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he Supreme Court of Appeal of South Africa is the successor to the Appellate Division, first established in 1910 when the Union of South Africa was established. The name of the court was changed by the Constitution of 1996.

In terms of the Constitution, the Supreme Court of Appeal

- functions only as a court of appeal
- may decide any matter on appeal and,
- is, except for constitutional matters, the highest court of appeal.

The Supreme Court of Appeal has constitutional jurisdiction but the Constitutional Court

- is the highest court in all constitutional matters, and
- may decide only constitutional matters and connected issues.

The Supreme Court of Appeal may make an order concerning the constitutional validity of an Act of Parliament, a provincial Act or any conduct of the President, but an order of constitutional invalidity has no force unless it is confirmed by the Constitutional Court.



THE COMPOSITION, AUTHORITY AND JURISDICTION OF THE COURT

The court is composed of the President and Deputy President of the Supreme Court of Appeal and a number of judges of appeal determined by an Act of Parliament. At present there are 24 positions. Decisions of the court are binding on all lower courts.

Whereas previously the head of the Appellate Division was the Chief Justice, this is no longer the case. The Chief Justice of South Africa is now the head of the Constitutional Court. The head of the Supreme Court of Appeal is the President.



The seat of the Supreme Court of Appeal is at Bloemfontein. Provision exists for a session of the court at another place when by reason of exceptional circumstances it is expedient to hold its sitting there. The court's process runs throughout the Republic and its judgments and orders have effect and are executed in the areas of other courts as if they were original judgments or orders of those courts.

The court sits in panels of five or three judges, depending on the nature of the appeal. In exceptional cases more judges may sit on a panel and there have been up to nine for a sitting. The composition of the panels differs for each case. The senior judge on each panel presides in that case. There may be more than one judgment in a case if there is a difference of opinion. The decision of the majority is the decision of the court.

Supreme Court of Appeal Terms

At present the court terms are prescribed in the court rules and are as follows:

15 February - 31 March

1 May - 31 May

15 August - 30 September

1 November - 30 November

PROCEDURE BEFORE THE COURT

The court decides cases upon the record of the proceedings before the lower court and after considering the written and oral arguments presented. Witnesses do not appear before the court, and the parties need not be present during the hearing of an appeal. A written judgment is usually handed down shortly after the argument.

The court hears appeals on fact as well as on law, and since there are no jury trials, it has a relatively wide discretion to make its own factual findings. Because of this jurisdiction, judges have to read the record of the full proceedings in the lower courts. Typically, each judge is allocated cases with about 30 000 pages of evidence and exhibits per year. In addition, each judge is allocated petitions for leave to appeal.





President L Mpati



Deputy President L T C Harms



SCA Group Photo 2011

Front row l – r: C H Lewis; F D J Brand; M S Navsa; L T C Harms; K K Mthiyane; T D Cloete; J A Heher

Second row l – r: N Z Mhlantla; A Cachalia; V M Ponnann; B J van Heerden; M M L Maya; S Snyders; F R Malan

Third row l – r: L O Bosielo; J B Z Shongwe; L V Theron; S A Majiedt; L W Seriti

Back row l – r: C Plasket AJ; M J D Wallis; X Petse AJ

*Absent on the day of the photo:
President L Mpati; Judge R W Nugent; Judge Z L L Tshiqi*

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Years of

HISTORY



The Appellate Division in 1923, from left to right: Sir John Kotzé, Sir William Solomon, Sir James Rose Innes (the then Chief Justice), Judge (later Chief Justice) Jacob (Jaap) de Villiers and Sir John Wessels.



From the time it was established in 1910 until 1950, when the Privy Council Appeals Act 16 of 1950 came into force, the Appellate Division of the Supreme Court of South Africa was an intermediate court of appeal from decisions of the various South African courts. This was because the highest court of appeal for South Africa during that period was the Judicial Committee of the Privy Council, sitting in London. Before the Appellate Division was established, appeals went straight to the Privy Council from decisions of the supreme courts of the Cape, the Transvaal and Natal, while decisions of the superior courts in the Eastern Cape and Griqualand West had first to be taken on appeal to the Cape Supreme Court and those from the Orange River Colony (as the Free State was then called) had first to go to the Transvaal Supreme Court before further appeals were possible to the Privy Council. Because English constitutional law applied in South Africa, the court was not authorised to decide on the constitutionality of Acts of Parliament, nor could it prevent the lawgiver from impinging upon human rights.

The Appellate Division was for limited periods also the highest court of appeal for the erstwhile Southern Rhodesia (now Zimbabwe) and South West Africa (now Namibia). It temporarily lost jurisdiction over parts of the country when independent areas such as Transkei chose to create their own final court of appeal. With the reunification of the country in 1994 it regained its authority over those areas.

The need for an intermediate court of appeal to hear appeals from the various South African courts was felt as early as 1905 when a conference of attorneys-general held at Bloemfontein proposed that a South African court be set up. During the November 1908 session of the National Convention, which was held in Cape Town, the constitution of a supreme court was discussed. It adopted the proposal that the court be set up and should consist of a chief justice and two ordinary (fulltime) judges of appeal and two additional (part-time) judges of appeal who were members of one of the provincial divisions.

The first Chief Justice was Sir Henry de Villiers, who was made a baron and accordingly became Lord De Villiers, and who had been the chief justice of the Cape since 1873. The ordinary judges of appeal were Sir James Rose Innes and Sir William Solomon, and the additional judges of appeal were the newly appointed Judges President of the Cape and Transvaal Provincial Divisions, Christian George Maasdorp and Jacob Abraham Jeremy (Jaap) de Villiers.

Provision was made in the South Africa Act 1909 for the seat of the court to be in Bloemfontein but that, for the 'convenience of suitors', sittings could be held at other places in the Union. Lord De Villiers made no secret of the fact that he thought the selection of Bloemfontein as the judicial capital unfortunate for two reasons. First, it increased the difficulty of staffing the court and, secondly, it increased the cost of litigation.

During 1910 the Appellate Division was 'nomadic', making a circuit of the provincial capitals but doing most of its work in Cape Town, where Lord De Villiers thought the seat of the court ought to be. In 1911 the court sat twice during short sessions in Bloemfontein but did the rest of its work in Cape Town. This was repeated in 1912. The Free Staters were incensed and this led to a clause being inserted in the Administration of Justice Act 27 of 1912 providing that applications for a change of venue for the hearing of an appeal should be heard only in Bloemfontein and that the hearing of an appeal elsewhere than at Bloemfontein would not be deemed to be for the convenience of any suitor unless exceptional circumstances existed. Lord De Villiers managed to ensure that a provision was added to the effect that while he was Chief Justice applications for a change of venue could be heard in any place in the Union.

The Appellate Division was from its start tasked with the interpretation of the Roman Dutch Law in order, as court of precedent, to give authoritative judgments to be applied in the provincial courts.

The Appellate Division Act 12 of 1920 increased the number of (ordinary) judges of appeal from two to four and the posts of additional judges of appeal were done away with, the two additional judges of appeal, Jaap de Villiers and Juta, becoming fulltime judges of appeal. This was the position until 1948 when the Governor-General was empowered to appoint as many judges of appeal as deemed necessary: the number was raised to six to ensure that the increase in workload which was anticipated would result from the extension of the powers of the Appellate Division enabling it to hear appeals on fact, and not just on legal grounds, in criminal cases.

In 1923, on the retirement of Sir Henry Juta, Sir John Wessels was appointed to the court and the court at that stage, Innes CJ, Solomon, J de Villiers, Kotzé and Wessels JJA have been referred to as 'the five most qualified experts in Roman-Dutch law in South Africa'.

In 1929 the court moved from the building behind the Raadsaal – a building used by the legislative council, in the Orange River Colony from 1907 to 1910 and in which the court sat from 1910. The new building in President Brand Street was opened on 10 October 1929 by the Minister of Justice, Oswald Pirow KC. When the ceremony was over Pirow was presented with the gold key with which he had opened the door of the new court. In his book of reminiscences, *Brushes with the Law*, Marius Diemont, a youth present on the day of the opening of the court recounts that years later, when appearing as junior counsel with Pirow, the two went to the court to use the library but found the door locked. Pirow, unphased, said: 'I opened this building 20 years ago when I was Minister of Justice. Here is my name on the cornerstone and the key on my watch chain is the key they gave me.' But the lock had been changed and the key did not open the door.

The current court terms were determined in 1933. The judges gave a decision permitting an appeal from the then Southern Rhodesia to be heard in Cape Town – and not in Bloemfontein. The appeal was expected to be lengthy. The appellant argued that Graham Mackeurtan KC, lead counsel, who was not a well man would not survive the 'hot summer months of December, January and February'. In the judgment granting the application these months were referred to as 'the hottest and most trying months of the year' and as 'a time when the inured inhabitants find it necessary, if their circumstances permit, to seek relief by a vacation at the coast'. It went on to note that other courts arranged their terms in such a way as to avoid sitting during those months when the climate was 'trying'. The Free Staters were very proud of Bloemfontein's status as the judicial capital and were strongly opposed to any decision which took court sittings away from the city. The decision to hear the matter in Cape Town was strongly condemned by the City Council, the local Chamber of Commerce and the local Bar Council. The *Friend*, a daily newspaper published in Bloemfontein, printed an anonymous letter written in fact by the incumbent Judge President of the Free State, Fritz Krause. It included the following: 'As an old Bloemfonteinier I wish to register my protest, with so many others of my townsmen, against the extraordinary and absurd decision of the Appeal Court to change the venue of a trial to Cape Town on the ground of the climatic conditions alleged to prevail here during the summer months. . . If there are judges who do not like to reside or sojourn here, well, let them hand in their resignations. There are as many good fish in the sea as come out of it . . . The health reasons relied on by the court are, in my opinion, as flimsy as a curtain of gossamer.'

TW Mackenzie, the editor of *The Friend*, was cited to appear before the court to show cause why he should not be committed for contempt of court for publishing the letter. He originally said he did not appreciate the true meaning of the letter. In the judgment the court said that it found it 'extremely difficult to accept Mr Mackenzie's explanation that he did not realise the import of a letter, which he now admits he does understand, and which indeed is not difficult to interpret'. He went on to say that Mackenzie 'ought to have appreciated the import of the letter. The Court will, however, give him the benefit of any doubt it may have and assume that the

penitence he now expresses is sincere. We cannot, however, in consonance with our duty to uphold the dignity of this Court treat the matter lightly'. Mackenzie was ordered to publish an agreed apology and pay a fine of fifty pounds.

The Appeal Court building, opened in 1929, signified that the Union Government had set its final seal of approval on the legislature having made Bloemfontein the judicial capital of the Union as expressed in the South Africa Act.

Twenty judges served on the court during the period 1910 – 1948. Most of them can be regarded as jurists of eminence who wrote judgments that clarified the law, influenced its development and are still cited today. They developed what is in essence the South African system of law that we know today. They were never involved in direct confrontation with the executive as happened in the years to come – especially in the 1950s, and with the constitutional crisis discussed below.

In 1950 the court became the final court of appeal when appeals to the Privy Council were abolished. In 1952 the court was faced with its first major test when the Separate Representation of Voters Act was declared invalid. The Voters Act was enacted to provide for the removal of the coloured voters in the Cape Province from the common voters role. In *Harris v Minister of the Interior* the court held that even though Parliament was supreme and sovereign, this did not mean that Parliament was free to adopt any procedure when a new law was enacted. The rights of the coloured voters had been entrenched by the South Africa Act and for Parliament to amend or infringe this right the legislation needed to be passed by a two-thirds majority of both houses of Parliament in a joint session. As this was not the procedure followed for the enactment of the Voters Act, the legislation fell to be set aside. As the court was now the court of final appeal Parliament, though the enactment of legislation, created a 'court' – The High Court of Parliament - for the sole purpose of reviewing the judgments of the Appellate Division in which legislation was declared invalid. But this Act was declared invalid by this court. Left with no other choice Parliament passed legislation which provided for the enlargement of the Senate. This Act also provided that the validity of legislation could be decided only by a court of eleven judges. Five additional judges of appeal were appointed and the Senate was enlarged. This ensured that the Voters Act was eventually passed with the requisite majority. The 'enlarged' court five years later refused to declare the Act invalid and so the coloured voters were removed from the common voters' role in the Cape Province. This has become known as 'the constitutional crisis' of the 1950s. It served to tarnish the court's image especially, as there was a perception that the government would load the Bench with supporters.

One can imagine the damaging effect of this perception on the image of the court. During the 1960s and 1970s the court was to a considerable extent involved in appeals relating to the review of executive and administrative functions and criminal prosecutions under the race and security laws. The outcome of many cases depended upon the interpretation of one of these laws and the court was often criticized for deliberately preferring an interpretation favouring the State in cases where a more equitable construction was feasible.

Much has been said on the court's performance in political matters but the court's involvement in political litigation did not keep it from producing an impressive body of law in almost every other field of social and commercial activity. In many cases this required tedious excursions into unexplored areas of the common law, the re-examination, extension, adaptation or abrogation of old principles in accordance with the needs of a changing society, and the meticulous examination of the relevant case law and legislation. The remarkable ease with which they handled the Roman and Roman-Dutch authorities and found their way through English law and other systems is a feature of many judgments of the time.

One milestone judgment after the other can be found in the law reports and many of our most eminent legal minds sat in the Appellate Division during the apartheid years. The court's track record through the apartheid years is of course open to considerable criticism, but on the whole it was not as dismal as writers who concentrate their efforts on political matters would have us believe. On the contrary, to this day the courts, including the Constitutional Court, constantly build on foundations the Appellate Division laid during that period.

Since the advent of democracy, the job of the judiciary has been to oversee the country's transition to democracy while undergoing transformation itself. Unavoidably, this dual responsibility has generated tension – much of which has been creative and constructive.







In 1994, all but three judges were white. There were no black women on the Bench; and only two women. Today, the two highest courts, the Constitutional Court and the Supreme Court of Appeal, are both black-led, black-majority courts. The Supreme Court of Appeal has a significant number of women on the Bench.

The South African judiciary now has an explicitly 'political' role. It must enunciate and enforce the values of the new Constitution; it must adjudicate difficult questions, many involving balancing of interests or the infringement of fundamental rights; and, perhaps most difficult of all, it must realise the country's new values of human dignity, the achievement of equality, and the promotion of human rights and freedoms; non-racialism and non-sexism; the rule of law and the Constitution as the supreme law; and a vote for every adult citizen, one national voters' roll for all citizens, regular elections and a multi-party system of democratic government. To do so successfully, the judiciary must itself embody South Africa's new liberal egalitarian political culture. And it must also be capable of resisting pressures to depart from our Constitution's founding values. This requires strong-minded independence.

The creation of the Constitutional Court was the 1993 Interim Constitution's only substantial change to the structure of the judiciary. The existing Supreme Court structure, with the Appellate Division at its head, was retained. Before the 1996 Constitution, the Constitutional Court and the Appellate Division formed the twin peaks of the judicial structure, with a strict jurisdictional line dividing them. The Constitutional Court was vested with exclusive jurisdiction over constitutional matters and the sole power to strike down legislation or executive conduct. The Appellate Division continued to be a final court of appeal in all criminal and civil matters, but had no jurisdiction over constitutional issues. As there is no magic line which neatly divides constitutional and 'other' matters, this structure was clearly problematic and needed to be remedied.

Under the final Constitution, the Supreme Court of Appeal acquired constitutional jurisdiction, while the Constitutional Court was given jurisdiction to develop the common law to reflect constitutional values. The Appellate Division became the Supreme Court of Appeal which, together with the High Courts, was given power to strike down Presidential conduct, Acts of Parliament and provincial Acts, although subject to confirmation by the Constitutional Court. This ushered in a radical new era of constitutional adjudication.

The Supreme Court of Appeal has in the democratic, constitutional era delivered many judgments which eloquently express the power and experience of the court. The South African judiciary since 1994 has confirmed that an independent judiciary is essential to a vibrant democracy. The court has internalised the values of our new Constitution, and has been true to the values of the Constitution, articulating it fairly, resolutely and consistently, despite significant political attempts at incursion.

Upon the creation of the Constitutional Court in 1994, the Appellate Division's jurisdiction was temporarily restricted in relation to constitutional issues, such as the enforcement of the Bill of Rights. These restrictions have now fallen away and the court is also called upon, when interpreting legislation or developing the common law, to promote the spirit, purport and objects of the Bill of Rights.

FORMER CHIEF JUSTICES OF THE APPELLATE DIVISION

1910 - 1914 :	Lord Henry de Villiers (first Chief Justice)
1914 - 1927 :	Sir James Rose-Innes
1927 - 1929 :	Sir William H Solomon
1929 - 1932 :	Jacob de Villiers
1932 - 1936 :	Sir J W Wessels
1936 - 1938 :	J S Curlewis
1938 - 1939 :	J Stratford
1939 - 1943 :	N J de Wet

1943 - 1950 :	E F Watermeyer
1950 - 1957 :	A van der Sandt Centlivres
1957 - 1959 :	H A Fagan
1959 - 1971 :	Dr L C Steyn
1971 - 1974 :	N Ogilvie Thompson
1974 - 1982 :	F L H Rumpff
1982 - 1989 :	P J Rabie
1989 - 1996 :	M M Corbett
1997 - 2000 :	I Mahomed (died 17th June 2000)
2000 :	H J O Van Heerden (Acting Chief Justice)
2001:	J J F Hefer (Acting Chief Justice)

Presidents of the Supreme Court of Appeal

2002 :	J J F Hefer (Acting President)
2003 - 2008:	C T Howie
2008 to date:	L Mpati

Deputy Presidents of the Supreme Court of Appeal

2003 – 2008:	L Mpati DP
2008 to date:	LTC Harms DP

Appeal Judges from 1910

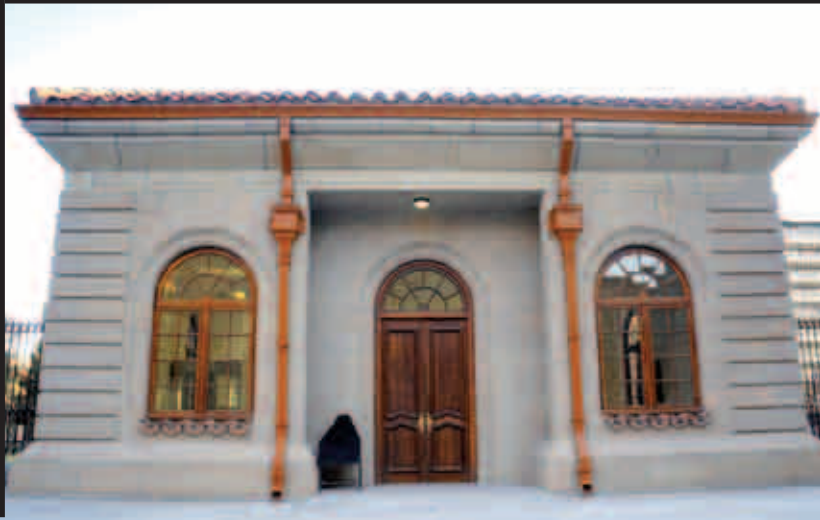
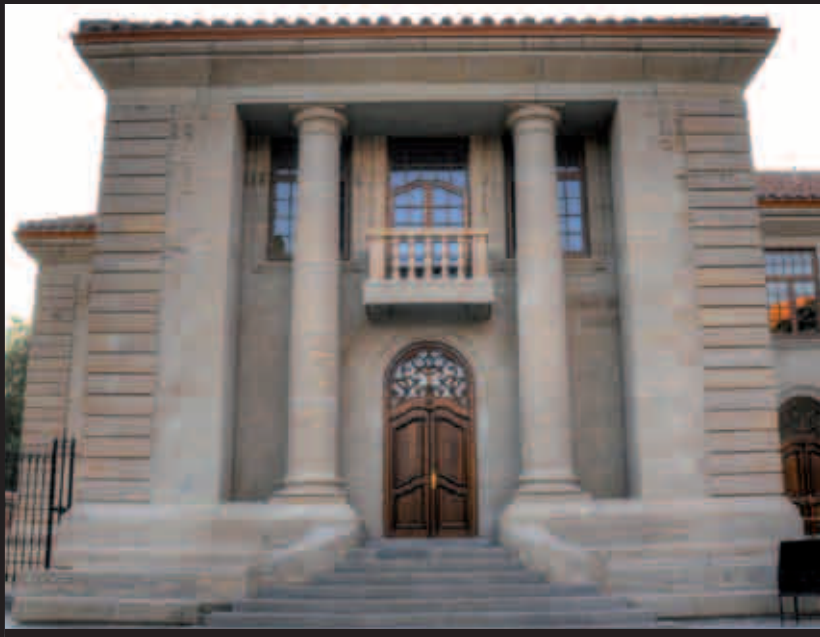
1910 - 1922 :	C G Maasdorp
1914 - 1923 :	Sir Henry H Juta
1922 - 1927 :	Sir John G Kotzé
1929 - 1932 :	T J de V Roos
1932 - 1937 :	F W Beyers
1933 - 1939 :	Sir Etienne de Villiers
1938 - 1949 :	B A Tindall
1939 - 1944 :	R Feetham
1943 - 1955 :	L Greenberg
1945 - 1961 :	O D Schreiner
1948 - 1956 :	F P van den Heever
1949 - 1963 :	O H Hoexter
1955 - 1960 :	E N de Beer
1955 - 1957 :	F G Reynolds
1955 - 1957 :	H de Villiers
1955 - 1957 :	C P Brink
1955 - 1956 :	C G Hall
1956 - 1968 :	D O K Beyers
1958 - 1974:	N Ogilvie Thompson
1958 - 1976 :	P J van Blerk
1958	A B Beyers
1959 - 1960 :	A C Malan
1959 - 1961 :	W H Ramsbottom
1961 - 1965 :	D H Botha



1961 - 1963 :	L J de V van Winsen		
1961 - 1967 :	J T van Wyk		
1961 - 1977 :	G N Holmes		
1962 - 1967 :	A Faure-Williamson		
1963 - 1984 :	P J Wessels		
1965 - 1973 :	H J Potgieter		
1968 - 1988 :	E L Jansen		
1969 - 1981 :	W G Trollip		
1971 - 1984 :	G V R Muller		
1974 - 1978 :	S Hofmeyr		
1975 - 1976 :	O Galgut	2001 - to date :	K K Mthiyane
1976 - 1977 :	J N C de Villiers	2002 - to date :	F D J Brand
1976 - 1985 :	G P C Kotzé	2002 - to date :	R W Nugent
1976 - 1985 :	S Miller	2002 - 2007 :	J H Conradie
1977 - 1982 :	M A Diemont	2003 - to date :	T D Cloete
1977 - 1995 :	C P Joubert	2003 - to date :	C H Lewis
1978 - 1986 :	J J Trengove	2003 - to date :	J A Heher
1980 - 1985 :	P M Cillié	2004 - to date :	B J van Heerden
1980 - 1988 :	G Viljoen	2005 - 2009 :	C N Jafta
1982 - 1994 :	G G Hoexter	2005 - 2010 :	D Mlambo
1982 - 1996 :	A S Botha	2004 - to date :	V M Ponnann
1982 - 2000 :	H J O van Heerden	2006 - to date:	M M L Maya
1983 - 1985 :	H C Nicholas	2007 - 2008:	P C Combrinck
1984 - 2002 :	J J F Hefer	2007 - to date :	A Cachalia
1985 - 1986 :	W G Boshoff	2009 - to date:	S Snyders
1985 - 1988 :	H R Jacobs	2009 - to date:	N Z Mhlantla
1985 - 1998 :	E M Grosskopf	2009 - to date:	F R Malan
1985 - 2002 :	J W Smalberger	2009 - to date:	L O Bosielo
1986 - 1997 :	H H Nestadt	2009 - to date:	J B Z Shongwe
1986 - 2003 :	W Vivier	2009 - to date:	L E Leach
1988 - 1990 :	M T Steyn	2009 - to date:	Z L L Tshiqi
1988 - 1996 :	M E Kumleben	2010 - to date:	L V Theron
1988 - 1994 :	J P G Eksteen	2010 - to date:	S A Majiedt
1988 - 1993 :	A J Milne	2010 - to date:	L W Seriti
1988 - 2001 :	F H Grosskopf	2011 - to date:	M J D Wallis
1990 - 1991 :	G Friedman		
1990 - 1994 :	R J Goldstone		
1990 - 2002 :	P M Nienaber		
1991 - 1996 :	L van den Heever		
1993 - 2002 :	C T Howie		
1993 - 1994 :	J C Kriegler		
1993 - to date :	L T C Harms		
1995 - 2004 :	R M Marais		
1995 - 2003 :	P J J Olivier		
1995 - 2005 :	W P Schutz		
1995 - 2008 :	D G Scott		
1996 - 2007 :	R H Zulman		
1996 - 2000 :	C Plewman		
1997 - 2010 :	P E Streicher		
2000 - 2009 :	I G Farlam		
2000 - 2008 :	E Cameron		
2000 - to date :	M S Navsa		
2000 - to date :	L Mpati		



The COURT BUILDING



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he Court initially used accommodation in the Raadsaal, a building across the road from the current court building. The Raadsaal is now the seat of the provincial legislature of the Free State. The first court building was opened on 1 October 1929 and was extended during 1967. It has now been refurbished and extended to accommodate the increase in the number of cases heard by it and the increased number of judges.

The furniture and wall cladding in the two main courts and the library are in stinkwood (*ocotea bolata*), a scarce and valuable indigenous tree. Above the former main entrance and in stone is the helmet and armour of truth, the keys of emancipation from tyranny, and the lamp and torches of truth. The former south entrance has the head of Minerva, the goddess of wisdom and protector of art and science, and the northern door, that of Jupiter.

The court was designed by the architect, Mr J S Cleland, then Chief Government Architect to the Union. The building is in a free Renaissance style; the combination of white sandstone quarried in Ladybrand and Fickburg in the Free State and red tiles, imported from Italy, is very well suited to the clear atmosphere of South Africa. Before the building extension was commenced the court building was surrounded by beautifully tended gardens.

The various symbols of law and justice used in the building carry one in thought to the great Roman Law and to other common ancestors of modern systems of jurisprudence; and figures of lion and lamp, of torch and owl suggest and summarise the foundations of Justice and Equity. Each part is eminently fitted for the work to be carried on there; from the severely utilitarian record rooms in the basement to the Court Rooms, themselves with their subdued colouring and carpeted floors to ensure quiet. The very atmosphere of the building – standing back in its own grounds detached from the business of the town; and the absence of luxury or excess of detail, combined with perfectly-finished work in every part – seem to suggest the impartiality of Justice.

The original main entrance facing East towards President Brand Street was used almost exclusively by the judges and their staff and the Registrar and other officials of the court. Over this entrance is a sculptured design embodying the Roman helmet of the Armour of Faith, the keys of Emancipation and the Lamp and Torches of Truth. Directly opposite the entrance is an archway leading to the main staircase. State lions, carrying shields, are carved on either side and on the keystone are the scales of Justice surmounted by the Owl of Wisdom. The south entrance has the head of Minerva, the goddess of wisdom and protector of art and science, and the northern door, that of Jupiter.

Two court rooms are panelled in stinkwood, originally supplied by the Department of Forests. The courts are lit by large windows with shaped panes and transoms: each has four entrances: one at the back of the Bench for the judges, one on each side for advocates and attorneys and for staff respectively and one at the back for the public. The screens at the back of the Benches have the coat of arms carved over the central opening, and the openings in the wings are decorated with carved books symbolical of the Volumes of the Sacred Law.

THE LIBRARY

The original Library had an upper gallery extending round it. In the centre of each gallery wall are the coats of arms of the four Provinces of the Union, modelled in plaster and finished in colour. The shelves are of Burmese teak and the floor is made of stinkwood blocks. The library houses the valuable



collection of law books generously presented by Sir John Kotze when he retired from the Bench. The doors were so arranged as to avoid direct disturbance of readers; and the Library is ideal for quiet and study.

Housed on the upper floor of the building, the Library itself occupies two storeys. The original Library consisted of a single chamber with alcoves on either side and the gallery reached by two narrow winding staircases which extends round the four sides of the central part. The library has now been considerably extended, and has an additional wing, formerly judges' chambers.

The library houses approximately 43 000 volumes, of which about 4000 titles are 'old authorities' which consist, for the most part, of the writings of the Dutch and Continental jurists of the 16th, 17th and 18th centuries. The two oldest works in the library are both dated 1544. These are the complete works of Bartolus (1313-1357) in 10 volumes and those of his pupil, Baldus. Written in Latin, they provide a commentary on the *Corpus Juris Civilis* of the Emperor Justinian. Another unique item is the *Tractatu Universi Juris*, compiled at the end of the 16th century on the instruction of Pope Gregory. These works are not merely of antiquarian interest. Given the unique status of the 'old' authorities in the South African legal system, they are still consulted and occasionally referred to in judgments of the court.

The library houses a comprehensive collection of South African textbooks and a fairly representative spread of Anglo-American and Continental court reports, textbooks and legal periodicals. It is at present attempting to improve its entire collection, including constitutional and international law works, as well as books on banking, admiralty and commercial law. It is customary for academics to donate copies of their legal treatises to the library. Access to the library is normally restricted to the judges of the court.

THE PORTRAIT GALLERY

In the corridors of the court hang photographs of the chief justices and of the judges of the court since its inception in 1910. Scattered throughout the entrance hall, the stairway and the library are paintings and busts of a number of the giants of the past. The busts in the entrance hall and on the stairway are those of South Africa's first five chief justices.

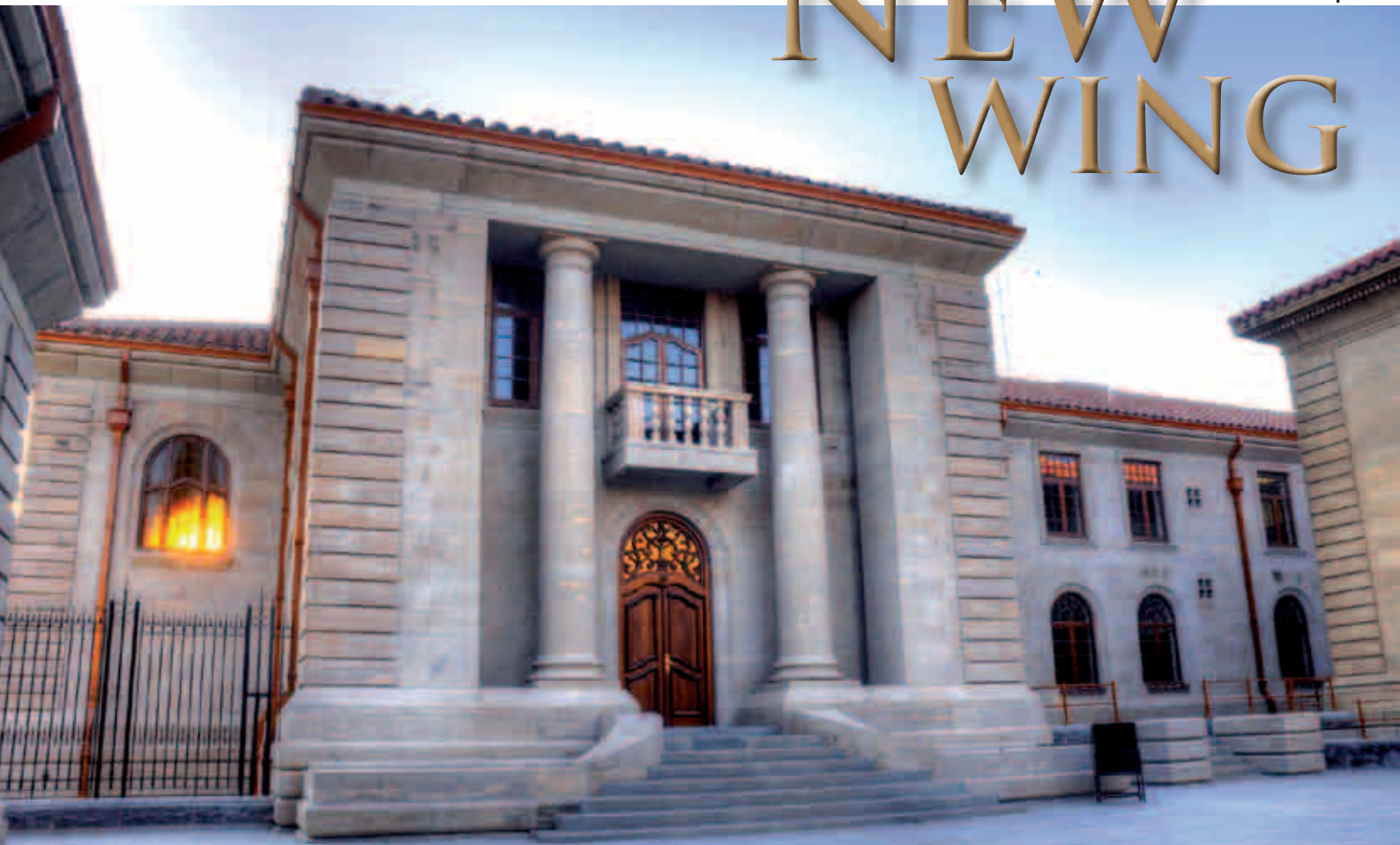
In 1990 the need to expand the court building was identified in order to accommodate the increasing number of judges and an additional proper Court room. (A third court room, not built for the purpose, had been used for appeals where usually three judges sat. That room now accommodates the Registrar's office.)



Construction on the new wing started during March 2005 and every effort has been made to keep the original style and materials of the building. The position of the new wing creates, along with the existing Court building, an open plain or courtyard. The subtle differences between the existing building and the new extension add to the character of the new plain, meant to be a gathering place for visitors from which they will be able to enter the court. The original building, the 1960s extension, and the new wing are all visible from the new plain.

The choice of material for the new extension was directly based on the material used in the existing building. The tiling on the roof of the existing building was imported from Italy. The tiles used in the extension are similar, also made of clay but with slight differences.

NEW WING



Sandstone is probably the most important building component. As already stated the sandstone for both the original building and the 1960s extension were from quarries in Ladybrand and Ficksburg. The sandstone used in the current extension was brought from a quarry near Mookgophong, Mpumalanga, and is a hard sandstone of high quality. The architect and geologist visited various quarries to compare the sandstones so as best to match the colour sandstone of the current building. The geologist, from the Geology Department of the University of the Free State, was appointed to confirm the quality of the sandstone and to monitor the process.

Granite was chosen for the border and paving because of its durability and strength. This granite was mined at a quarry in Belfast, Mpumalanga. The geologist and architect once again chose this granite because of its almost identical composition and colour to the granite used in the existing structure.

The wood in what is now referred to as Court B – the original court room of the existing building – is stinkwood. It was hoped that the new court room, referred to as Court A, would also be clad in stinkwood but this was not possible as there was a real threat that there would not be sufficient quantities of the wood to meet the project's needs. The decision was made to use Imbuia as it too is dark yellow and is a highly decorative wood of high quality, ideally suited to indoor use.

The window frames in the original building are of Burmese Teak. Based on the availability of the wood and price per cubic metre it was decided to use Iroko – a large hardwood tree from the west coast of Africa, sometimes referred to as African Teak – which is used for high quality carpentry, is stable and durable and is a suitable replacement for Teak.

The decorative crown moulding of the original building was shaped from concrete and divided into three horizontal layers. The new crown mouldings were made on the same design: pre-cast coloured concrete to form a three-tiered crown moulding which complements the colour of the sandstone.

The original building rests on a concrete foundation with a foundational wall broad enough to support the broader sandstone pillars. From ground level the walls are four bricks in width, once again to accommodate the sandstone which was to be built into the structure. The sandstone thus forms part of the structure.

These same principles were used in the construction process of the new wing. The sandstone was used not only as cladding but forms part of the actual structure – unusual in modern construction practices. This process, different from modern construction processes, demands three separate mixtures with which to bind the sandstone to the structure: a dry mixture on which the sandstone is nestled; a second mixture for the vertical joints; and a third mixture which contains lime to ensure elasticity between the joints. This is the so called English Method. The walls of the basement, which are made up of concrete and brick, are the exception. The concrete forms the shell of the basement walls and carries the weight of the structures above.

An electrical sub-station at the south western corner of the property was built from granite, sandstone, red brick and concrete crown mouldings. The roof tiling also matches that of the main building. The sub-station was built in the same style of the court and the surrounding historical buildings.

Deputy President L T C Harms has, since the inception of the plan to extend the court, been in charge of the liaison between the court staff and the building project team. The building has been completed under his watch while he has acted as President of the court in the absence of President L Mpati who has been on long leave.

PROJECT TEAM

DEPT PUBLIC WORKS

PROJECT MANAGER:

PAUL ELS

PRINCIPAL AGENT / ARCHITECTS

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HENNIE BOTHA

EVERT KAPP ARCHITECTS BLOEMFONTEIN:

EVERT KAPP

RIAAN LEIPOLD

QUANTITY SURVEYOR

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LOUIS BUTLER

LEROTHOLI AND ASSOCIATES:

M A LEROTHOLI

STRUCTURAL ENGINEERS

WSP CIVIL AND STRUCTURAL (PTY) LTD (FORMALLY KNOWN AS MBS CONSULTING ENGINEERS):

JOHANN SWART

CIVIL ENGINEERS

STEWART SCOTT (PTY) LTD:

JOHAN KOEN

ELECTRICAL ENGINEERS

DIHLASE CONSULTING ENGINEERS:

FRANS BUTER

MECHANICAL ENGINEERS

DIHLASE CONSULTING ENGINEERS:

PIENAAR ROSSOUW

MAIN CONTRACTOR

BELIZE-FREELANCE-SCHAUMAN JOINT VENTURE

SEPP SCHROCK, D CANAVAN, K JAMPIES

JOHN DEMINEY – FLOOR MANAGER

CRAFT JOINERY (CARPENTER FOR ALL THE WOODWORK IN THE NEW AND EXISTING BUILDING)

DANIE DE WIT

THE SUPREME COURT OF APPEAL SOUTH AFRICA

