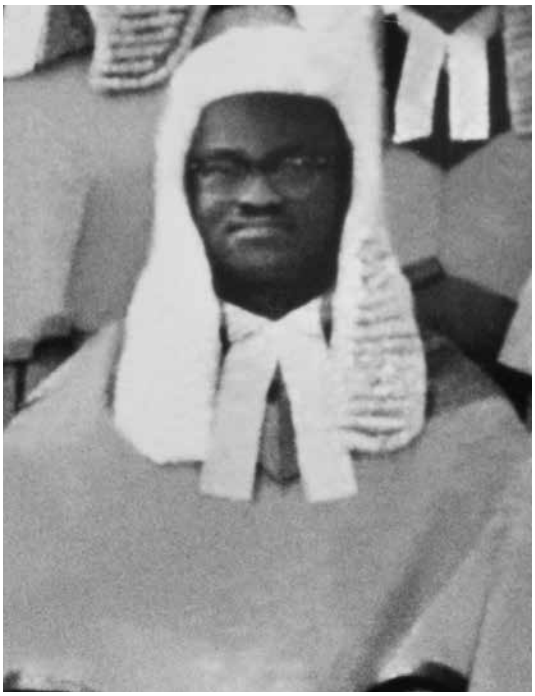
Below: At the Opening of the Law Term, Chief Justice Arthur Mc Shine ceremonially inspects the Police.

He was a member of the governing body of the Trinidad Turf Club and was also an amateur pilot. He made a significant contribution to the development of the local Chess Association both as an administrator and a player. He was also a great lover of music, a flautist who competed successfully in several Music Festivals.

Chief Justice Arthur Mc Shine died at age 77 on the June11, 1983. He was interred at the Laperoyuse Cemetery, Port of Spain after a funeral service at the Church of Assumption, Maraval.

In paying tribute to him, his former colleague, then Ombudsman, Justice Evans Rees, said "He was a perfect gentleman in every sense of the word and a man of impeccable character." Frank Solomon, President of the Bar Association, described him as "a judge of inflexible rectitude and scrupulous correctness of manners….a judge of erudition and a man of driving industry. He was a conservative man and a conservative judge, and strove to lay the foundations of a court that would function as the most highly respected secular institute in our society."

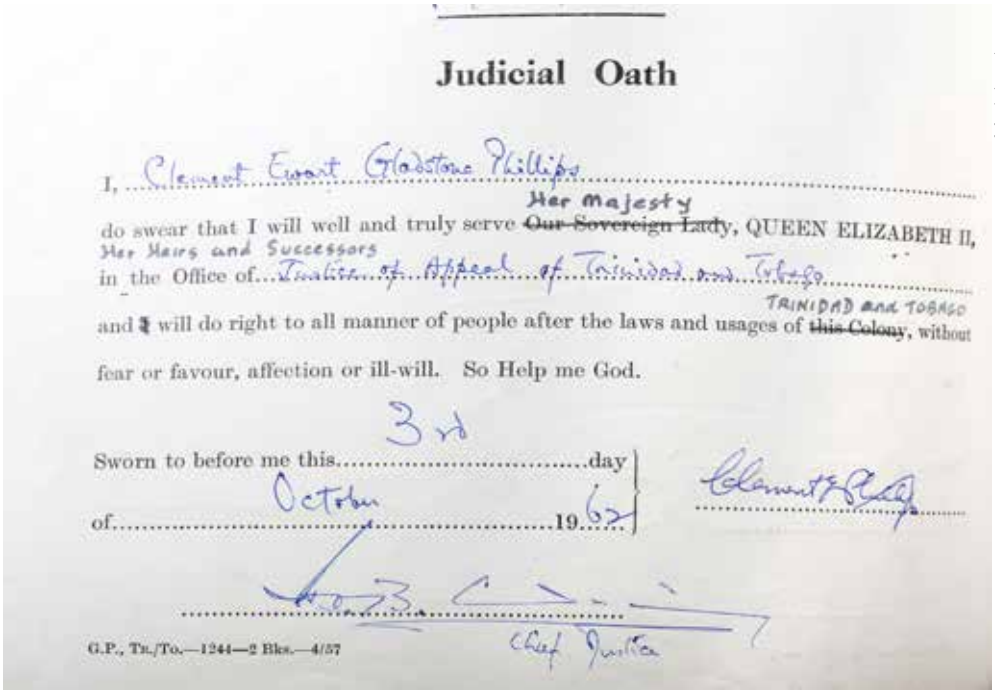
CLEMENT E. G. PHILLIPS



Chief Justice Clement Ewart Gladstone Phillips, T.C.
Acting Chief Justice 1971 - 1972

"The anomalous and unprecedented situation of what appears to be the likelihood of no appointment being made to the office of Chief Justice for an indefinite period raises, in the view of the Judges of the Supreme Court, a national issue of far-reaching importance, the full implications of which it is impossible to foresee. What is certain is that it tends to strike at the very roots of the fundamental principle of the independence at the Judiciary, which is the main pillar of our democratic system of government."

Address delivered by The Hon. Mr. Justice Clement Phillips on the Occasion of the Ceremonial Opening of the Law Term of the Supreme Court of Trinidad and Tobago on 4th October 1971.



Mark Lyndersay

Judicial Oath

I, Clement Ewart Gladstone Phillips

do swear that I will well and truly serve ~~Our Sovereign Lady~~ Her Majesty, QUEEN ELIZABETH II, ~~Her Heirs and Successors~~

in the Office of Justice of Appeal of Trinidad and Tobago

and ~~I~~ will do right to all manner of people after the laws and usages of ~~this Colony~~ TRINIDAD and TOBAGO, without fear or favour, affection or ill-will. So Help me God.

Sworn to before me this 3rd day of October 19 62

Clement E G Phillips

Chief Justice

G.P., Tr./To.—1244—2 Blks.—4/57

Chief Justice Clement E.G. Phillips' Judicial Oath

Clement Ewart Gladstone Phillips was born on 11th September, 1914, in Tunapuna, Trinidad. An Anglican, he entered St. Mary's College on a Government exhibition and won the Jerningham Silver Medal in 1929, the Jerningham Book Prize in 1930, and the Jerningham Gold Medal and Island Scholarship in 1934. He read Law at University College, London, and entered the Honourable Society of Gray's Inn at the Inns of Court; he was called to the Bar of the United Kingdom and Trinidad and Tobago in 1939.

Phillips returned to practice in Trinidad in 1939, where he entered the chambers of the renowned barrister L.C. Hannays, K.C.; he spent twelve years in private practice. In 1951 he entered the Public Service and served as Magistrate, Crown Counsel and Senior Crown Counsel. He was married to Marian (née Isaac), in 1952, and was the father of two children, a son and a daughter. Phillips was appointed a Puisne Judge in 1958 and in 1962 became a member of the country's first post-Independence Court of Appeal. Phillips acted as Chief Justice from 11th May, 1971, to 13th July, 1972 and presided over the Ceremonial Opening of the Law Term in 1971.

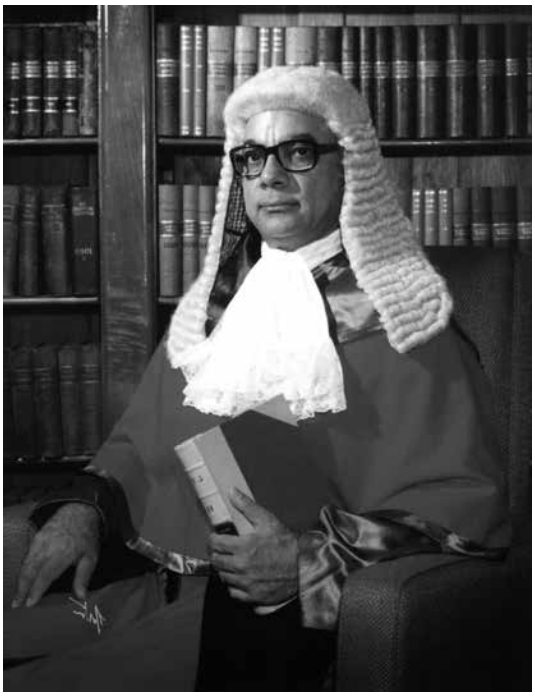
He was known for the scholarship of his judgments, and possessed a "judicial temperament which he combined with a fiercely independent spirit." He was the editor of the West Indian Law Reports from 1972 until his retirement, and left a legacy in his published judgments. He was described by one commentator as 'fearless' in his defence of the Independence of the Judiciary.

In his 1971 address at the Ceremonial Opening of the Law Term, he commented on the delay in the appointment of a Chief Justice, viewing this as a serious and unprecedented situation with far reaching national consequences. He also called for law reform and the introduction of a proper system of legal aid. He urged members of the legal profession to examine the contributions they should be making to the profession and to the national community.

Phillips retired on the 11th September, 1979, as the Senior Justice of Appeal, having served 17 years as Justice of Appeal. In recounting highlights of Phillip's career, CJ Hyatali stated that his retirement created "a great void" and that it would be "difficult to surpass the contributions which the retiring Judge made", referring to "his development of the law and his flair for the dispensation of even-handed Justice." He was the recipient of the Trinity Cross in 1979, for his contribution to law and the administration of Justice.

On his retirement he served as Chairman of the Mc Enearney Alston's Foundation, The National Sports Foundation and the Private Housing Estates Development Commission. Retired Justice of Appeal Clement G Phillips died on the 15th June, 1980 a few months short of his 66th birthday. Mr. Justice Clement Phillips was buried at the Lapeyrouse Cemetery Port of Spain following a funeral Service at the Cathedral Church of the Holy Trinity.

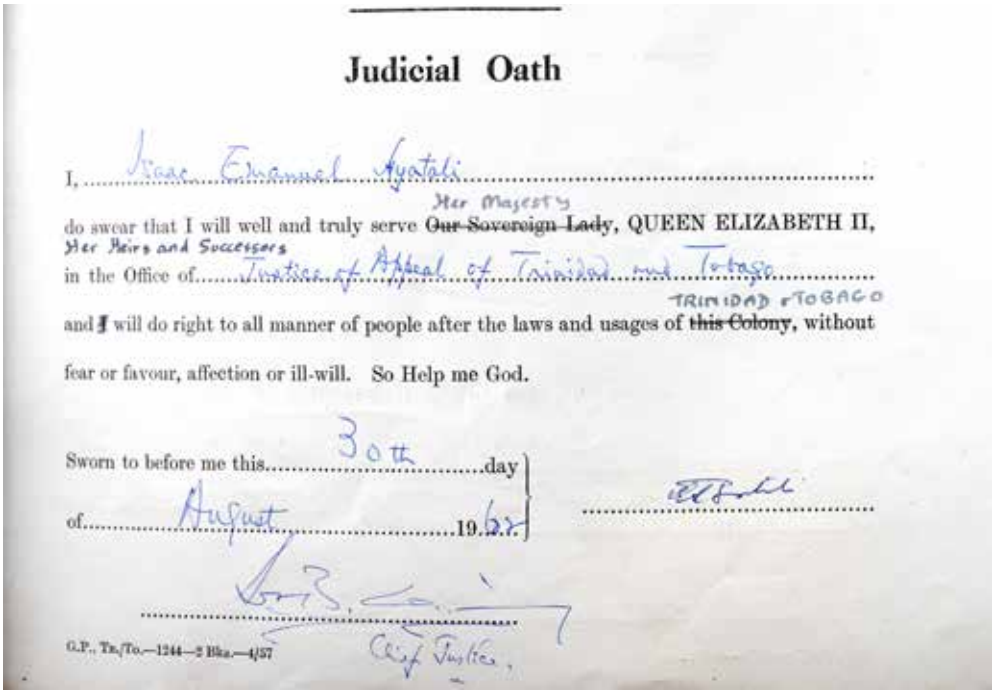
ISAAC E. HYATALI



Chief Justice Isaac Hyatali, T.C., Kt. Bach.
Chief Justice 1972 - 1983

"It is of the utmost importance for us as Judges to keep steadily in view, and for the Society as a whole to continue to accept without reservation, the cardinal principle, that the independence of the Judiciary from the Executive is indispensable to the fearless and impartial administration of justice. There can be no compromise on this principle, for the simple reason, that the Judge has not only to do justice between man and man but between the citizen and the State."

Address delivered by Sir Isaac Hyatali on the Occasion of the Ceremonial Opening of the Law Term of the Supreme Court of Trinidad and Tobago on 3rd October 1972.



Judicial Oath

I, Isaac Emmanuel Hyatali do swear that I will well and truly serve ~~Our Sovereign Lady~~ Her Majesty, QUEEN ELIZABETH II, ~~Her Heirs and Successors~~ in the Office of Justice of Appeal of Trinidad and Tobago and ~~I~~ will do right to all manner of people after the laws and usages of ~~this Colony~~ TRINIDAD & TOBAGO, without fear or favour, affection or ill-will. So Help me God.

Sworn to before me this 30th day of August 19 62

Chief Justice

G.P., Tr./To.—1244—2 Blks.—4/57

Mark Lyndersay

Chief Justice Sir Isaac Hyatali's Judicial Oath

Isaac Emmanuel Hyatali was born on the 21st November, 1917, at Princes Town, Trinidad, the third son of Joseph and Esther Hyatali. A Presbyterian, he received his primary education at Corinth Canadian Mission School and St. John's Anglican School. He was awarded a bursary by the Canadian Mission to pursue his secondary education at Naparima College. He pursued Law at the Council of Legal Education, London, and was called to the Bar at Gray's Inn, London, in 1947. He was married to Audrey Joseph in 1943. There were three children of the marriage.

Hyatali practised at both the Civil and Criminal Bar of Trinidad and Tobago from 1947 to 1959. During this time he served as Chairman of the Arima Rent Assessment Board; the Agricultural Rent Board of the Eastern Counties and the Agricultural Wages Council. He was also Chairman of several Commissions of Inquiry into various trade disputes and issues of public importance. He served as Secretary of the Bar Association and of the General Council of the Bar of the West Indies. Hyatali was appointed a Judge of the High Court in 1959 and Chairman of the Oil and Water Board in 1960. He became a Justice of the Court of Appeal in 1962 and was also the Trinidad and Tobago editor of the West Indian Law Reports from 1961 to 1965.

He was the first President of the Industrial Court, established in 1965 as a Superior Court of Record. In 1969, Senator Nathaniel Crichlow, in paying tribute to Hyatali as President of the Court, said "we are tempted to say that the reason why the entire

Trade Union Movement did not earlier rebel against the Industrial Stabilisation Act with greater hostility is as a result of the quality of the leadership of this gentleman in the Court and his unparalleled keenness of sense of securing justice."

Isaac Hyatali was appointed Chief Justice in 1972. In 1973 he was knighted and in 1974 he was awarded the Trinity Cross. Both awards were bestowed on him for his contributions in the field of Law and Justice.

In his first address at the Opening of the Law Term in October 1972, he stated: "The ceremonial opening of the law term today signals the successful conclusion of a decade of judicial labour... Happily and more importantly... it also heralds the inauguration of the second decade of the accession of the Judges of the Supreme Court from the uncertain rank and station of Colonial Judges holding office purely at the pleasure of Her Majesty the Queen, to the secure and certain status of independent Judges of the Supreme Court of an independent nation."

He established committees during his initial year to review and recommend support structures that would strengthen the administration of Justice in the country. Some of these Committees resulted in the publication of the New Rules of the Supreme Court, 1975 (R.S.C 1975); an inquiry into the Magistracy which sought to restore the "integrity of its operations at administrative and judicial levels," and the re-organisation of the Supreme Court Registry.

Highlights of his tenure also saw the introduction of temporary judges:, subsequent legislation to increase the number of judges of the High Court to 15 and of the Court of Appeal to 7; sittings of the Court of Appeal implemented in San Fernando and Tobago; the creation of the post of Master of the High Court, 1980; the passage of legislation for the establishment of a Judicial and Legal Services Commission which brought Legal Officers in the employ of the Executive under the control of one body; improvements in the terms and conditions of Judges and the enactment of legislation (1976) to provide pensions for the widows of judges; the regrading of magistrates' salaries (1981); and the inauguration of new Magistrates' Courts in Mayaro and Point Fortin. The laying of the Foundation Stone for the Hall of Justice in Port of Spain (1979) and the completion of the restoration of the Hall of Justice in Tobago were also accomplished during his tenure.

Hyatali felt strongly that members of the legal profession had "consistently neglected to exploit opportunities for our intellectual nourishment and the improvement of our legal system." In this regard the Judiciary took the lead in organising law conferences and seminars in 1973 and 1975, and visits by legal luminaries from around the Commonwealth to deliver a series of memorial lectures. The inaugural lectures in 1974, was dedicated to the memory of Sir Gaston Johnston, KC, a renowned criminal lawyer, and was delivered by Lord Denning, Master of the Rolls of England, the first entitled "The Price of Freedom" and the second "The

Common Law Transplant." Lectures were held in 1975 in honour of the late Sir Courtenay Hannays, KC, these were delivered by the Chief Justice of Nigeria, Dr. T.O. Elias.

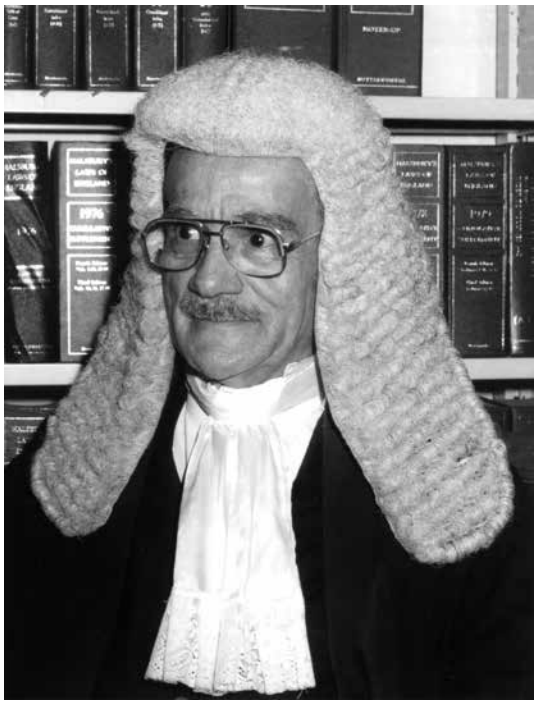
Hyatali provided the impetus for magistrates' workshops organised by the Chief Magistrate. These workshops afforded members of the bar and bench the opportunity to participate and exchange ideas. Trinidad and Tobago had the honour of hosting the sixth Commonwealth Magistrates' Conference in 1982, the theme being "The Judiciary and Justice". In addition, Judges of the Supreme Court took part in Judicial Exchanges with the United Kingdom, Canada and the Caribbean and several distinguished jurists visited and delivered lectures on the topics :"Investigation of Crime"; "Freedom within the Law"; and "the Role and Functions of the DPP". In initiating these events Hyatali created an environment for co-operation and collaboration between the judiciary and the legal profession. He was responsible for the establishment of a statutory body to discipline members of the Bar, the publication of a law journal by the professional association, and ending the wearing of wigs by Judges and Barristers in 1979.

Hyatali served in several diverse capacities throughout his life, such as a member of the Council of Management of the British Institute of International and Comparative Law; Umpire of the International Civil Aviation Organisation, and an honorary member of the World Peace Through Law Center and of the World Association of Judges. He also served as one of the Judges at the Demonstration Trial of the Economic Measures case and of the Nuclear Damage case at World Peace through Law Conferences in 1975 and 1981. He was also an honorary member of the Rotary Club and the Union Park Turf Club, San Fernando.

Upon his retirement as Chief Justice in January 1983, he served on the Judicial and Legal Services Commission and was also Chairman of the ANSA McAL Foundation, and Chairman of the BWIA Media Awards. From 1983 to1984 he served as a Justice of Appeal in the Supreme Court of the Seychelles. He was appointed Chairman of the Elections and Boundaries Commission in 1984. In 1996, the University of the West Indies, St. Augustine, conferred an honorary degree of Doctor of Laws on him.

Chief Justice Hyatali served as Chairman of the Elections and Boundaries Commission until his death at age 83, on December, 3rd, 2000.Chief Justice Hyatali was cremated at the St. James Crematorium following an official funeral at the Cathedral Church of the Holy Trinity , Port of Spain.

CECIL A. KELSICK



Chief Justice Cecil Arthur Kelsick, T.C., Q.C.
Chief Justice 1983 - 1985

"The organs of state power are the Executive, the Legislative and the Judiciary. It is the essence of our democratic legal system to ensure that the Judiciary to whom the Constitution has entrusted the protection of our fundamental rights and freedoms should be politically and economically independent. The Judges should not be overtly or covertly dependent on the arbitrary of discretionary granting or withholding of favours by the Executive. Certain attributes, appurtenances, privileges and honours should attach as of right to the holders of the offices of the President, the Prime Minister and the Chief Justice as well as to the Members of Parliament and Judges respectively who constitute the Executive, Legislative and Judicial arms of the State."

Address delivered by The Hon. Mr. Justice Cecil Kelsick on the Occasion of the Ceremonial Opening of the Law Term of the Supreme Court of Trinidad and Tobago on 3rd October 1983.

Opening of the Law Term 1984. From left: Chief Justice Cecil Kelsick, Justice John Brathwaite, Justice Clinton Bernard, Justice Gerard des Isles and Justice Alcalde Warner.

Cecil Arthur Kelsick was born in Portsmouth, Dominica, on 15th July, 1920 to Oscar and Daisy Kelsick, an Antiguan and Dominican respectively. He was educated at the Montserrat Grammar School from which he won the Leeward Islands scholarship in 1938. He proceeded to read law at King's College, University of London, where he graduated with an LLB, and was called to the Bar at the Inner Temple in 1941. He was married to Sonia (née Rawle), and there are five children from that union.

From 1942 to 1948, he practiced law in the Windward and Leeward Islands both as a barrister and solicitor, which was permitted in those islands at that time. Appointed Crown Attorney of Antigua in 1950, he was named as Acting Attorney General of the Windward Islands in 1954, and was an ex-officio member of both the Executive and Legislative Councils of these islands. Kelsick migrated to Trinidad in 1954, on the urging of Albert Gomes, a leading figure in the government at the time. He served as Legal Draftsman and was appointed Solicitor General in 1954. He acted as Attorney General on several occasions and as Governor's Deputy to Sir Solomon Hochoy. He took silk in 1964(Queen's Counsel or QC) and was appointed to the Tax Appeal Board in 1966 as its first Chairman, and subsequently appointed as Chairman of the Law Commission and the Statute Law Revision Commission. He was appointed a Puisne Judge in 1972 and to the Court of Appeal in 1978. He was awarded the Chaconia Medal of Merit in 1976, for his contribution to law and was a recipient of The Trinity Cross in 1985. He served as Chairman of the National Awards Committee as a result of a constitutional amendment in 1983.

Kelsick was well recognised nationally. He was honoured by the National Father's Council as Father of the Year in 1979. He also served as Vice President of the Trinidad and Tobago Boy's Scout Association and was a member of the Harvard Sports Club, where he occupied the post of President and remains its patron. Both Kelsick and his wife were dedicated to service within the community; he was a member of the Anglican Diocesan Board and she was a member of the Living Waters Community and the Trinidad and Tobago Girl Guides Association.

Kelsick was sworn in as Chief Justice on the first of March, 1983, (he had been acting Chief Justice since February). His tenure was to last for two and a half years. He assumed office when the bench was numerically depleted and delays in the disposal of proceedings were endemic. There was a pressing need for the re-organisation of administrative systems within the Court. During his short tenure, his three Law Term Opening speeches 1983-1984;1984-1985;1985-1986 reiterated his predecessor's call for physical improvements to courthouses, improvements to conditions of service for judicial personnel and the introduction of systems and procedures that would enhance the administration of justice.

Kelsick,as Chief Justice, presided over one the most significant events in the Judiciary's history, the opening of the Hall of Justice in Port of Spain on 21st September, 1985, and the subsequent transfer of the Law Courts from quarters shared with Parliament in the Red House for over 80 years. As Chairman of the Council of Legal Education, his tenure in office coincided with the establishment of the Hugh Wooding Law School as an administratively autonomous institution with a principal of its own. The Hugh Wooding Law School building was opened by in September, 1983.

In addition, it was during his tenure that regional consensus was obtained to amend the agreement governing the Council of Legal Education to permit the fusion of the legal profession in Trinidad and Tobago, which came into effect in 1986, Trinidad and Tobago becoming the last territory of the Commonwealth Caribbean to embrace this. It was under his watch that the Rules of Court were amended to provide for "Applications for Judicial Review", an important procedure in the development of administrative law.

Kelsick ascended to the post of Chief Justice after a distinguished legal public service career. On the Occasion of the Ceremonial Sitting of the Supreme Court in Honour of his retirement, the Minister of Legal Affairs, on reflecting on his legal career, remarked 'there was a certain acumen and mastery of touch; there was also an elegance of language indicative of scholarship far transcending the law."

Chief Justice Kelsick retired on the 20th December, 1985. He was appointed to the Judicial and Legal Service Commission in 1987, and also served as Legal Drafting Adviser in the Ministry of Legal Affairs during that year.

CLINTON A. BERNARD

Chief Justice Clinton Angelo Bernard, T.C, S.C.
Chief Justice 1985 - 1995

"I would like to remind the country of the importance of the Judiciary in our democracy. It is a separate Organ of the State and an independent Institution under the Constitution. It is in the interest and welfare of our democracy that this is so and that it should continue to be that way and, above all, appear to be that way. Due respect and regard for the Institution in all its forms and by all and sundry is a sine qua non of and the guarantee for a peaceful and healthy democracy. Let us be clear about this in our minds: the Judiciary is the medium for safeguarding and preserving our democracy. History records that few, if any, developed or developing societies that have reneged in this regard have survived as a democracy as we know it to be. Those who have ears to hear, let them hear."

Address delivered by The Hon. Mr. Justice Clinton Bernard on the Occasion of the Ceremonial Opening of the Law Term of the Supreme Court of Trinidad and Tobago on 3rd October 1986.

Chief Justice Clinton Bernard at the ceremonial Opening of the Law Term.

Clinton Angelo Bernard was born on the 31st May, 1931 in Belmont, Trinidad, the second to last child of a family of twelve. A Roman Catholic, he received his early education at the Nelson Street Boys R.C. School where he won a government exhibition. He attended Progressive Educational Institute and graduated in 1947 with a First Grade Certificate in the Senior Cambridge Examination.

Bernard joined the Colonial Secretariat as a Second Class Clerk in January 1950. He took his Bar finals at the Middle Temple, London, in 1960 and was called to the Bar of the United Kingdom in that year. He returned to Trinidad in 1961. Bernard was one of three legal cadets who joined the Attorney General's Department, the other two being Michael de La Bastide and Frank Solomon.

He became Crown Counsel and was promoted to the post of Senior Crown Counsel in 1966. In 1973 Bernard was appointed Deputy Solicitor General and acted as Solicitor General and Director of Public Prosecutions. He was appointed a Puisne Judge on the 1st November, 1977, and was appointed to the Court of Appeal in 1982. He was sworn in as Chief Justice on the 23rd December, 1985.

Bernard served as Chairman of the National Awards Committee as a result of a constitutional amendment in 1983. He is the recipient of the country's highest honour, the Trinity Cross in 1986 and as a sitting Chief Justice took silk becoming Senior Counsel or SC in that same year. In 1987 he was honoured as the Father of the Year and honorary President of the Blind Welfare Association of Trinidad and Tobago. Bernard served as Chairman of the Foundation for Psychological Research at The University of the West Indies, St. Augustine and was instrumental in the establishment of its ANSA Mc AL research centre in 1989.

An aficionado of the steel band, life-membership was conferred on him by the national organisation Pan Trinbago for his contribution and support to the movement. In 1994 he was one of twenty recipients of awards to outstanding sons and daughters from "Behind De Bridge" organised by the Port of Spain South Community Council. Bernard was also the first honorary member of the Port of Spain East Lions Club and Chairman of the St. Paul Street Multi-Purpose Facility and Chairman of the Trinidad and Tobago Red Cross Society. Bernard is married to Angela (née John), a former Director of the Public Library Services of Trinidad and Tobago. The union produced three children.

In his response to members of the profession at his Welcome Ceremony in 1986, Bernard stated: "The proper administration of justice and the Rule of Law and confidence of the public in them are the basic pillars upon which a proper working democracy is founded… What is needed now are reforms, accommodation and increases in manpower". These were the tasks to which Chief Justice Bernard turned his attention. He sought to bring order to the profession through the introduction of a Practice Direction to govern the mode of dress for practitioners in court. He

initiated the design of robes for the Judges with the national colours, which allowed for a distinction in the courts between robed attorneys and Judges. He introduced a general admission ceremony in 1987 for new attorneys, which primarily sought to give these new members of the legal profession "first hand exposure to the importance and sobriety of the institution to which they now belonged". Bernard also presided, in 1993, over the first and to date the only occasion of the Ceremonial Opening of the Law Term at the Supreme Court, San Fernando.

His tenure saw the construction of a new Magistrate's Court in Princes Town; the transfer of St. George West Magistrates' Court, the headquarters of the Magistracy, to NIPDEC House; renovations to the Chaguanas Magistrate's Court; the refurbishment and designation of a building as a court at Chaguaramas to deal with magisterial and other cases; and the expansion and refurbishment of the Supreme Court in San Fernando. All of these were in an effort to facilitate and accommodate the expansion of judicial personnel in the various magisterial districts and the Supreme Court.

Enhancements of terms and conditions for Magistrates, and the widening of diplomatic privileges and increased benefits for Judges, including the perquisite of judicial contact and tax-free salaries and pensions, were procured during Bernard's tenure. He regulated Magistrates' hours of sitting and required them to write reasons for matters appealed. He also issued a Practice Direction for skeletal arguments to be introduced in Civil Appeals. Bernard was successful in working with the Executive for the passage of legislation to widen the jurisdiction of Magistrates to determine summarily offences such as robberies and kidnapping, which were formerly under the jurisdiction of the High Court.

In addition, an amendment to the Workmen's Compensation Act enabled the transfer of jurisdiction to Masters, and an amendment to the Matrimonial Causes Rules in 1991, transferred some jurisdiction in uncontested divorces to Registrars. It was during Bernard's tenure that the Constitution was amended to provide for the re-employment of retired judges. Other initiatives were the introduction of the Computer Aided Transcription System which necessitated changes in the law for the recording of evidence by mechanical means (Recording of Proceedings Act, 1991); the computerisation of the civil court registries; the creation of the Supreme Court Library Legal Database and Information System; and the provision of computers for judicial personnel and the necessary training for judicial personnel and court staff. The introduction of these systems and procedures were all part of Bernard's thrust to reform the Court to allow Judges more time to deal with complex matters and to usher the Court into the modern technological era.

During Bernard's era Cabinet appointed in 1992 a Committee "To Advise on Systems to Reduce Existing Delays in the Administration of Justice, the Chairman

of this Committee was Dennis Gurley. Several recommendations for legal reforms presented to the Committee by the Judiciary were endorsed, and have been subsequently implemented in later years.

Chief Justice Bernard retired on the 31st May 1995, after serving on the bench for 18 years and as Chief Justice for 9 of those years. To date his only post-retirement judicial function has been to head the Commission of Inquiry in 2002 into the construction of the Piarco Airport terminal.

MICHAEL A. DE LA BASTIDE

Chief Justice Michael Anthony de La Bastide, T.C., P.C., Q.C.
Chief Justice 1995 - 2002

"Judicial independence is rarely the subject of frontal attack: more often it is eroded by persons who pay lip service to it and who may not even appreciate fully the long-term effect of the actions which they take in search of a short-term goal. The danger is that the erosion can take place without most people being aware of it until it is too late. It cannot take place unless a complacent society allows it to."

Address delivered by the Rt. Hon. Justice Michael de La Bastide on the Occasion of the Ceremonial Opening of the Law Term of the Supreme Court of Trinidad and Tobago on 16th September 1999.

Michael Anthony de La Bastide was born on Charlotte Street, Port of Spain, on 18th July, 1937, the youngest of four children. A Roman Catholic he attended St. Mary's College, Port of Spain, from 1945 to 1955 and won the Open National Scholarship in Languages. He subsequently read Law at Christ Church College, Oxford, graduating with First Class Honours in Jurisprudence in 1959 and in Civil Law in 1960. He tutored part time at Christ Church from 1960 to 1961. A member of the Honourable Society of Gray's Inn since 1956, de La Bastide was called to the Bar of the United Kingdom in 1961. He was made an Honorary Bencher of Gray's Inn in 1996 and an Honorary Fellow of the Society for Advanced Legal Studies in 2000.

de La Bastide joined the Office of the Attorney General on his return to Trinidad in 1961 as a legal cadet, and was promoted to Crown Counsel in that department. He entered private practice in the Chambers of Malcolm Butt, KC, and A.C. Childs, KC, in 1963. He was made a Queens Counsel (QC) in 1975. Prior to his appointment as Chief Justice, he was senior partner of the firm de La Bastide & Jacelon.

de La Bastide was a member of the Wooding Constitution Committee, 1971 to 1974, and a member of the Hyatali Constitution Commission, 1987 to 1990. It was during this period that de La Bastide served for three terms as President of the Law Association. He was the first named Independent Senator under the Republican Constitution and served in the Senate for three years, 1976 to 1981. De La Bastide was a director of several companies, amongst them Republic Bank Limited; Guardian Life of the Caribbean Limited; Century Eslon Limited; and he was Chairman of Courts (Trinidad) Limited and Spancrete Limited. He was Vice-President of the Queen's Park Cricket Club from 1982 to 1992, and a member of the club's Management Committee from 1969. He is the father of five, with three children from his first marriage to Marian. He is presently married to Simone, with whom he has two children. A lover of sports, he represented Trinidad and Tobago in hockey and bridge.

de la Bastide was sworn in as Chief Justice on the 31st May, 1995, and was the first Chief Justice of the Independent nation to be selected from the private Bar. He assumed office after thirty four years of advocacy and a distinguished and lucrative practice. In 1996 he was the recipient of the Trinity Cross for his distinguished service to the legal profession.

As Chief Justice, de La Bastide placed rectifying the delays in the administration of justice and the restoration of public confidence in it, at the top of his agenda. Determined to reduce the backlog of cases in the courts, in his first opening address he introduced administrative reforms that would lead to systematic changes in the operations of the courts. In this regard the long Court Vacation was shortened from two months to six weeks and sittings of the courts were mandated to commence at 9:00 am from the 4th October, 1995. He proposed the extension of the Computer Aided Transcription System (CAT) to all courts; and he abolished by Practice Direction

Above: Chief Justice Michael de la Bastide ceremonially inspects the Police.

Below: Michael de La Bastide QC being sworn in as Chief Justice by President of the Republic, His Excellency Noor Hassanali
(Photo: Noel Saldenha, 1 June, 1995)

Chief Justice de la Bastide (centre) sitting with the Supreme Court of the Bahamas.

Second Conference of Chief Justices of the Region. L-r: Chief Justices of the Cayman Islands, Barbados, Jamaica, Guyana, Belize, Chief Justice Michael de la Bastide and OECS.

the reading of judgments in the courts. These were some of the recommendations made by the Gurley Committee Cabinet Review team of 1992, "To Advise on Systems to Reduce Existing Delays in the Administration of Justice". de La Bastide established a Backlog Reduction Committee, and issued Practice Directions in 1999 and 2000 for the introduction of case-flow management. This system contributed to some success in eradicating delays in civil litigation and the reduction of the backlog in civil cases. de La Bastide also established dedicated backlog reduction courts and engaged a number of temporary Judges to dispose of them.

In addition to filling vacancies on the bench, he experimented with the appointment of experienced attorneys as temporary judges for periods of between four and six months, several of whom subsequently accepted permanent appointments. Under de La Bastide's leadership of the Judicial and Legal Service Commission, vacancies for Judges were advertised for the first time in the country. On de La Bastide's urging the complement of Judges was increased by legislation from 16 to 20 in 1996. He argued successfully to enhance the terms and conditions of Judges, such as the

replacement of judicial contact allowance with the enhancement of Judges' travel allowance together with a monthly allowance; an option to accept an allowance for judges' housing instead of occupying state houses; detachment of Judges' vacation from the court's long vacation, and an increase in the judges' allowance introduced in 1981.

de La Bastide was determined to promote efficiency in the courts through case-flow management and by strengthening the administrative structure. He was supported by the recommendations of the Reports of the World Bank on Judicial Sector Reform, and the 1992 Cabinet appointed Gurley Committee. He set out to engage both the Bench and Bar through seminars and conferences on the need for innovation within the courts.

He was singularly responsible for the creation and formulation of the New Rules of Court –The Civil Proceedings Rules, 1998. The commencement date was set for 1st January 1999. However, his attempt to introduce these New Rules of Court, which would allow for a fundamental shift in how the Court managed its processes, was met with resistance and controversy by members of the legal profession. The Rules were passed into law in 2002, after considerable discussion and difficulty, but were not implemented until the 16th September, 2005, after he demitted office.

He was successful in the establishment in 1998 of the Department of Court Administration to provide a specialised and professional management structure for the Judiciary. He re-introduced the publication of the Trinidad and Tobago Law Reports (TTLR); three volumes were published consisting of reports from 1990 to 1995.

de La Bastide initiated the annual educational retreats for judges from 1995 and for Magistrates in 2001. He also created a forum for Heads of Judiciaries in the Commonwealth Caribbean and the first such meeting was held in 1998 in Port of Spain.

Several committees were established by de La Bastide to drive his reform process, including the Magistracy Review Committee; Backlog Reduction Committee; Judicial Education Committee; Rules Implementation Committee; Court Building Users Forum; and an Editorial Committee for the publication of the Law Reports. Some of these committees consisted not only of court personnel but members of the Bar and stakeholders of the Court.

de La Bastide's commitment to new techniques and systems for enhancing efficiency in the courts, and his insistent concern for judicial Independence free from the influence of the executive, led him to focus his 1999 to 2000 Opening of the Law Term Address on several facets of Judicial Independence. In his wide ranging address, he discussed Judicial Independence; Separation of Powers; and the Independence of the Legal Profession. He emphasized the importance of the

Judiciary's need to control itself administratively and financially. The difference of opinions in the role and responsibility of the Attorney General vis a vis the Judiciary culminated in two enquiries in 2000, one for the Law Association by the eminent jurist Telford Georges, and another, a public enquiry, established by the Executive and chaired by Lord Mackay of Clashfern. These were heady times of tension between the executive and judicial arms of government. As a result of the controversy the then Attorney General refused to support several initiatives of the judiciary amongst them: a proposal to increase in High court Judges from 20 to 25; funding for a project to deal with the backlog of notes of evidence to be typed in appeals from the Port of Spain Magistrates Court; cessation of capital works for magistrates' court buildings. The responsibility for construction and renovation of court buildings was under the Attorney General, the Judiciary was only responsible for repairs and maintenance. As a result during de La Bastide's tenure limited refurbishment work was effected only at Chaguanas Magistrates' court. A new wing of the Port of Spain Magistrates 'Court was unable to be occupied by the Judiciary in 2002 because of failure to consult with the judiciary by the designated representatives of the project. The Judiciary eventually took possession of the wing in 2003.

de La Bastide demitted office as Chief Justice on the 17th, July 2002.In a subsequent interview with the Sunday Express, he noted that "he was leaving at a time when there was a new spirit of service among the Supreme Court judges, a spirit which prizes excellence, understands the importance of productivity, appreciates the need for continuing judicial education and lastly but not least, which appreciates the importance of independence and unity."

de La Bastide was sworn in as a member of the Privy Council by Her Majesty the Queen in July 27, 2004 and as the First President of the Caribbean Court of Justice (CCJ) in that same year. He retired as President of the Caribbean Court of Justice on the 17th July, 2011.

SATNARINE SHARMA

Chief Justice Satnarine Sharma, T.C, C.M.T.
Chief Justice 2002 - 2008

"The Executive must realise that an independent judiciary, whose duty is to insist on the adherence to the rule of law and to uphold the Constitution and the law, is crucial to the development of the society. Without it, investors have no confidence, creditors are not protected, borrowers are exploited, victims of wrong are denied access, and State power in all its manifestations is abused without effective control."

Address delivered by The Honourable Mr. Justice Satnarine Sharma on the Occasion of the Ceremonial Opening of the Law Term of the Supreme Court of Trinidad and Tobago on 16th September 2003.

Satnarine Sharma was born on 24th January, 1943, in Curepe, Trinidad, to Harripersad, a tailor and shopkeeper, and Kowsil. Sharma, the youngest son of eight children, eventually opted to study law instead of his first love, medicine because of financial constraints.

Sharma, a Hindu, was educated at Presbyterian schools at both the primary and secondary level, Curepe Canadian Mission School and Hillview and Naparima Colleges. After leaving school Sharma entered the Civil Service and worked in the Registrar General's Department for two years where he was subsequently appointed a First Class Clerk. He left Trinidad in 1963 to read law and was called to the Bar of the Inner Temple Society, United Kingdom, in 1966. The following year he was admitted to the local Bar. That same year he returned to England and did his pupillage at the Chambers of James Kingham who was later appointed a High Court Judge in England. Sharma, in his own words, "found the going tough for a coloured person in England in those days…he felt that he was never going to be asked to fill any place in that Chambers because it was "a closed shop."

Sharma is married to Kalawaty (née Ramgoolam), a former Director of Inflights of the national airline, and has two sons. He returned to Trinidad in 1968 and commenced practice in Chambers with his brothers Bholan and Nath. From 1968 to 1970 he practiced extensively in the Magistrates' courts, branching off to the Assizes in the 1970s, and eventually settling into Civil practice in the Chambers of Desmond Allum until 1983. During this time Sharma served as Junior to a number of senior attorneys but felt that his practice was not financially rewarding, and that the experience of a 'closed shop' "which he encountered in England was also quite evident here".

Sharma was appointed a Puisne Judge in 1984 and four years later was elevated to the Court of Appeal. He was sworn in as Chief Justice on 18 July, 2002. In welcoming Sharma as Chief Justice, he was described by Senior Counsel, Israel Khan, "as a good jurist, who is fearless and fair". "Most of his judgments have been upheld by the Privy Council." "He has contributed immensely to the jurisprudence of this country and the Caribbean."

Sharma came in determined to heal fractured relationships between Bench and Bar; to improve physical conditions; to introduce mechanisms to ameliorate the backlog of cases in the Magistracy; and to staff all courts with Computer Aided Transcription Reporters.

He also expressed the desire in his first ceremonial address at the Opening of the New Law Term, in October 2002, to establish a better relationship between the Judiciary and the Press and to appoint a designated communication officer within the organisation.

Chief Justice Sharma at the swearing-in ceremony.

He urged attorneys to give back to society by performing 'pro bono' work in magisterial districts and he became patron of the "Annual Lawyers Under Lights" concert which donated all proceeds to charity. Sharma saw this as a "reawakening of the social conscience in the legal profession".

Initiatives were introduced by Sharma during his term to reduce the backlog of magisterial appeals and to reduce the long lists of the magistrates. These included : a Cabinet approved pilot project for reducing the backlog of magisterial appeals for notes of evidence awaiting typing on the San Fernando and the St. George West Magistrates' Courts; a committee to consider measures to be adopted to shorten criminal trials in the Assizes and in the Magistrates' Courts. He also established a committee to consider the feasibility of setting up a Remand Court. As a result of the findings of its report, a pilot project was instituted in the Port of Spain Magistrates' Court for the creation of a daily central case management list.

This project was the genesis for the subsequent introduction of computerised case management pilot systems in the Magistrates' Courts in Tobago and the Madinah Building, San Fernando. A new system for recording notes of evidence was introduced through a pilot project in the St. George West Magisterial District for a system of audio-digital court recording. In 2003 Cabinet approved funds for the implementation of an audio-digital court recording system throughout the court system. To ensure the necessary cadre of trained personnel to support this system the

Walking from Trinity Cathedral to the Hall of Justice at the Opening of the Law Term.

Judiciary, in partnership with The College of Science Technology and Applied Arts of Trinidad and Tobago (COSTATT), established training programmes for court transcriptionists and scopists.

Sharma was the first President of the Trinidad and Tobago Judicial Education Institute (TTJEI). The Institute, an initiative of former Chief Justice de La Bastide, was given Cabinet approval for a pilot project on 31st July, 2002. Operations of the TTJEI commenced in April 2003, with a Board of Directors, which comprised both administrative and judicial members of the Judiciary with the Chief Justice as President, and a Judge of the Supreme Court as Chairman.

He also presided over the formal introduction of the Civil Proceedings Rules (1998) which ushered in a new way of managing the business in the Civil Courts. The original date set for commencement of these Rules was the 1st January, 1999. However these Rules were not brought into force owing to the raging controversy between the legal profession and the Judiciary. Sharma in 2004 established a Rules Implementation Committee comprising members of the Judiciary and the Bar. Training and sensitisation sessions in the workings of the Rules were organised for both members of the Judiciary and the legal profession by the TTJEI. The Rules were implemented on the 16th September, 2005. A consolidated and revised edition of the Rules up to May, 2006, was launched by Sharma on the 21st January, 2008.

Another achievement of Sharma was the inauguration of the Family Court pilot project in 2004, a collaborative effort for a new approach to family matters between the Judiciary and the Executive. The Court was established in Port of Spain and

assistance was received from the Canadian government for the development and training of staff. He also appointed a Monitoring Committee to oversee operations at this court.

Sharma, always critical of the state of the physical conditions of the magistracy, established procedures for rehabilitation of dilapidated buildings. In March 2004, he opened the customised Magistrates' Court building for Arima. Some Magistrates' Courts in San Fernando were moved to the customised Madinah Building. He identified buildings and land for either rental or purchase for courts in Siparia, Rio Claro and Sangre Grande. He expanded the complement of Magistrates in Tobago to facilitate the establishment of a third court. He established and provided the Magistrates with a separate Research Library.

Sharma was suspended from duty by the President of the Republic of Trinidad and Tobago on July 31, 2006; at that time he was accused of attempting to pervert the course of public justice. Sharma's suspension was lifted on March 26, 2007. However in June 2007, he was suspended for a second time and was the subject of a tribunal established by the President of the Republic to "Enquire into the matter and report on the facts thereof and to recommend whether your Excellency should refer the question of the removal of the Honourable the Chief Justice Sharma from office to the Judicial Committee of the Privy Council" The three man tribunal chaired by Lord Mustill, retired judge of the House of Lords and the Privy Council, recommended to his Excellency that "in the light of the matters set out in the report that the question of removal of Honourable Satnarine Sharma from the office of the Chief Justice of Trinidad and Tobago should not be referred to the Judicial Committee." Sharma was reinstated as Chief Justice by the President on the 20th December, 2007. Mr. Justice Roger Hamel Smith was appointed to act as Chief Justice during these periods of suspension.

Chief Justice Sharma retired on the 24th January, 2008. He is the recipient of the Chaconia Medal (gold) in 1998 and the Trinity Cross in 2003, for his contribution to the development of the law. He enjoys cricket, walking and listening to classical Indian, Swahili and other African music and old-time calypsoes.

ROGER HAMEL-SMITH

Chief Justice Roger Hamel-Smith
Acting Chief Justice
28th July, 2006 - 29th March, 2007
14th June, 2007 - 20th December, 2007

"When we speak of the independence of the Judiciary we are not only speaking of institutional independence, but also of the individual independence of every Judge in every individual matter that comes before them. It is this individual independence and impartiality that consequently constitute the independence of the Judiciary as a whole... We have a long and honourable tradition of standing up for and defending the Constitution on the basis of independence and impartiality and we are confident that our record in this regard speaks for itself so that no one can point to even a single instance where the same was compromised for a political purpose."

Address delivered by The Hon. Mr. Justice Roger Hamel-Smith on the Occasion of the Ceremonial Opening of the Law Term of the Supreme Court of Trinidad and Tobago on 18th September 2006.

Opening of the Supreme Court 2006

Roger Hamel-Smith was born on the 21st August, 1944, in Port of Spain, Trinidad, the second son of Raymond and Diana (née Irvin) Hamel- Smith. A Roman Catholic he received his secondary education at St. Mary's College, Port of Spain. He served articles of Clerkship from 1964 to 1969 and was admitted to practice as a Solicitor of the Supreme Court of Trinidad and Tobago in 1969. He was the senior partner of the family firm M. Hamel –Smith and a former member of the Management Committee of the Trinidad and Tobago Incorporated Law Society, prior to his elevation to the High Court in 1987.

Prior to this appointment he served as a temporary Master of the High Court in 1984. Hamel-Smith was the first Solicitor in the Commonwealth to be appointed to the Bench. He was appointed a Puisne Judge on the 15th December, 1987, and was elevated to the Court of Appeal on the 1st February, 1991. Hamel-Smith's legal acumen can be attributed in part to his coming from a family of legal personalities. His father Raymond was a prominent barrister and a former Mayor of Port of Spain. His grandfather founded the family legal firm of M. Hamel-Smith in 1908. Hamel-Smith is married to Moira (née Mac Intyre) and there are five children from that union. He is a keen sportsman and has represented his country in cycling. He is also an avid golfer and yachtsman.

Hamel-Smith acted as Chief Justice on no fewer than sixteen occasions under the tenure of the last three Chief Justices, and served in particular for two extended periods of fourteen months in all between 28th July 2006 to the 29th March, 2007 and the 14th June, 2007 to the 20th December, 2007. He served as President of the Trinidad and Tobago Judicial Education Institute during the 2006/2007 period and presided over the Ceremonial Opening of the Law Term in September 2006 and September 2007. These were the periods when Chief Justice Sharma had been suspended.

The Chief Justice ceremonially inspects the Guard of Honour.

In addition Hamel-Smith served on several Committees within the Judiciary. He was a member of the Law Reporting Council established under Chief Justice de La Bastide; Chairman of the Rules Committee appointed by the Chief Justice to review the proposed New Civil Proceedings Rules (1998); and Chairman of the Implementation Committee to oversee that all support systems associated with the introduction of the Rules were adhered to. He was also Chairman of the Docket System for High Court Judges, which introduced the utilisation of Information Technology for the random selection of cases; Chairman of the Magistracy Reform Committee and the Judiciary Computerisation Committee to explore the computerisation of Court Records. Under his chairmanship procedures were instituted which led to a considerable reduction in the back-log of cases.

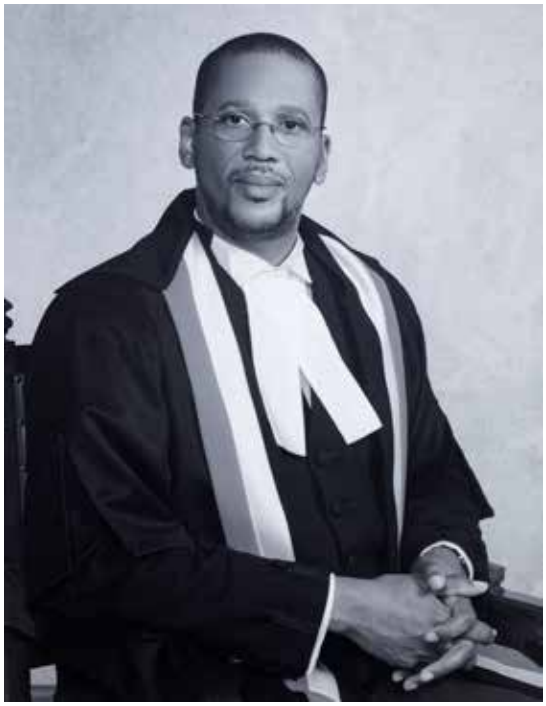
Hamel-Smith led the Judiciary during the period considered, by President of the Law Association Martin Daly, SC, speaking at the Special Sitting of the Court in honour of Hamel-Smith "some of the darkest days of the Judiciary." He was determined to ensure that the"Rule of Law, one of the most significant characteristics of good democratic governance, prevails because the Republic of Trinidad and Tobago has

an independent Judiciary." "He brought strength and stability to the Judiciary during the periods he acted as Chief Justice."

As acting Chief Justice he implemented a scheme to dispose of the backlog of cases under the previous Rules of the Supreme Court, 1975, and made recommendations for restructuring the approach to Criminal Justice. He suggested prophetically that "one of the fundamental changes we need to implement in the Criminal Justice System is to replace the preliminary enquiry". He also made recommendations for the introduction of Criminal Proceedings Rules to manage case-flow and improve efficiency both in the Magistracy and High Court. He suggested measures that could be undertaken to alleviate the clogging of the Magistrates' Courts with ticket cases, and a review of the licencing applications system; and the introduction of video-conferencing for persons on remand. He also encouraged the Judges to settle on a draft code of ethics, begun under Chief Justice de La Bastide. Several of these recommendations have been implemented under the subsequent tenure of Chief Justice Archie.

Justice of Appeal Hamel-Smith retired from the bench in 2009, having been in the legal profession for 44 years, 22 of which were spent on the Bench. In paying tribute to him at a Special Sitting of the Court, Chief Justice Archie described him as "as not merely an outstanding jurist, but also an outstanding gentleman." He continued, "it was his strength, his honesty and his reputation for plain speaking and fairness that steered the Judiciary safely through the turbulence, preserving our stability and starting the process of healing in an institution that had suffered mightily from a crisis of confidence." He was appointed a member of the Judicial and Legal Service Commission in April 2011.

IVOR F. ARCHIE



Chief Justice Ivor Archie, O.R.T.T.
Chief Justice 2008 - Present

"The rule of Law is unsustainable without scrupulous adherence to the principle of separation of powers. It is for good reason that we refer to the separation of powers and not the separation of responsibilities. The separation of powers is not a provision of the Constitution. It is the philosophy underlying the Constitution and the framework upon which government is structured so as to harness individual human nature (in the sense of providing both focus and restraint) to serve society at large. In that context, Judicial Independence is a device, a set of structural arrangements, to get something done - to implement the Separation of Powers."

Address delivered by the Honourable Mr. Justice Ivor Archie on the Occasion of the Ceremonial Opening of the Law Term of the Supreme Court of Trinidad and Tobago on 16th September 2009.

Ivor Finbar Archie was born on 18th August, 1960 in Scarborough, Tobago, the second child of William and Moulda Beache-Archie. Both his parents were public servants, his father worked at the Tobago Port Authority and his mother was a teacher at Bishop's High School. Archie has one brother, and is married to Denise (née Rodriguez), an accountant. He is the father of two, a daughter and son. Archie, a Christian, attended Scarborough Anglican Primary School and entered Bishop's High School in 1971. He completed his Advanced Level education at St. Mary's College, Port of Spain. He graduated from the University of the West Indies, Faculty of Engineering, and worked initially in Trinidad with an engineering firm and then in Libya before embarking on his legal career.

In 1982, Archie entered an accelerated programme to read for a degree in Law at the University of Southampton, United Kingdom. He graduated in 1984 and entered the Hugh Wooding Law School, graduating with distinction at the top of his class in 1986. Between 1986 and 1988 he entered private practice with the firm of Clark and Co, which dealt with civil litigation, and thereafter worked with the Exchange Control department of the Central Bank, and the Office of the Solicitor General of Trinidad, as a State Counsel I.

Archie's desire to explore the workings of the legal systems in other Caribbean jurisdictions led him in 1989 to accept a position as Senior Crown Counsel in the Turks and Caicos Islands. From 1990 to 1995 he worked in the Cayman Islands as Senior Crown Counsel representing the government in civil and criminal matters. Archie was appointed Solicitor General of the Cayman Islands in 1995, a position which he held for three years. He also acted as Attorney-General and as legal advisor to the Executive Council, which allowed him to sit as an official Member of Parliament.

Archie also functioned as legal adviser to the Cayman Islands Central Authority and during his tenure he was involved in several major asset forfeiture cases and regulatory matters, including the Bank of Credit and Commerce International intervention. He was also a member of the working group to develop model money laundering legislation for the Commonwealth and was a Regional Examiner for the Caribbean Financial Action Task Force.

In 1998 he was appointed a Judge of the High Court of Trinidad and Tobago and was elevated in 2004 to the Appellate Court. Archie was sworn in as Chief Justice and President of the Court of Appeal on the 25th January, 2008, the first person born in Tobago to be so appointed, and the youngest to hold this position. He is a Fellow of the Commonwealth Judicial Education Institute and served as Chairman of the Trinidad and Tobago Judicial Education Institute from 2005 to 2008. As Chief Justice he is the current President of the Institute.

Archie has spearheaded many initiatives geared towards the improvement of the administration of justice. In his welcome address in 2008 he stated, "We must also

Opening of the Supreme Court 2012

get used to thinking out of the box. Problems are never solved by the application of techniques that allowed them to develop in the first place. Meaningful change requires us to leave our comfort zone." He further reiterated this transformation theme in his first address at the Ceremonial Opening of the Law Term in 2008, where he outlined his plan for the widespread application of information communication technology in the Magistrates' Courts; the introduction of video conferencing for prisoners on remand; and the introduction of a comprehensive updated system for the management and retrieval of court records.

Through his leadership the Judiciary has embarked on an exercise to transform itself into a modern high-performing professional organisation, through the modernisation of the Judiciary's core and support processes. He has maintained the Bench and Bar dialogue and is Chairman of the Inter-Ministerial Committee for the improvement of the justice sector, fulfilling his mission to work with the Executive for reform initiatives. His vision for the development of a culture of service throughout the organisation has led to the implementation of a strong customer service thrust, through the sensitisation of all the Judiciary's employees in the elements of good customer service. In addition Court Customer Representatives have been introduced in the High Court and in several Magistrates Courts, aimed primarily at improving accessibility to information by the courts' customers.

Proposals to reduce delay and improve the quality and effectiveness of service have led to the launch of pilot projects by Archie, such as a Pilot Project for Court Annexed Mediation, Judicial Settlement Conferencing and the establishment of a Drug Treatment Pilot Court. In his determination to make the services of the Court "accessible, cost effective and secure", he has ensured that work on an improved

case-flow management and information system by the Judiciary, for the sharing and processing of information amongst justice sector agencies, is continuing.

Under his leadership the Trinidad and Tobago Judicial Education Institute launched its Annual Distinguished Jurist Lecture Series in 2011. The Inaugural lecture entitled, "Creating a Regional Jurisprudence", was delivered by eminent Caribbean jurist Sir Shridath Ramphal. Lectures in 2012 and 2013 on "The Role of the Court of Appeal in Developing and Preserving an Independent and Just Society", delivered by the Honourable Mr.. Justice Adrian Saunders of the Caribbean Court of Justice and "On the Continuing Relevance of the Jury System in the English Speaking Caribbean", delivered by The Honourable The Chief Justice of Barbados, Sir Marston Gibson. These lectures are intended to raise public awareness in relevant matters pertaining to law, jurisprudence and governance.

Archie, despite his hectic schedule, is involved in activities for the upliftment of the community, such as the Special Olympians. His hobbies are karate, cricket and music.

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3. Ag. Chief Justice – Clement Ewart Gladstone Phillips, T.C. (1971 – 1972)

ADDRESSES:

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ADDRESSES:

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6. Chief Justice – Clinton Angelo Bernard, T.C., S.C. (1985 – 1995)

ADDRESSES:

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7. Chief Justice – Michael de la Bastide (1995 – 2002)

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10. Chief Justice – Ivor Archie, O.R.T.T. (2008 – Present)

ADDRESSES:

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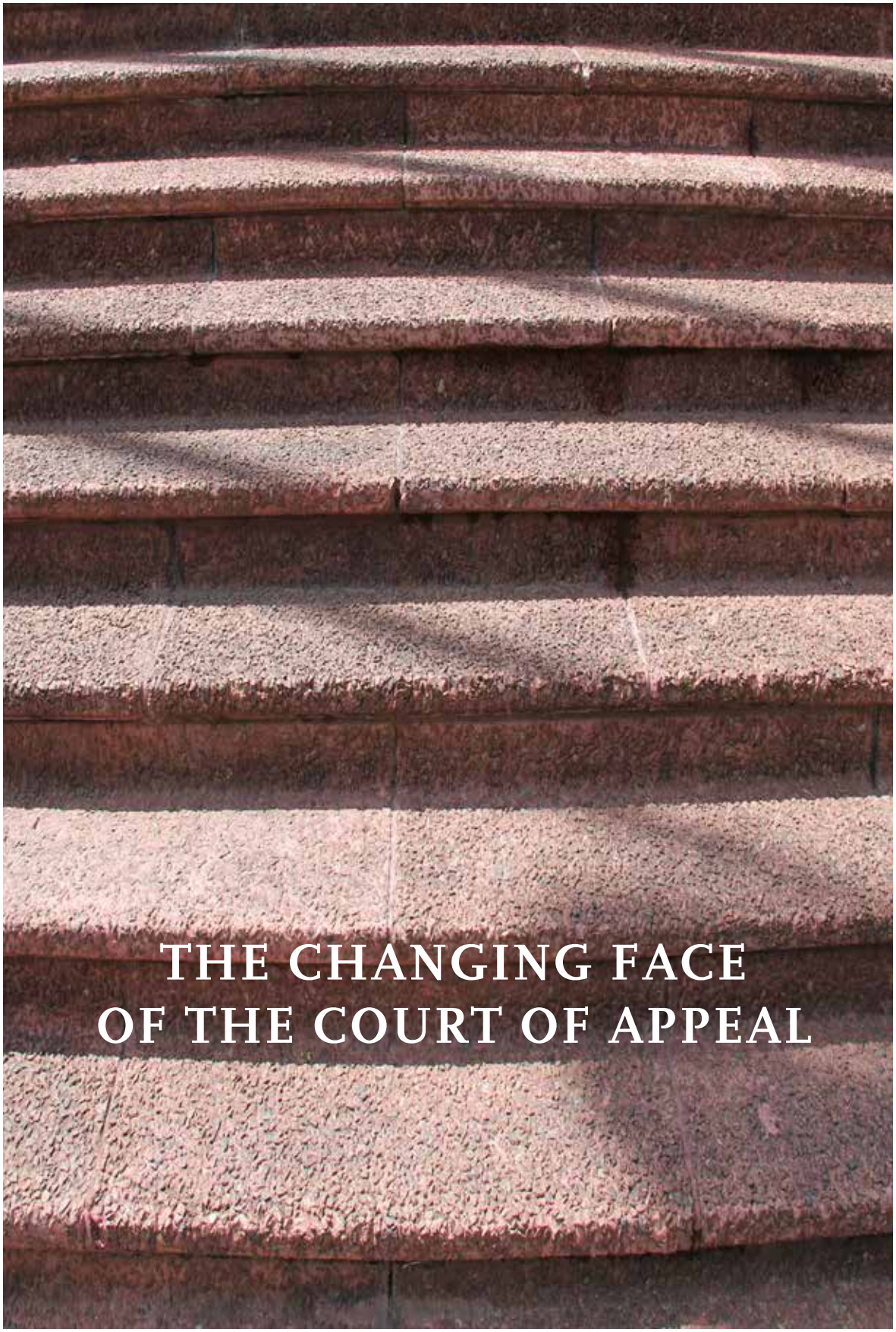


Alice Besson

THE CHANGING FACE OF THE COURT OF APPEAL

BENCHES OF THE COURT OF APPEAL

1962 Bench: (L to R) The Hon. Mr. Justice A.H. Mc Shine, Chief Justice and President of Court of Appeal The Hon. Mr. Justice H.O.B. Wooding, The Hon. Mr. Justice C. Phillips, The Hon. Mr. Justice N. Hyatali

1966 Wooding Court: Back row (L-R): The Hon. Mr. Justice C. Achong, The Hon. Mr. Justice E. Rees, The Hon. Mr. Justice K. Mc Millan, The Hon. Mr. Justice N. Peterkin, The Hon. Mr. Justice G. Scott, The Hon. Mr. Justice K. de la Bastide, The Hon. Mr. Justice D. Malone, The Hon. Mr. Justice N. Hassanali

Front row (L-R): The Hon. Mr. Justice A. Fraser, The Hon. Justice A. Mc Shine, Chief Justice and President of Court of Appeal The Hon. Mr. H.O.B. Wooding, The Hon. Mr. Justice C. Phillips, The Hon. Mr. Justice M. Corbin

1995 Bench: Back row (L-R): The Hon. Mr. Justice R. Hamel-Smith, The Hon. Mr. Justice L. Gopeesingh, The Hon. Mr. Justice Z. Hosein, The Hon. Mme. Justice J. Permanand

Front row (L-R): The Hon. Mr. Justice S. Sharma, Chief Justice and President of Court of Appeal The Hon. Mr. Justice M. de la Bastide, The Hon. Mr. Justice M. Ibrahim

2002 Bench: Back row (L-R): The Hon. Mr. Justice S. John, The Hon. Mr. Justice W. Kangaloo, The Hon. Mr. Justice A. Lucky, The Hon. Mr. Justice R. Nelson

Front row (L-R): The Hon. Mr. Justice L. Jones, The Hon. Mr. Justice S. Sharma, Chief Justice and President of Court of Appeal The Hon. Mr. Justice M. de la Bastide, The Hon. Mr. Justice R. Hamel-Smith, The Hon. Mme. Justice M. Warner

Date of photograph: 18th July 2002

2003 Bench: Back row (L-R): The Hon. Mme. Justice M. Warner, The Hon. Mr. Justice R. Nelson, The Hon. Mr. Justice A. Lucky, The Hon. Mr. Justice W. Kangaloo, The Hon. Mr. Justice S. John

Front row (L-R): The Hon. Mr. Justice R. Hamel-Smith, Chief Justice and President of Court of Appeal The Hon. Mr. Justice S. Sharma, The Hon. Mr. Justice L. Jones

Date of photograph: 31st January 2003

2008 Bench: Back row (L-R): The Hon. Mr. Justice L. John, The Hon. Mr. Justice I. Archie, The Hon. Mr. Justice A. Mendonca, The Hon. Mme. Justice P. Weekes

Front row (L-R): The Hon. Mr. Justice R. Hamel-Smith, Chief Justice and President of Court of Appeal The Hon. Mr. Justice S. Sharma, The Hon. Mme. Justice M. Warner

Date of photograph: 17th January, 2008

2009 Bench: Back row (L-R): The Hon. Mr. Justice W. Kangaloo, The Hon. Mr. Justice S. John, The Hon. Mr. Justice A. Mendonca, The Hon. Mme. Justice P. Weekes, The Hon. Mr. Justice P. Jamadar, The Hon. Mme. Justice A. Yorke-Soo Hon

Front row (L-R): The Hon. Mr. Justice R. Hamel-Smith, Chief Justice and President of Court of Appeal The Hon. Mr. Justice I. Archie, The Hon. Mme. M. Justice Warner

Date of photograph: 27th February, 2009

2012 Bench: (L to R): The Hon. Mr. Justice G. Smith, The Hon. Mr. Justice C.V.H. Stollmeyer, The Hon. Mme. Justice A. Yorke-Soo Hon, The Hon Mme. Justice P. Weekes, The Hon. Mr. Justice W. Kangaloo, Chief Justice and President of Court of Appeal The Hon. Mr. I. Archie, The Hon. Mr. Justice A. Mendonca, The Hon. Mr. Justice P. Jamadar, The Hon. Mr. Justice N. Bereaux, The Hon. Mr. Justice R. Narine

THE COURT OF APPEAL BENCHES 1962–2012

The Hon. Mr. Justice Sir Hugh Wooding
Chief Justice and President of the Court of Appeal
28th August, 1962- 31st December, 1968

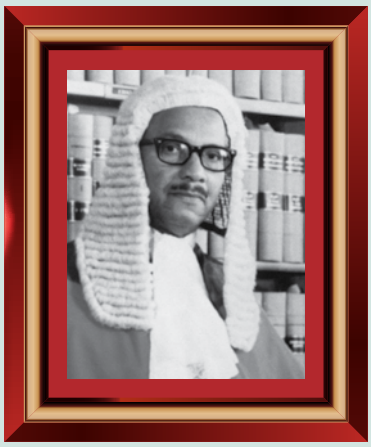
Law Term Year 1962-1963:
Arthur Mc Shine J.A
Isaac Hyatali J.A
Clement E. G. Phillips J.A

Law Term Year 1963-1964:
Arthur Mc Shine J.A
Isaac Hyatali J.A
Clement E. G. Phillips J.A

Law Term Year 1964-1965:
Arthur Mc Shine J.A
Isaac Hyatali J.A
Clement E. G. Phillips J.A

Law Term Year 1965-1966:
Arthur Mc Shine J.A
Isaac Hyatali J.A
Clement E. G. Phillips J.A

Law Term Year 1966-1967:
Arthur Mc Shine J.A
Clement E. G. Phillips J.A



The Hon. Mr. Justice Arthur Mc Shine
Chief Justice and President of the Court of Appeal
01st January, 1969 -11th May, 1971

Law Term Year 1967-1968:

Arthur Mc Shine J.A

Clement E. G. Phillips J.A

H. Aubrey Fraser J.A

Law Term Year 1968-1969:

Clement E. G. Phillips J.A

H. Aubrey Fraser J.A

Law Term Year 1969-1970:

AClement E. G. Phillips J.A

H. Aubrey Fraser J.A

Law Term Year 1970-1971:

Clement E. G. Phillips J.A

H. Aubrey Fraser J.A

Karl de la Bastide J.A

Maurice Corbin J.A

Telford Georges J.A (Ag.)

The Hon. Mr. Justice Clement E. G. Phillips
Ag. Chief Justice and President of the Court of Appeal
12th May, 1971 – 13th July, 1972

Law Term Year 1971-1972:

H. Aubrey Fraser J.A

Karl de la Bastide J.A

Maurice Corbin J.A

Telford Georges J.A (Ag.)

The Hon. Mr. Justice Isaac Hyatali
Chief Justice and President of the Court of Appeal
18th July, 1972 - 01st March, 1983

Law Term Year 1972-1973:

Clement E. G. Phillips J.A

Karl de la Bastide J.A

Maurice Corbin J.A

Telford Georges J.A (Ag.)

Evan Rees J.A

Law Term Year 1973-1974:

Clement E. G. Phillips J.A

Karl de la Bastide J.A

Maurice Corbin J.A

Evan Rees J.A

Law Term Year 1974-1975:

Clement E. G. Phillips J.A

Karl de la Bastide J.A

Maurice Corbin J.A

Evan Rees J.A

Law Term Year 1975-1976:

Clement E. G. Phillips J.A

Maurice Corbin J.A

Evan Rees J.A

Law Term Year 1976-1977:

Clement E. G. Phillips J.A

Maurice Corbin J.A

Evan Rees J.A

Law Term Year 1977-1978:

Clement E. G. Phillips J.A

Maurice Corbin J.A

Evan Rees J.A

Garvin Scott J.A

Noor Hassanali J.A

Cecil Kelsick J.A

Law Term Year 1978-1979:

Clement E. G. Phillips J.A

Maurice Corbin J.A

Garvin Scott J.A

Noor Hassanali J.A

Cecil Kelsick J.A

Law Term Year 1979-1980:

Maurice Corbin J.A

Garvin Scott J.A

Noor Hassanali J.A

Cecil Kelsick J.A

Ulric Cross J.A

Law Term Year 1980-1981:

Maurice Corbin J.A

Garvin Scott J.A

Noor Hassanali J.A

Cecil Kelsick J.A

Ulric Cross J.A

John Braithwaite J.A

Clinton Bernard J.A

Law Term Year 1981-1982:

Noor Hassanali J.A

Cecil Kelsick J.A

Ulric Cross J.A

John Braithwaite J.A

Clinton Bernard J.A

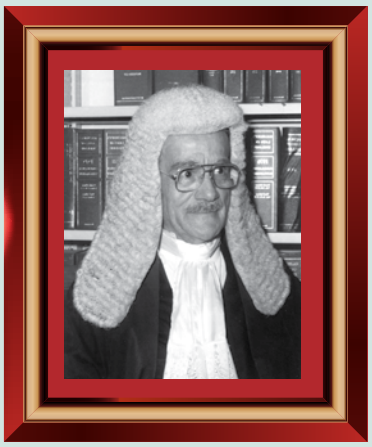
Law Term Year 1982-1983:

Noor Hassanali J.A

Cecil Kelsick J.A

John Braithwaite J.A

Clinton Bernard J.A



The Hon. Mr. Justice Cecil Kelsick
Chief Justice and President
of the Court of Appeal
1st March, 1983 – 21st December, 1985

Law Term Year 1983-1984:	**Law Term Year 1984-1985:**
John Braithwaite J.A	John Braithwaite J.A
Clinton Bernard J.A	Clinton Bernard J.A
Alcalde Warner J.A	Alcalde Warner J.A
Gerard des Iles J.A	Gerard des Iles J.A
Guya Persaud J.A	Guya Persaud J.A
Ralph Narine J.A	Ralph Narine J.A

The Hon. Mr. Justice Clinton Bernard
Chief Justice and President
of the Court of Appeal
23rd December, 1985 – 31st May, 1995

Law Term Year 1985-1986:

Alcalde Warner J.A
Gerard des Iles J.A
Guya Persaud J.A
Ralph Narine J.A
Kester Mc Millan J.A

Law Term Year 1986-1987:

Alcalde Warner J.A
Gerard des Iles J.A
Guya Persaud J.A
Ralph Narine J.A
Kester Mc Millan J.A
Satnarine Sharma J.A

Law Term Year 1987-1988:

Alcalde Warner J.A
Gerard des Iles J.A
Guya Persaud J.A
Kester Mc Millan J.A
Satnarine Sharma J.A
George Edoo J.A
James A. Davis J.A

Law Term Year 1988-1989:

Gerard des Iles J.A
Kester Mc Millan J.A
Satnarine Sharma J.A
George Edoo J.A
James A. Davis J.A

Law Term Year 1989-1990:

Gerard des Iles J.A
Kester Mc Millan J.A
Satnarine Sharma J.A
George Edoo J.A
James A. Davis J.A

The Hon. Mr. Justice Clinton Bernard (continued)

Law Term Year 1990-1991:

Gerard des Iles J.A
Kester Mc Millan J.A
Satnarine Sharma J.A
George Edoo J.A
James A. Davis J.A

Law Term Year 1991-1992:

Satnarine Sharma J.A
George Edoo J.A
James A. Davis J.A
Lloyd Gopeesingh J.A
Roger Hamel –Smith J.A
Mustapha Ibrahim J.A

Law Term Year 1992-1993:

Satnarine Sharma J.A
James A. Davis J.A
Lloyd Gopeesingh J.A
Roger Hamel –Smith J.A
Mustapha Ibrahim J.A
Zainool Hosein J.A
Jean Permanand J.A

Law Term Year 1993-1994:

Satnarine Sharma J.A
Lloyd Gopeesingh J.A
Roger Hamel -Smith J.A
Mustapha Ibrahim J.A
Zainool Hosein J.A
Jean Permanand J.A

Law Term Year 1994-1995:

Satnarine Sharma J.A
Lloyd Gopeesingh J.A
Roger Hamel -Smith J.A
Mustapha Ibrahim J.A
Zainool Hosein J.A
Jean Permanand J.A

The Hon. Mr. Justice Michael de La Bastide
Chief Justice and President of the Court of Appeal
31st May, 1995 – 18th July, 2002

Law Term Year 1995-1996:
Satnarine Sharma J.A
Lloyd Gopeesingh J.A
Roger Hamel -Smith J.A
Mustapha Ibrahim J.A
Zainool Hosein J.A
Jean Permanand J.A

Law Term Year 1996-1997:
Satnarine Sharma J.A
Lloyd Gopeesingh J.A
Roger Hamel -Smith J.A
Mustapha Ibrahim J.A
Zainool Hosein J.A
Jean Permanand J.A

Law Term Year 1997-1998:
Satnarine Sharma J.A
Roger Hamel -Smith J.A
Mustapha Ibrahim J.A
Zainool Hosein J.A
Jean Permanand J.A
Lionel Jones J.A
Margot Warner J.A

Law Term Year 1998-1999:
Satnarine Sharma J.A
Roger Hamel -Smith J.A
Mustapha Ibrahim J.A
Zainool Hosein J.A
Jean Permanand J.A
Lionel Jones J.A
Margot Warner J.A
Rolston Nelson J.A

Law Term Year 1999-2000:
Satnarine Sharma J.A
Roger Hamel –Smith J.A
Mustapha Ibrahim J.A
Jean Permanand J.A
Lionel Jones J.A
Margot Warner J.A
Rolston Nelson J.A

Law Term Year 2000-2001:
Satnarine Sharma J.A
Roger Hamel –Smith J.A
Mustapha Ibrahim J.A
Jean Permanand J.A
Lionel Jones J.A
Margot Warner J.A
Rolston Nelson J.A
Anthony Lucky J.A

Law Term Year 2001-2002:
Satnarine Sharma J.A
Roger Hamel –Smith J.A
Jean Permanand J.A
Lionel Jones J.A
Margot Warner J.A
Rolston Nelson J.A
Anthony Lucky J.A
Wendell Kangaloo J.A
Stanley John J.A

The Hon. Mr. Justice Satnarine Sharma
Chief Justice and President of the Court of Appeal
18th July, 2002 – 24th January, 2008

Law Term Year 2002-2003:
Roger Hamel –Smith J.A
Lionel Jones J.A
Margot Warner J.A
Rolston Nelson J.A
Anthony Lucky J.A
Wendell Kangaloo J.A
Stanley John J.A

Law Term Year 2003-2004:
Roger Hamel –Smith J.A
Lionel Jones J.A
Margot Warner J.A
Rolston Nelson J.A
Wendell Kangaloo J.A
Stanley John J.A
Ivor Archie J.A
Allan Mendonca J.A

Law Term Year 2004-2005:
Roger Hamel –Smith J.A
Lionel Jones J.A
Margot Warner J.A
Rolston Nelson J.A
Wendell Kangaloo J.A
Stanley John J.A
Ivor Archie J.A
Allan Mendonca J.A
Paula-Mae Weekes J.A

Law Term Year 2005-2006:
Roger Hamel -Smith J.A
Margot Warner J.A
Wendell Kangaloo J.A
Stanley John J.A
Ivor Archie J.A
Allan Mendonca J.A
Paula-Mae Weekes J.A

Law Term Year 2006-2007:
Margot Warner J.A
Wendell Kangaloo J.A
Stanley John J.A
Ivor Archie J.A
Allan Mendonca J.A
Paula-Mae Weekes J.A

Law Term Year 2007-2008:
Margot Warner J.A
Wendell Kangaloo J.A
Stanley John J.A
Ivor Archie J.A
Allan Mendonca J.A
Paula-Mae Weekes J.A

The Hon. Mr. Justice Roger Hamel-Smith
Ag. Chief Justice and President
of the Court of Appeal
28th July, 2006 - 29th March, 2007 and
14th June, 2007 - 20th December, 2007

Law Term Year 2006-2007:	**Law Term Year 2007-2008:**
Margot Warner J.A	Margot Warner J.A
Wendell Kangaloo J.A	Wendell Kangaloo J.A
Stanley John J.A	Stanley John J.A
Ivor Archie J.A	Ivor Archie J.A
Allan Mendonca J.A	Allan Mendonca J.A
Paula-Mae Weekes J.A	Paula-Mae Weekes J.A

The Hon. Mr. Justice Ivor Archie

Chief Justice and President of the Court of Appeal

24th January, 2008 – Present

Law Term Year 2008-2009:

Roger Hamel –Smith J.A
Margot Warner J.A
Wendell Kangaloo J.A
Stanley John J.A
Allan Mendonca J.A
Paula-Mae Weekes J.A
Peter Jamadar J.A
Alice Yorke-Soo Hon J.A
Nolan Bereaux J.A

Law Term Year 2009-2010:

Wendell Kangaloo J.A
Allan Mendonca J.A
Paula-Mae Weekes J.A
Peter Jamadar J.A
Alice Yorke-Soo Hon J.A
Nolan Bereaux J.A
C.V. Humphrey Stollmeyer J.A
Rajendra Narine J.A
Gregory Smith J.A

Law Term Year 2010-2011:

Wendell Kangaloo J.A
Allan Mendonca J.A
Paula-Mae Weekes J.A
Peter Jamadar J.A
Alice Yorke-Soo Hon J.A
Nolan Bereaux J.A
C.V. Humphrey Stollmeyer J.A
Rajendra Narine J.A
Gregory Smith J.A

Law Term Year 2011-2012:

Wendell Kangaloo J.A
Allan Mendonca J.A
Paula-Mae Weekes J.A
Peter Jamadar J.A
Alice Yorke-Soo Hon J.A
Nolan Bereaux J.A
C.V. Humphrey Stollmeyer J.A
Rajendra Narine J.A
Gregory Smith J.A

Celebrating 50 Years

of an Independent Court of Appeal of Trinidad and Tobago 1962–2012

WITH A NARRATIVE BY BRIDGET BRERETON

This publication celebrates the very rich legacy left by a group of outstanding jurists who took the administration of justice in our country from colonialism to independence and beyond. It also records the more contemporaneous efforts by a new generation of men and women to further transform the resulting creation – the Judiciary of the Republic of Trinidad and Tobago, and especially the Court of Appeal – into a high performing professional institution.

1962

2012

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