



Court of Appeal Jamaica Annual Report 2018

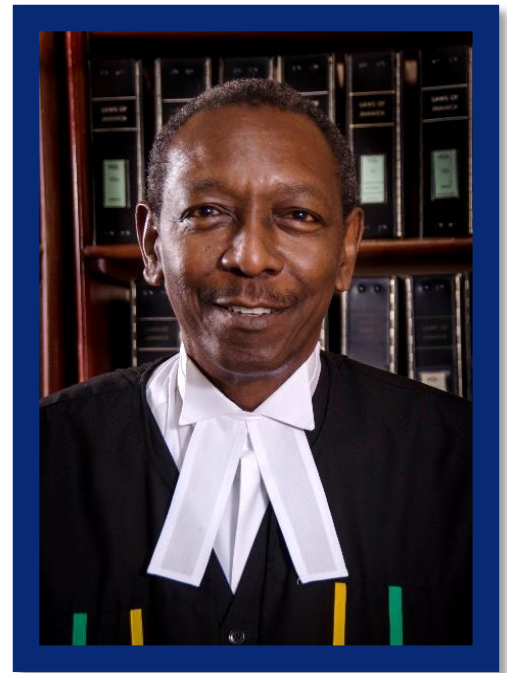
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President's Message

It gives me great pleasure to submit this message for inclusion in the Court of Appeal's Annual Report for 2018. The year under review was an eventful year by any measure. The long-promised and eagerly awaited building project aimed at increasing the physical capacity of the court while at the same time enhancing its facilities got underway in April, right at the start of the Easter Term. As the body of this report, including the many photographs, will amply demonstrate, the building project was very much the dominant feature of our lives in 2018.



The Hon Mr. Justice Morrison, OJ, CD

In the beginning, especially after it was confidently announced that we could expect to be in the new building well before the end of the year, there were many doubters. And, to be fair to them, there were quite a few moments during the course of the year, particularly in the first few couple months, when their gloomy vision appeared to be the one which would prevail.

But slowly, ever so slowly, the shape of what was to come could faintly be seen. Through all the hammering, drilling, dust and the constant sounds of Jamaican workmen and workwomen motivating each other, we began to think that we would make it after all. So, despite the inevitable delays and occasional setbacks that can attend any building project, the beginning of the Michaelmas Term found us in a place of sufficient confidence from which to share with the profession and the general public our by then confident expectation that we would be moving into the new facility next door before too long.

In the end, we were not able to make the move until just before Christmas. But not before we had had a formal opening ceremony on 12 December 2018. On that occasion, we had the pleasure of celebrating the virtual completion of the project with the Honourable Chief Justice, colleagues past and current, members of the Bar, the diplomatic corps and civil society and,

obviously foremost, officials from the Ministry of Justice, which was the implementing agency of the project. It was a grand event, at the end of which we were able to say thanks, give a tour of the new facility and offer refreshments to all who helped to make it a reality.

The move finally happened on the weekend of 21-24 December. It involved a truly herculean effort on the part of all judges and other members of staff of the court, with again outstanding logistical support from the team from the Ministry of Justice. The court is in their debt.

But, of course, the story of the building was hardly all that there was to 2018. As in previous years, this report attempts to capture as faithfully as possible the work of the court over the year past, without embellishment or exclusion. It will demonstrate, I hope, the conscientious attempts by the court to cope with an increased number of appeals over the previous year¹. On the plus side, it will also demonstrate that, of the number of cases disposed of within six months of the completion of the hearing, as many as 86.82% were disposed of within a week of the hearing. However, on the minus side, it will also show that overall, we were still not disposing of more than 61.85% of the cases heard within six months of the hearing².

This last figure, coupled with the related number of outstanding reserved judgments³, shows up the major area of weakness, measured against objective standards, of the court's operation. But, as has repeatedly been observed over several years, these figures are no better than can be expected in the context of a court of seven members struggling to keep up with an ever-burgeoning caseload.

Which naturally brings me to 2018's second major item of good news. As has been reported several times, the court's constituent statute was amended as long ago as 2008 to provide for an increase in the number of judges of the court from seven to 13⁴. However, the recruitment

¹ Table I, page 20 below.

² Table L, page 22 below.

³ Table O, page 24 below.

⁴ Judicature (Appellate Jurisdiction) Act, section 3(1).

of the additional judges has been stymied since that time by the absence of physical space in which to accommodate them - hence the long-awaited building project. So the good news is that, at its last meeting for 2018, in anticipation of the move to the new facility, the Judicial Service Commission agreed to recommend to His Excellency the Governor General the appointment of three additional judges for the court. The year therefore ended on the positive note that we would start 2019 with the Honourable Miss Justice Jennifer Straw, CD and the Honourable Miss Justice Carol Edwards of the Supreme Court; and Mrs Nicole Foster-Pusey QC, the Solicitor General, as judges of appeal. Needless to say, they will not only be welcomed with open arms, but much will be expected of them.

And now it is time to say thanks. The Honourable Mrs Justice Zaila McCalla, OJ, retired on 31 January 2018, after nearly 11 years as Chief Justice of Jamaica. A member of this court before her ascension to higher office in 2007, Chief Justice McCalla was a tremendous and constant source of support to us throughout her time as Chief Justice, particularly with respect to our quest for increased space. We had the great honour of saying farewell and wishing her all the best for a happy and healthy retirement at a special sitting of the court on 26 January 2018.

Almost in the same breath, we welcomed the Honourable Mr Justice Bryan Sykes, OJ, CD as Chief Justice on 1 March 2018. As Chairman of the Judicial Service Commission, Chief Justice Sykes' ready willingness to facilitate the recruitment process for additional judges of appeal enabled us to complete the process during the course of 2018. We look forward to working with him in the same spirit of cooperation that characterised the court's relationship with his predecessor.

We pay special tribute later in the report to the efforts in relation to the building project of some extraordinary members of staff of the Ministry of Justice. But I must also mention the Honourable Mr Delroy Chuck, Minister of Justice, whose enthusiastic and hands-on support for the project never flagged. I must also make special mention of the Permanent Secretary in the Ministry, Mrs. Carol Palmer, without whose vision and tenacity the project might well have remained the dream it has been for several years. It was a matter of great regret, I know, to

her as much as it was to us, that illness prevented her from attending the opening ceremony on 12 December 2018.

Thanks are also due to all members of the legal profession who had anything to do with the court during the year under review. They were unfailingly generous in their forbearance and support to us over this difficult year, particularly during the period after the usual points of access to the building had to be bypassed in order to facilitate the construction effort. Members of the Court Users' Committee, of whom more will be said later in the report, were also very helpful at some crucial moments during the process. As usual, Dr Denarto Dennis, the expert statistician attached to the Supreme Court, was instrumental in ensuring that we kept on the right track in our record keeping and in the presentation of the statistics chosen to show the work of the court in action in this report.

Finally, I must express my special thanks to all members of the Court of Appeal family. Each and every one of them continued to give their utmost throughout the year in extraordinarily difficult circumstances: my colleagues on the court; the Judicial Clerks; the judges' secretaries; the judges' orderlies; the Registrar and her staff at all levels; and members of the Jamaica Constabulary Force assigned to the judges as Close Protection Officers. And, of this number, I cannot avoid singling out Registrar Stacie-Anne Brown for special commendation. Her complete and insightful grasp of all aspects of the court's work has made her an invaluable asset to the court as a whole. As in previous years, the preparation of this report (not least of all the expert photography) would simply not have been possible without her input.

C Dennis Morrison
12 March 2019

Judges of the court

Composition

The composition of the Court of Appeal is governed by the Judicature (Appellate Jurisdiction) Act. By an amendment to the Act in 2008, the number of judges in the court was increased by six. The total complement of the court is therefore now 13 judges, inclusive of the President.

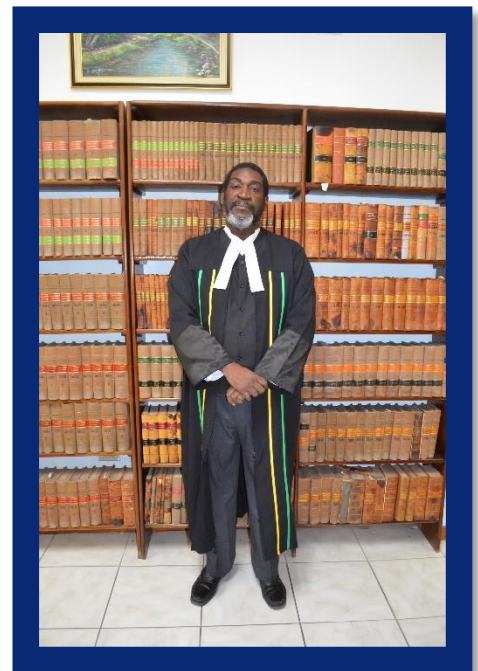
Additionally, the Act provides that, by virtue of his office as head of the judiciary, the Chief Justice is also a member of the court. However, the Chief Justice may only sit in the court if invited so to do by the President and if there are at least four other judges sitting.

As has been the case since 1967, the complement of judges in the Court of Appeal remained at seven in 2018. However, in April 2018, work on began in earnest on the building project aimed at expanding the physical facilities of the court to facilitate recruitment of additional judges and court staff.

Appointments

During the year under review the court had the pleasure of welcoming Puisne Judge, the Honourable Mr Justice Leighton Pusey, to act as a Judge of Appeal.

Mr Justice Pusey acted as a Judge of Appeal during the Easter Term 2018, *vice* the Honourable Miss Justice Paulette Williams JA, who was on vacation leave. He continued during the Michaelmas Term 2018, this time *vice* the Honourable Mrs Justice Marva McDonald-Bishop JA who was on vacation leave.



The Hon Mr Justice Pusey JA (Ag)

In 2018, the court remained constituted of the Honourable Mr C Dennis Morrison P, the Honourable Miss Justice Hilary Phillips JA, the Honourable Mr Justice Patrick Brooks JA, the Honourable Mrs Justice Marva McDonald-Bishop JA, the Honourable Mrs Justice Almarie Sinclair-Haynes JA, the Honourable Mr Justice Frank Williams JA and the Honourable Miss Justice Paulette Williams JA.



Seated: The Hon. Mr. Justice Morrison P (centre), the Hon. Miss Justice Phillips JA (left) and the Hon. Mr. Justice Brooks JA. Standing: (from left to right) the Hon Mrs. Justice McDonald-Bishop JA, the Hon. Mrs. Justice Sinclair-Haynes JA, the Hon. Miss Justice Williams JA and the Hon. Mr. Justice Williams JA.

Court Staff

Staff complement

By virtue of the Civil Service Establishment (General Order) 2017, the total number of posts in the Court of Appeal (excluding judges) is 37. However, the staff complement, as with the number of judges, remained unchanged at 31. The staff comprised:

- 1 Registrar
- 1 Deputy Registrar
- 7 Senior Judicial Clerks
- 1 Director, Human Resource and Administration
- 5 Executive Secretaries
- 1 Senior Secretary
- 3 Chief Court Assistants
- 1 Senior Court Assistant
- 1 Senior Records Officer
- 2 Records Officers
- 2 Orderlies
- 2 Attendants
- 1 Casual Daily Paid Worker
- 3 Part-Time Cleaners

Staff Movements

In 2018 the court had the distinct pleasure of welcoming the following persons, both of whom had served previously at the court:

- Miss Judith Whyte, who returned in April 2018 to act as Director Human Resource and Administration, *vice* Mrs Verna Reid-Nathan, who proceeded on vacation leave; and
- Mr Kemoy McEchron, who returned in September 2018 to act as Senior Judicial Clerk.

The court also welcomed Miss Marjorie Thompson, who acted as Records Officer, *vice* Mr Christopher Headley, who was in turn acting in a higher post, and Mrs Shelly Ann Jackson, who acted in the posts of Senior Records Officer, *vice* Miss Crystal Jennings, and Senior Secretary, *vice* Miss Shakira Dempster. Both Miss Jennings and Miss Dempster were acting in higher posts.

In June 2018 the court said farewell to its Director Human Resource and Administration, Mrs Verna Reid-Nathan. Mrs Reid-Nathan resigned for the purpose of migration after giving approximately 11 years of sterling service to the court. Mrs Reid-Nathan was a hard-working and dedicated public servant who made an invaluable contribution to the court and its staff. The court records its sincere gratitude to Mrs Reid-Nathan for her dedicated service, as well as its confidence that she will excel in her new pursuits.

The court then wished Mrs Paulette Doyley, Office Attendant, a happy retirement. Mrs Doyley retired after four years of dedicated service to the court and, in particular, to the President and Judges of Appeal. At the function held to mark the occasion, both judges and staff expressed sincere gratitude to Mrs Doyley for her commendable years of service. She was presented with a token of the court's appreciation by retired President, the Honourable Mr Justice Seymour Panton, who was specially invited for the occasion. On behalf of the court, the President extended best wishes to Mrs Doyley as she embarked on this new phase of her life.



The Hon Mr Justice Panton P (R'td) making a presentation to Mrs Doyley on behalf of the court.

Sittings of the court

During the year under review the court sat for a total of 39 weeks. There were 10 weeks of sittings in the Hilary Term, 16 weeks in the Easter Term and 13 weeks in the Michaelmas Term. The full list of the weeks of sittings for 2018 may be downloaded from the court's website (www.courtsofappeal.gov.jm).

In the Hilary and Easter Terms of 2018, the court mainly sat in two divisions in panels of three judges each. However, in the Michaelmas Term 2018, as part of its backlog reduction project, the court sat weekly in one division except for the week of 3 December 2018. For that week, one panel sat in Kingston and the other at the Parish Court in Lucea, Hanover. In addition to the weekly sittings of the court, a Judge of Appeal was assigned duty in chambers in each week of term, as well as during legal vacations.

Special Sittings

The Court of Appeal conducted a number of special sittings for the year 2018. These sittings were as follows:

a) Special sitting to honour the Chief Justice

On 26 January 2018 the Court of Appeal sat *en banc* in a special sitting to pay tribute to the Chief Justice of Jamaica, the Honourable Mrs Justice Zaila McCalla, OJ, who was retiring from office after over 10 years as Chief Justice and 20 years overall as a judge of the Supreme Court.

The sitting was well attended by members of both the public and private Bars, including Miss Paula Llewellyn QC, Director of Public Prosecutions, Mrs Nicole Foster-Pusey QC, Solicitor General, Mr Allan Wood QC, Chairman of the General Legal Council, the Honourable Mr B St Michael Hylton OJ, QC, former Chairman of the General Legal Council, former Solicitor General and former classmate of the Honourable Chief Justice, Miss Jacqueline Cummings, President of the Jamaican Bar Association and Mr Leslie Campbell, President of the Advocates Association.

The representatives of the various legal bodies and departments joined the President and Judges of Appeal in paying tribute and expressing gratitude to the Chief Justice for her sterling leadership and accomplishments during her tenure in office. The gathering wished the Honourable Chief Justice well as she embarked on a new chapter of her life. A copy of the President's statement on that occasion is attached to this report as Appendix 1.



The Chief Justice with the President and Judges of Appeal after the special sitting,

b) Sitting to mark the opening of the Michaelmas Term

At the start of the Michaelmas Term 2018, the court once again sat *en banc* to mark the commencement of the new term. At this sitting, which was again attended by both members of the private and public Bars, the court, through the President, gave an update on its work and plans. He advised the gathering on the progress of the expansion work being done on the court's new facilities and the proposed timeline for completion.

Noting the phases in which the work was to be completed and the level of dislocation which would occur in the interim, the President sought the continued support and understanding of the Bar.

The President indicated that the Judicial Service Commission was in the process of identifying three persons for the posts of Judge of Appeal. Members of the Bar were therefore encouraged to consider service on the appellate bench.

Additionally, the President informed the gathering of the court's efforts at tackling the backlog of outstanding judgments. He indicated that the court intended to increase the use of oral judgments and that for the Michaelmas Term the court would sit in one division each week in order to allow judges more time out of court to write judgments.

c) Hanover sittings

During the week commencing 18 June 2018, Division 1 of the court (Morrison P, Sinclair-Haynes and F Williams JJA) sat at the Lucea Parish Court in Hanover for its Easter Term special sitting. Of the eight matters on the list for the sitting, three were determined during the week of the sitting, judgment was reserved in two and three were taken off the list upon good reasons being shown. The two reserved judgments were delivered in the Michaelmas Term 2018.

The special Hanover sitting in the Michaelmas Term was held during the week commencing 3 December 2018, this time before Division 2 of the court (Brooks and P Williams JJA, and Pusey JA (Ag)). Of the nine matters listed for hearing, eight were determined by the court during the week of the sitting and judgment was reserved in one.

Work of the court

The work of the Court of Appeal is both extensive and involved. Each week, a variety of matters, ranging from procedural applications to substantive appeals, are listed before a panel of three Judges of Appeal for hearing and determination. In addition to this, each week a Judge of Appeal is rostered to sit in Chambers to conduct hearings of procedural applications and case management conferences. Depending on the scheduling demands of the court from time to time, the Judge of Appeal assigned to Chambers may also be called upon to sit in court in the same week.

As most criminal matters arising from convictions and sentences in the Supreme Court commence in the Court of Appeal as applications for permission to appeal, these applications are referred to a single Judge of Appeal for consideration and determination once the transcripts are received.

Single Judges of Appeal are also called upon to consider procedural applications, such as applications for stays of execution of judgments or proceedings, injunctions, bail pending appeal and security for costs; motions/applications for leave to appeal to Her Majesty in Council pursuant to Practice Direction No 1/2016; and, upon the filing of records of appeal, civil files for the purpose of giving case management directions.

In addition, individual Judges of Appeal are called upon from time to time to assist the President with various administrative matters, such as taking part in job interviews for court staff, attendance at meetings and the like.

The work of the court will be captured through tables and charts as follows:

- i. transcripts referred to single judges of appeal for consideration of applications for leave to appeal in criminal cases (Table A and Chart 1);

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- ii. procedural applications and motions for leave to appeal to Her Majesty in Council referred to single judges of appeal for consideration on paper (Table B and Chart 2);
 - iii. civil records of appeal referred to single judges of appeal for case management directions (Table C and Chart 3);
 - iv. oral hearings conducted in chambers by single judges of appeal (Table D);
 - v. disposal of applications and motions (Table E) and appeals (Tables F-H, J & K);
 - vi. new appeals filed for the year under review and pending appeals at the end of the period (Tables F – I)
 - vii. judgments delivered within six months of completion of hearings (Table L);
 - viii. total number of matters (applications and appeals) disposed of (Table M)
 - ix. written judgments delivered (Table N);
 - x. outstanding reserved judgments (Table O);
 - xi. outstanding reasons for judgment (Table P);
 - xii. outstanding transcripts in criminal cases pending appeal (Table Q);
 - xiii. outstanding records of proceedings in civil matters pending appeal (Table R); and
 - xiv. appeals pending (Table S).

Criminal transcripts referred to single judges of appeal

As indicated previously, transcripts are referred to single judges upon receipt for consideration of applications for permission to appeal against convictions and sentences from the Supreme Court. Applications are usually referred to single judges as soon as the transcripts are received so as to enable the judges to peruse the transcripts and to assess the merits of each application. The number of transcripts referred to single judges each year is therefore entirely dependent on the number of transcripts received from the Supreme Court during that year.

Table A - Transcripts referred

Period	2017	2018	Change
Hilary Term	17	24	7
Easter Term	44	9	-35
Summer Vacation	20	16	-4
Michaelmas Term	28	19	-9
Total	109	68	-41

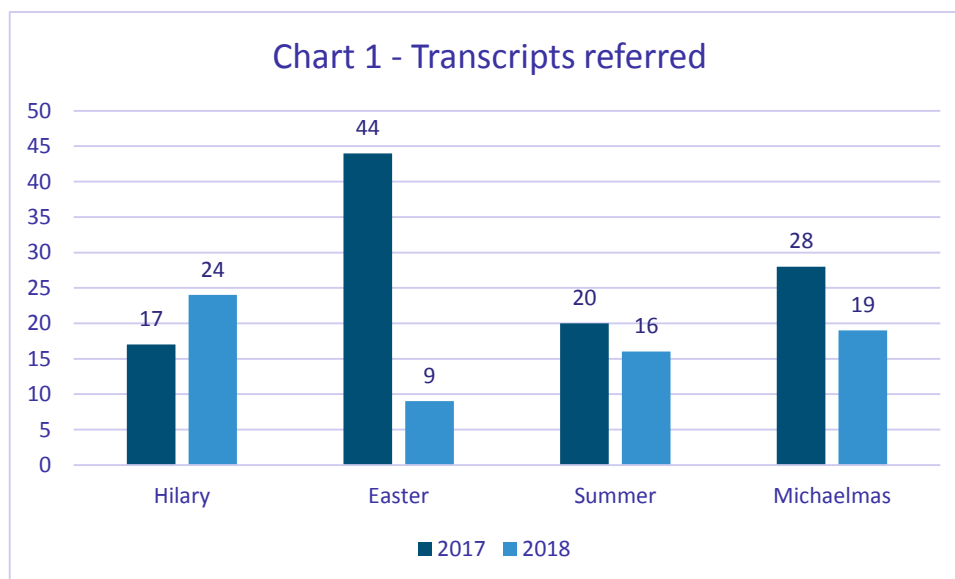


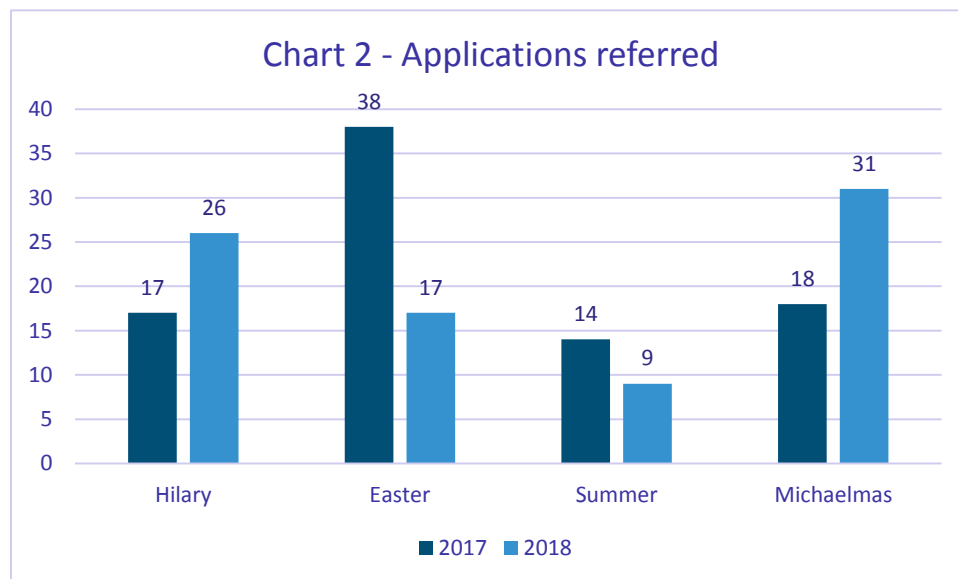
Table A and Chart 1 show that in 2018 the number of transcripts referred decreased by 37.6% over 2017.

Applications referred to single judges for consideration on paper

As provided for under the provisions of the Court of Appeal Rules, procedural applications are generally referred to single judges of appeal for consideration on paper. The rules empower the single judge to make a determination on the application on paper or to direct that there be an oral hearing. The number of applications referred each term is largely dependent on the number of applications filed and whether the applications filed fall within the jurisdiction of a single judge.

Table B - Number of applications referred

Period	2017	2018	Change
Hilary Term	17	26	9
Easter Term	38	17	-21
Summer Vacation	14	9	-5
Michaelmas Term	18	31	13
Total	87	83	-4



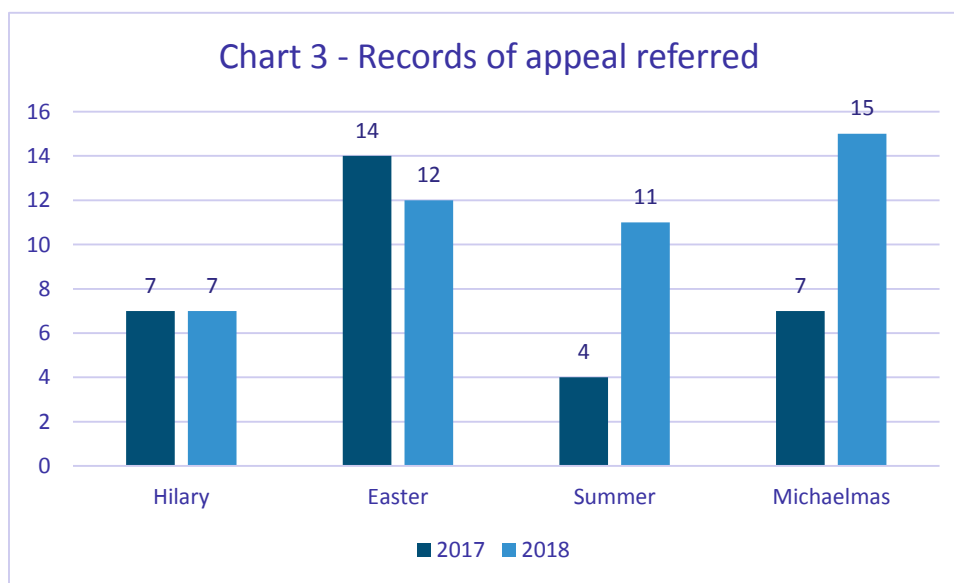
As seen in Table B and Chart 2, there was a 4.5% decrease in the number of applications referred in 2018 when compared to the 2017 figure.

Records of appeal referred to single judges

Once records of appeal are filed in civil appeals from the Supreme Court, the Court of Appeal Rules require that they be referred to a single judge of appeal for the purposes of making case management directions. The single judge is empowered to make case management orders on the basis of the documents on the case file, or he or she may direct the scheduling of a case management conference attended by the parties and their lawyers. The numbers of records of appeal referred is largely dependent on the number of certified records of proceedings received from the Supreme Court and whether the records are filed in accordance with the requisite timelines.

Table C – Records of Appeal Referred

Period	2017	2018	Change
Hilary Term	7	7	0
Easter Term	14	12	-2
Summer Vacation	4	11	7
Michaelmas Term	7	15	8
Total	32	45	13



There was, as seen in Table C and Chart 3, a 40% increase in the number of records of appeal referred in the year under review over the previous year.

Hearings in chambers by single judges

Due to the provisions of the Court of Appeal Rules which require the referral of applications to single judges on paper in the first instance, oral hearings in chambers are usually set on the direction of the judge to whom the applications were referred or who made case management directions. It should be noted that there are some matters which are not dealt with on paper but are directly set for a hearing in chambers. Usual examples of such matters are applications for bail and applications to remove counsel's name from the record.

Table D - Hearings in chambers

Term	2017	2018	Change
<i>Applications</i>			
Hilary	14	13	-1
Easter	27	14	-13
Michaelmas	14	28	14
<i>Case Management Conferences</i>			
Hilary	11	8	-3
Easter	20	13	-7
Michaelmas	11	17	6
Total	97	93	-4

As seen in Table D there was a 4.12 % decrease in the number of hearings conducted in chambers during the year under review.

Disposal of applications and motions by the court

While some procedural applications fall under the jurisdiction of single judges, there are others, such as applications for leave to adduce fresh evidence; permission to appeal; extension of time within which to file and serve the appeal; and to vary or discharge the order of a single judge, which cannot be considered by single judges and therefore must be considered by the court. A Judge of Appeal sitting as a single judge may also refer applications for hearing by the court.

It is the court which also determines motions for leave to appeal to Her Majesty in Council where the appeal is not as of right; motions on referral from a single judge of appeal; or matters in which the applicant is seeking to set aside or vary an order made in relation to the motion by a single judge of appeal.

Table E – Applications⁵ and motions determined by the court

	2017	2018	Change
Hilary	16	32	16
Easter	27	48	21
Michaelmas	23	50	27
Total	66	130	64

Table E shows that there was a 96.9% increase in the number of applications and motions determined by the court in 2018 over the previous year.

⁵ This excludes criminal applications for permission to appeal which are dealt with in Tables F, G, H, J and K.

Table F
New and disposed appeals, Hilary Term 2018

Appeals	Pending at the start of the term	New cases filed	Disposed cases	Pending at the end of the term
Supreme Court				
Civil Appeals	833	32	5	860
Criminal Appeals	601	25	18	608
Miscellaneous Appeals	12	2	1	13
Costs Appeals	-	2	-	2
Parish Court				
Civil Appeals	53	13	3	63
Criminal Appeals	90	4	7	87
Miscellaneous Appeals	2	-	-	2
Total	1591⁶	78	34	1635

Table G
New and disposed appeals, Easter Term 2018

Appeals	Pending at the start of the term	New cases filed	Disposed cases	Pending at the end of the term
Supreme Court				
Civil Appeals	860	53	18	895
Criminal Appeals	608	45	26	627
Miscellaneous Appeals	13	7	1	19
Costs Appeals	2	-	-	2
Parish Court				
Civil Appeals	63	6	3	66
Criminal Appeals	87	2	-	89
Miscellaneous Appeals	2	-	-	2
Total	1635	113	48	1700

⁶ In the 2017 Annual Report the Parish Court Miscellaneous Appeals new appeals Easter Term figure was reported as 5, but the figure should in fact have been 0 and the disposed cases for the same period should also have been 0 and not 2 as reported. The total number of new appeals was therefore 267 and not 272, and the total number of pending appeals at the close of the year was 1591 not 1594.

Table H
Michaelmas Term 2018

Appeals	Pending at the start of the term	New cases filed	Disposed cases	Pending at the end of the term
Supreme Court				
Civil Appeals	895	40	26	909
Criminal Appeals	627	28	20	635
Miscellaneous Appeals	19	3	1	21
Costs Appeals	2	-	-	2
Parish Court				
Civil Appeals	66	14	8	72
Criminal Appeals	89	7	2	94
Miscellaneous Appeals	2	-	1	1
Total	1700	92	58	1734

Table I - New appeals

	2017	2018
Civil	147	158
Criminal	112	111
Miscellaneous	13	12
Costs	-	2
Total	267	283

Table J - Disposed appeals

	2017	2018
Civil	117	63
Criminal	125	73
Miscellaneous	5	4
Total	247	140

Disposal of appeals by the court

Table K

Term	2017	2018	Change
<i>Civil Appeals</i>			
Hilary	31	8	-23
Easter	43	21	-22
Michaelmas	43	34	-9
<i>Criminal Appeals/Applications for Leave to Appeal</i>			
Hilary	44	25	-19
Easter	58	26	-32
Michaelmas	23	22	-1
Miscellaneous			
Hilary	1	1	0
Easter	4	1	-3
Michaelmas	0	2	2
Total	247	140	-107

Both tables J and K reveal a decrease of 43.31% in the number of appeals disposed of in 2018 when compared to 2017. It is to be noted that in 2017, an exercise was conducted whereby files classified as pending were reviewed. A number of civil files were referred to the court for non-compliance with the Court of Appeal Rules and were dismissed for want of prosecution. A number of criminal files, in which the applicants did not seek to renew their applications for leave to appeal, were removed from the pending list. This exercise contributed to the total number of matters disposed of in 2017. Due to the preparations undertaken in 2018 for the impending relocation of the court, the exercise was not conducted in 2018. However, if compared to 2016, when the total number of matters disposed of was 144, the total number disposed of in 2018 showed only a slight decrease of 0.97%.

Judgment delivery timeline

Table L

Type of matter	Number delivered on day hearing was completed	Number delivered within a week of hearing	Number delivered within 3 months of hearing	Number delivered within 6 months of hearing
Hilary	22	17	3	
Easter	41	14	4	2
Michaelmas	36	15	12	1
Total	99	46	19	3

Table L shows that of the 167 matters (applications and appeals) which were disposed of within 6 months of the hearing, 59.28% were disposed on the same day of hearing and 86.82% were disposed of within a week of the hearing. 61.85% of the total matters disposed of were disposed of within 6 months of the hearing.

Number of matters disposed of - Applications and appeals

Table M

Type of matter	Disposal 2017	Disposal 2018
Applications/Motions	66	130
Criminal appeals/applications for Permission to appeal	125	73
Civil appeals	117	63
Miscellaneous	2	4
Total Disposal	310	270

Like Table E, Table M shows that there was an increase of 96.96% in the number of applications/motions disposed of by the court in 2018. Table M, however, also shows that there was a decrease of 12.9% in the total number of matters disposed of. This is a reflection of the significant decrease in the number of appeals disposed of in 2018 over the previous year (Tables J & K). This indicates that a significant portion of judicial time was consumed by the

applications/motions laid before the court. This, coupled with the exercise undertaken in 2017, accounts for the significant difference between the disposal figures of 2017 and those of 2018.

Written judgments

Written judgments delivered by the court include judgments delivered in writing at the time of the making of the court's order, oral judgments that are subsequently reduced to writing as well as written reasons for judgments previously delivered. The figures below do not include oral judgments which have not been put in writing.

Table N - Written judgments

Term	2017	2018	Change
Civil Appeals			
Hilary	7	12	5
Easter	21	10	-11
Michaelmas	18	13	-5
Criminal Appeals			
Hilary	18	18	0
Easter	12	15	3
Michaelmas	7	13	6
Applications			
Hilary	10	5	-6
Easter	11	19	8
Summer Vacation	2	4	2
Michaelmas	21	20	-1
Total	127	129	2

Table N shows that the number of written judgments increased by 1.57% in 2018.

Outstanding reserved judgments

Table G below shows the number of judgments which the court has outstanding.

Table O - Outstanding reserved judgments

Year Reserved	Number Outstanding 2017	Number Outstanding 2018
2013	1	1
2014	1	1
2015	4	4
2016	24	9
2017	31	13
2018		41
Total	61	69

Outstanding reasons for judgment

Table P shows the number of judgments in which the court has delivered its decisions but has not yet delivered its promised written reasons.

Table P - Outstanding reasons for judgment

Year	Number Outstanding 2017	Number Outstanding 2018
2014	1	0
2015	1	0
2016	7	7
2017	11	9
2018		14
Total	20	30

Outstanding criminal transcripts

Table Q

Year Matter filed	Number Outstanding 2017	Number Outstanding 2018	Change
2000	1	1	0
2001	1	1	0
2002	1	1	0
2004	1	1	0
2005	2	1	0
2006	3	3	0
2007	1	1	0
2008	1	0	-1
2009	2	0	-2
2010	7	5	-2
2011	8	3	-5
2012	16	7	-9
2013	27	22	-5
2014	41	36	-5
2015	56	45	-11
2016	69	48	-21
2017	87	73	-14
2018		58	
Total	324	306	

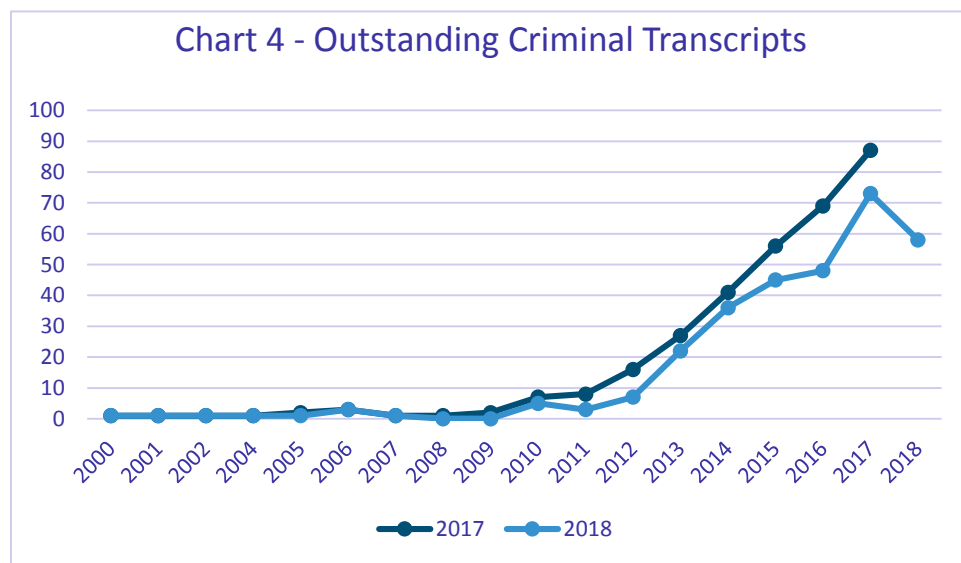


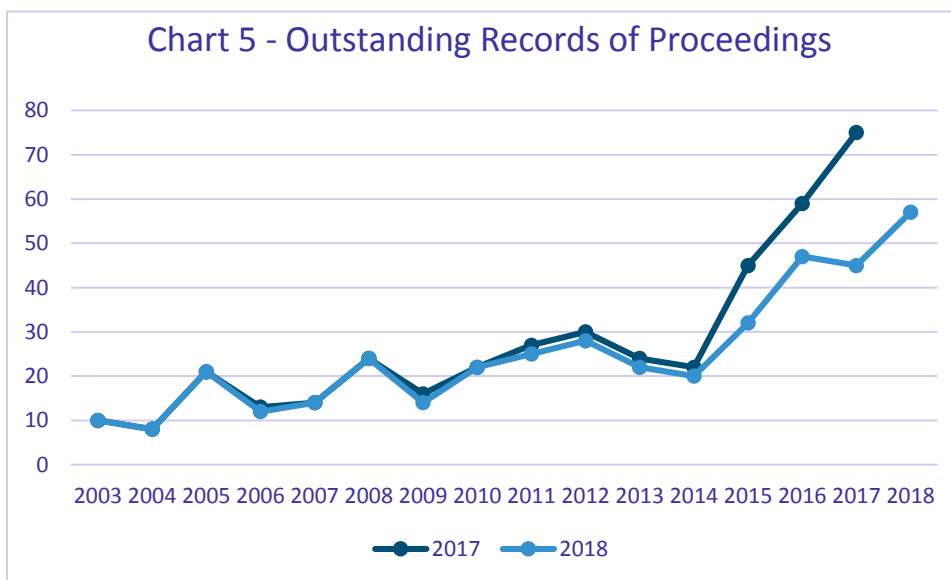
Table Q shows a decrease of 5.55% in the number of outstanding transcripts in 2018 over 2017.

Outstanding civil records of proceedings

Table R

Year Matter filed	Number Outstanding 2017	Number Outstanding 2018	Change
2003	10	10	0
2004	8	8	0
2005	21	21	0
2006	13	12	-1
2007	14	14	0
2008	24	24	0
2009	16	14	-2
2010	22	22	0
2011	27	25	-2
2012	30	28	-2
2013	24	22	-2
2014	22	20	-2
2015	45	32	-13
2016	59	47	-12
2017	75	45	-30
2018	-	57	-
Total	410	401	

Chart 5 - Outstanding Records of Proceedings



While the overall number of outstanding civil records of proceedings from the Supreme Court has decreased by 2.19% over the previous year, there has been no change in respect of those pending since 2003-5, 2007-8 and 2010.

Table S - Pending appeals

	2017	2018
Pending at the start of the year	1569	1591
New appeals filed	272	283
Appeals disposed of	245	140
Pending at end of the year	1591	1734

At the end of 2018 the number of pending appeals was 1734 which reflects an increase of 8.98% over the previous year. It must be noted that the number of pending appeals include those in which 306 criminal transcripts and 401 civil records of proceedings are outstanding. Bearing this in mind, the “true” pending appeals figure falls to be reduced to 1027.

News

Appointment of the new Chief Justice

On 1 March 2019 the Honourable Mr Justice Bryan Sykes, CD, Puisne Judge of the Supreme Court, was sworn in by the Governor-General as the new Chief Justice of Jamaica. At his swearing in, the Honourable Mr Justice Sykes was also conferred with the national honour of Order of Jamaica.

In becoming the nation's eighth Chief Justice, the Honourable Mr Justice Sykes succeeded the Honourable Mrs Justice Zaila McCalla, OJ, who retired on 31 January 2018. The Court of Appeal joined the remainder of the judiciary and the wider Jamaica in welcoming the news of the appointment of the new Chief Justice. The court assures him of its continued support in the quest for improvements in the delivery of justice.

Expansion of the court

a) the work began

In April 2018 the court saw the first sign of actual physical work on the new facilities when hoarding was erected around the construction site.



Soon thereafter came the banging of hammers and the buzzing of drills, which the court accepted as very noisy but reassuring sounds that the work had commenced in earnest.



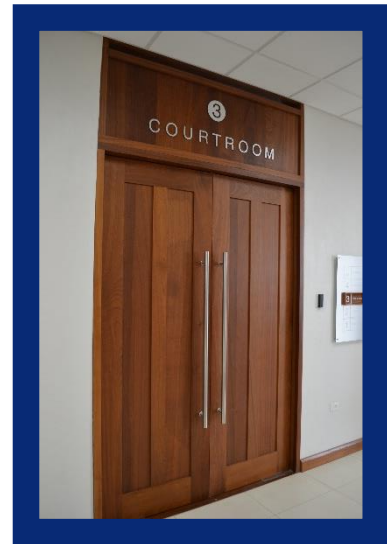
Throughout the construction process came many site visits when hard hats had to be donned.



And more and more work was done.



And the facilities began to take shape. The court watched keenly and with great anticipation as what was once the Accountant General's Department gradually transformed into the new home of the Court of Appeal.



And the court's first unofficial meeting was spontaneously held in the President's Chambers.



b) Opening Ceremony

On 12 December 2018 the Court of Appeal's new facilities were officially opened. The opening ceremony marked a significant milestone in the extraordinarily long journey to expand the Court of Appeal. Although the Judicature (Appellate Jurisdiction) Act was finally amended in 2008 to increase the number of appellate judges, the road to an expanded court began well before that. As the court threatened to buckle under the strain of an ever increasing workload, many will recall the numerous calls made by previous Presidents and Judges of Appeal, with perhaps one of the most memorable champions of the cause being retired President, the Honourable Mr Justice Seymour Panton.

It was therefore quite fitting that in attendance at the opening ceremony alongside the Chief Justice, President, judges and staff of the court, were the Honourable Mrs Justice Zaila McCalla, retired Chief Justice and former Judge of Appeal, the Honourable Mr Justice Paul Harrison and the Honourable Mr Justice Seymour Panton, retired Presidents of the court, the Honourable Mr Justice Algernon Smith, the Honourable Mr Justice Howard Cooke and the Honourable Mr Justice Mahadev Dukharan, retired Judges of Appeal and Her Honour Ms Sherna Reid, Parish Court Judge and former Registrar of the court.

Also in attendance at the ceremony were the Honourable Mr Delroy Chuck, Minister of Justice, the Honourable Mrs Marlene Malahoo Forte QC, Attorney-General, the Honourable Mr Tom Tavares-Finson QC, President of the Senate, the Honourable Mr Mark Golding, the Honourable Mr K D Knight QC and Miss Dorothy Lightbourne QC, former Ministers of Justice, Miss Paula Llewellyn QC, Director of Public Prosecutions, Ambassador Malgorzata Wasilewska, Head of the Delegation of the European Union in Jamaica, Mr Steadman Fuller, Custos of Kingston, Ms Anya Jones, acting Permanent Secretary in the Ministry of Justice, Mr Allan Wood QC, Chairman of the General Legal Council and Miss Jacqueline Cummings, President of the Bar Association.

The court wishes to place on record its appreciation to the Ministry of Justice, the architects, Harold Morrison and Robert Woodstock Associates, and the contractors YP Seaton and Associates, for the tremendous effort to have the building completed in the shortest possible time. Thanks also to the Delegation of the European Union for the significant support given to the expansion project and helping to make the opening ceremony possible.

While the court recognises all those who contributed, it would like to make special mention of three officers of the Ministry of Justice, Mrs Carol Palmer, Mr Vivian Gordon and Mr Adrian Headley. Led by Mrs Palmer, the indefatigable Permanent Secretary, all three officers became frequent visitors to and familiar faces at the court long before the first nail was hammered in the project, as they commenced discussions with the court from 2017 to identify its specific needs. Mr Gordon and Mr Headley worked tirelessly on the project and made themselves available, often at short notice, to give updates, answer queries, accept comments and engage in discussions of varying length and difficulty with the President and Registrar throughout the life of the project. Mrs Palmer, as the overall leader of the project team, was never too busy to receive complaints and other shouts for help in an unfailingly pro-active and constructive way. The court wishes therefore to place on record its gratitude to Mrs Palmer, Mr Gordon and Mr Headley for their tremendous contribution to the success of this project.



The gathering awaiting the start of the ceremony.



Guests at the ceremony



Retired President the Hon Mr Justice Seymour Panton sitting with retired Chief Justice the Hon Mrs Justice Zaila McCalla



The Minister handing over the keys to the building to the President



Preparing to cut the ribbon.



Relocation of the court

Following the opening ceremony, the relocation of the entire court into the new facilities took place during the weekend of 22 December 2018. This was an extremely involved process, requiring the physical movement of boxes, furniture, computers and other equipment.

While judges and staff alike participated in packaging and labelling their respective items, special mention must be made here of Miss Judith Whyte, Mr James Francis, Mr Christopher Headley, Miss Sushanna-Gay Shepherd, Mr Ramon Williamson, Mr Davern Henry, Mr Kirk Dumetz and Miss Rose Gordon, who went the extra mile on the weekend before Christmas to ensure that the various items were carefully moved and placed in the proper places. To them the court expresses sincere gratitude for a job well done.

We also wish to acknowledge the assistance provided through Major Marlon Stephens of the Ministry of Justice in arranging the necessary manpower to facilitate the relocation process.

Visit from the stork

The court extends warmest congratulations to the Honourable Mrs Justice McDonald-Bishop JA on the birth of her granddaughter Rhea. This wonderful bundle of joy joined the family in January 2018.

Other activities/outreach

Beyond the usual duties of the court, the President and Judges of Appeal were also engaged as follows:

- The Honourable Mr Justice Morrison P sat on the National Council on Justice, the Judicial Service Commission and the Regional Judicial and Legal Service Commission.

The President also chaired the Criminal Case Management Steering Committee, the Supreme Court Library Committee and the General Legal Council's Continuing Legal Professional Development Committee.

- The Honourable Mr Justice Morrison P and the Honourable Miss Justice Phillips JA sat on the Rules Committee of the Supreme Court.
- The Honourable Mr Justice Morrison P was a member of the faculty at the Commonwealth Judicial Education Institute's annual intensive training programme for judicial educators of the Commonwealth in Halifax, Nova Scotia in June 2018.
- The Honourable Mr Justice Morrison P also attended the Commonwealth Judicial Education Institute's Biennial meeting in Port-of-Spain, Trinidad, in November 2018
- The Honourable Mr Justice Brooks JA sat on the General Legal Council.
- The Honourable Mr Justice Morrison P, the Honourable Miss Justice Phillips JA, the Honourable Mrs Justice McDonald-Bishop JA and the Honourable Mrs Justice Sinclair-Haynes JA served as Associate Tutors at the Norman Manley Law School.
- The Honourable Miss Justice Phillips JA was among the Executive Members of the Jamaican Association of Women Judges who, along with the Association's two patrons – the Honourable Mrs Justice Zaila McCalla and the Hon Miss Justice Gloria Smith - attended the International Association of Women Judges' Conference held in Buenos Aires, Argentina in May 2018.
- The Honourable Mr Justice Brooks JA officiated at the launch of the Seminar for the Judiciary, which was facilitated by the Justice Studies Center of the Americas in collaboration with the Judicial Education Institute of Jamaica, between 9 and 11 March 2018.

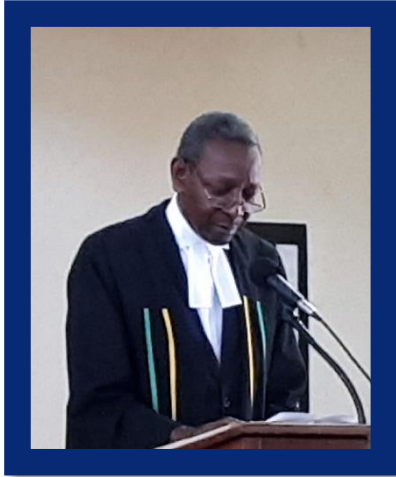
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- The Honourable Mr Justice Brooks JA also officiated at the launch of the UNODC Judicial Conduct and Ethic Training Regional “Train the Trainers” Workshop on Sunday 25 November 2018. Judges of the Court of Appeal as well as the court’s Registrar were among the trainees at that workshop.
 - The Honourable Mrs Justice McDonald-Bishop JA, along with Puisne Judge, the Honourable Mrs Justice Vinette Graham-Allen, participated in the UNODC Judicial Conduct and Ethics “Train the Trainers” Workshop held in Brussels, Belgium on 5-6 March 2018. Since attending, both judges have been engaged in the training of Jamaican judges in judicial conduct and ethics, the first session of which was held 7 and 8 August 2018 for recently appointed Parish Judges.
 - Later in the year, the Honourable Mrs Justice McDonald-Bishop JA attended the Commonwealth Magistrates’ and Judges’ Association Triennial Conference in Brisbane, Australia. The conference, which was hosted by the National Judicial College of Australia, was held between 9-14 September 2018 under the theme “Becoming Stronger Together”.
 - On 8 September 2018, the Honourable Miss Justice Williams JA participated as a panelist at the Legal Reform Department’s staff retreat held at the Royalton Hotel in Trelawny. The panel considered the question of a criminal code for Jamaica.

National Honours

In 2018 three distinguished members of the judiciary, two of whom were sitting on the Court of Appeal bench at the time, received national honours. The Honourable Mrs Justice Almarie Sinclair-Haynes JA, the Honourable Mr Justice Leighton Pusey JA (Ag), and the Honourable Mr Justice Courtney Daye were each awarded the Order of Distinction in the rank of Commander. The court welcomed the announcement of the awards and congratulates each judge on the well-deserved honour.

Annual Assize Service

The annual Assize Service commemorating the commencement of the Michaelmas Term was held on Sunday 23 September 2018 at its customary home at the East Queen Street Baptist Church. The service was conducted under what seems to be a most timely and appropriate theme - *"Justice, Truth be ours Forever"*.



The President and the Hon Mr Justice Brooks JA participating in the annual assize service

Court Users' Committee

The Court Users' Committee, which was established during the Michaelmas Term 2017, had six meetings during the course of 2018. The meetings were held twice per court term.

The year under review was quite a productive one for the committee. It began 2018 with a most informative exchange with two officers of the Tower Street Adult Correctional Centre, Mr Michael Anderson, Superintendent 'B', and Mr Ricardo Williamson, Staff Officer, who were invited to discuss the issue of inmates who had been waiting for a long time for their matters to be heard due to the transcripts of their trials not having been received. This is a matter which continues to be of great concern to the court and has now been the subject of numerous applications⁷ to the court by affected applicants who wish to take advantage of

⁷ **Tafari Williams v R** [2015] JMCA App 36; **Joseph Simpson v R** [2018] JMCA App 11.

their early release dates. The officers enabled the committee to gain a better understanding of the gravity of the situation.

During the year, the committee, with its members being representatives of various stakeholders, was able to discuss a number of issues from the perspective of the court as well as that of the stakeholders. These discussions resulted in the committee –

- a) recommending that specific times be allotted for the hearing of matters scheduled to be heard in Chambers;
- b) seeking the identification of designated persons in the Parish Courts to assist persons who wish to file appeals;
- c) establishing a procedure whereby Parish Courts are required to notify the Court of Appeal registry electronically of new appeals filed, using the form designed by the committee for the purpose;
- d) embarking on the process of establishing an e-filing platform for the court; and
- e) designing a brochure providing information on Parish Court Appeals, particularly for the benefit of unrepresented litigants.

The court looks forward to the continued work of the committee.

Football

The Court of Appeal was happy to have a representative, in the form of Mr Ronjae Campbell, on the Supreme Court football team in the 2018 Civil Service football competition. The team performed commendably, winning three of seven matches. It is hoped that 2019 will see greater support for the team as they seek to advance further in the competition.



Clearing the field after a victorious match

Condolences

During the year under review, the court expressed deepest condolences to the Honourable Mr Patrick Brooks JA on the passing of his father, Miss Shakira Dempster on the passing of her grandmother, Constable Ryan Lynch on the passing of his father and Miss Marcia Robinson on the passing of her mother. The court wishes to extend its continued support to them as well as to their respective families.

Visitors

During 2018, the court had the distinct pleasure of playing host to a number of promising young people. On 7 March 2018, the court was visited by approximately 30 students from the Merl Grove High School in St Andrew and on 8 March 2018 by eight students from the St Jago High School in St Catherine. Both visits were arranged by Miss Deborah Rance of the Supreme Court. On both occasions, the Registrar and Deputy Registrar met with the students, giving them a tour of the court and briefing them on its role and functions.

On 27 July 2018, the court then had the privilege of hosting a group of young men from Pioneer for Christ, a community boys' group which operates under the umbrella of the Waltham Park New Testament Church of God. The visit was arranged by Constable Rohan Francis, a Close Protection Officer assigned to the court. The President met with the group and provided them with information about the court. He also fielded the many questions raised by these very bright and articulate youngsters. The group was later taken on a tour of the court and were able to meet some of the judges.

The court continues to welcome any opportunity to engage with young persons and share information about its work.



The President meeting with the young men of Pioneers for Christ



Games Evening

The court's games evening for 2018 was held on 23 November 2018 and, with lots of prizes and surprises, a very good time was had by all.



Happy teams





Intense games



And happy prize winners!!!



Christmas Luncheon

The annual Christmas luncheon was held, as is customary, on 20 December 2018. This occasion, aside from the day being the last day of the court term, marked the very last occasion on which the court's Christmas luncheon would take place in the old facilities. The court had the pleasure of the company of the Honourable Chief Justice, as well as the Honourable Mr Justice Clarence Walker, the Honourable Mr Justice Algernon Smith and the Honourable Mr Justice Howard Cooke, retired Judges of Appeal. The gathering was treated to a sumptuous meal and the musical stylings of the incomparable Constable Kenroy Martin.





Looking Ahead

For the Court of Appeal the year 2018 ended on a happy, hopeful and optimistic note. The court spent the year watching as block by block the new facilities came to life. Starting the year with seven judges facing the arduous task of tackling all the work that the court is mandated to do, the court ended the year in its new surroundings with the assurance that three additional judges would be sworn in come January 2019, with the remaining three to be engaged by the end of 2019.

Of course, the court is well aware that the increase in the number of judges will not cause the problems faced over the years to miraculously disappear. The schedule of the court will have to be carefully managed, not only to ensure that matters are listed and heard in a timely manner, but, importantly, that judges are given adequate time out of court to facilitate judgment writing and delivery, also within a reasonable time.

As the court moves forward, it will continue to strive for greater efficiency and remains committed to improving the delivery of service offered to its users.

APPENDIX 1

TRIBUTE TO CHIEF JUSTICE, THE HON. MRS JUSTICE ZAILA McCALLA

1. We are gathered this morning to pay tribute to the Honourable Chief Justice, who has brought honour to our court by accepting my invitation to sit with us on this occasion. As is now well known, the Chief Justice will retire in a few days' time, after an exemplary career, spanning close to 42 years, in public service. For the last 10 years, she has served as Chief Justice, bringing to bear on the duties of that high office special qualities of intellect, diligence, calm, grace and style.
2. When she was appointed Chief Justice in 2007, Justice McCalla had already served at virtually every level of the public legal service, having first been appointed as Deputy Clerk of the Courts upon her admission to practice in 1976. Appointed Clerk of the Courts in the following year, she was promoted to the Office of the Director of Public Prosecutions as Crown Counsel in 1980. In that capacity, and later as acting Assistant Director, she represented the prosecution in almost every parish for over five years. Our brother Brooks JA, who sits with us this morning, remembers well her role as his senior in those chambers and readily acknowledges the contribution she made to his own development as a lawyer. The available evidence suggests that, in that role, she did not do too badly.
3. Her career as a judge started with her appointment as a Resident Magistrate in 1985 and later as Senior Resident Magistrate in 1996. For over 10 years, she adjudicated in several parishes, in both criminal cases and civil cases, gaining for herself in the process the reputation for meticulous attention to detail and a conspicuous commitment, both qualities that have continued to distinguish her career.
4. Her first stint in the Supreme Court came as acting Master in Chambers, a position to which she was appointed in August 1996, in short order followed by her appointment as Puisne Judge the following year. As Puisne Judge for almost 10 years, her experience again spanned

all aspects of the jurisdiction and included an acting appointment in 2006 as a Judge of the Grand Court of the Cayman Islands.

5. In April 2006, the Chief Justice was appointed a Judge of Appeal in this court and it is additionally on that basis that we can this morning assert an inherent jurisdiction over her.

6. Against that background, it seems to us to be plain – and we so find - that upon her appointment to be Chief Justice in 2007, Justice McCalla was specially – even perhaps uniquely - qualified for the position. As the first graduate of the Norman Manley Law School to attain that position in this country, her appointment was historic. And, as the first woman to be so appointed, she in one fell swoop shattered a barrier, reputedly made of the toughest, tempered glass, that had stood the test of time. Speaking for myself, I would venture to suggest that, as the current composition of today’s bench amply demonstrates, it is a barrier that is never likely to be assembled again.

7. Much has already been said, and will no doubt be said again, of the Chief Justice’s many achievements during her time in office. Conscious of the press of time and the no doubt many things that may yet be said from the Bar, we will only mention a few:

- (i) Criminal case management, a process which has led to critical legislative reforms in the areas of evidence and procedure (e.g., agreed facts in criminal cases, advance sentence indications)
- (ii) Judicial training, culminating in the establishment last year of the Judicial Education Institute
- (iii) The formulation of a number of manuals and guidelines for use in various areas of the system
- (iv) The physical expansion of the Supreme Court
- (v) The establishment of Drug Treatment Courts and their expansion to several parishes
- (vi) Hardly least, as Chair of the Judicial Service Commission, presiding over and promoting the transformation of the Judiciary at all levels

8. These have been path-breaking achievements by any measure, but particularly so when viewed in the context of the extraordinarily difficult times in which we live. Here at the Court of Appeal, we have benefitted from the Chief Justice's keen appreciation of the many challenges we face and her willingness to assist us in whatever way possible from time to time. We know that, as much as we do, she too longs for the day when we will be able to host the Bar on an occasion such as this in the more commodious accommodation that has been promised us from at least as long ago as when she was a Judge of Appeal.

9. On a personal level, we have all counted and leaned on the Chief Justice's unfailing support and friendship over many years. And so, it is right that, as she moves on to this new phase of life's great adventure, we should assure her that she can continue to count on ours.

10. All that remains for me to say is that my sisters and brothers have authorised me to indicate that this is the judgment of the Court.

Dennis Morrison

Court of Appeal

26 January 2018