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JUDICIARY

1862

(McLintock, A.
H., 2009d)

Court of Appeal Established

On 15 September 1862, however, the Court of Appeal Bill was passed by both Houses without apparent discussion, and on 10 February 1863 the Chief Justice, Sir George Arney, presided over the first sitting, which was held in Christchurch. With him he had H. B. Gresson, Johnston, and C. W. Richmond, J.J. The Court held its first Wellington sitting in October of the same year, went to Dunedin in 1864, but did not reach Auckland until later. That Court survived for 95 years until the passing of the Judicature Amendment Act 1957, when it was replaced by a permanent separate Court of Appeal under the presidency of Sir Kenneth Gresson, with two members, Mr Justice North and Mr Justice Cleary. (The Chief Justice, Sir Harold Barrowclough, is an *ex officio* member of the Court.) Several generations of practitioners had campaigned for the setting up of such a Court, and its inaugural sitting on 17 February 1958 was one of the milestones of legal history in New Zealand.

By the time the original Court of Appeal was established, the judiciary had changed its personnel entirely. Sir William Martin, who was knighted only after his resignation in 1857, had returned in poor health to England; Mr Justice Chapman had resigned and crossed the Tasman in 1852; and two other Judges, S. Stephen, J., and D. Wakefield, J., who had been appointed in the fifties, had died within a week of each other in 1857. There had been four new appointments, Arney, C.J. (1858), Gresson, J. (1857), Johnston, J. (1858) and Richmond, J. (1862), and it was these four who comprised the first Court of Appeal.

Only seven other appointments were made to the Bench in the nineteenth century. These included two Chief Justices – Sir James Prendergast (1875–99) and Sir Robert Stout (1899–1921), and Sir Joshua Williams, who sat as a puisne Judge for 39 years from 1875 until he was called to the Privy Council in 1914, one year before his death.

Since the resignation of Sir Robert Stout in 1926, only four Chief Justices have held office – Sir Charles Skerrett (1926–29), Sir Michael Myers (1929–46), Sir Humphrey O'Leary (1946–53), and Sir Harold Barrowclough (1953–).

The first New Zealand born Judge was Sir Frederick Chapman, son of New Zealand's second Judge (1903–24). Mr Justice A. S. Adams (1921–33) was followed on to the Supreme Court Bench by his son, Sir Francis Adams, J. (1950–60), and Mr Justice H. B. Gresson (1857–75) is today represented in the judiciary by two of his descendants, Sir Kenneth Gresson, President of the Court of Appeal (grandson), appointed in 1947, and T. A. Gresson, J. (great-grand-nephew), appointed in 1956.

The New Zealand judiciary has increased both in numbers and in stature since the turn of the century, and it is certain that the steady expansion of the duties and responsibilities of office has contributed as much to the one development as to the other. A first phase could be taken as beginning in 1899 with the dignified figure of Sir Robert Stout. His colleagues, most of them schooled at the feet of such masters as Prendergast, Richmond, and Williams, comprised a notable company, learned, rock-like, serene. Denniston, Edwards, Cooper, F. R. Chapman, Sim, Hosking, and Salmond are the names that come most readily to mind.

Then a quarter of a century later there was the era of Sir Charles Skerrett and Sir Michael Myers. Skerrett, who laboured under the most crippling ill health survived only three years of office, but his successor served for 17 years. Both of them were stalwarts of the profession and the Bench, and surrounded by such familiar personalities as A. S. Adams, Reed, MacGregor, Ostler, Alpers, Blair, Smith, Kennedy, Johnston, Fair, C. G. H. Croft, their calibre may be measured by the way they faced up to the long-term effects of pos

unrest, economic and social unease, and continual assaults on time-honoured legal conceptions, to say nothing of a Second World War and its disruptions.

Nor was the burden of the judiciary any lighter in the Sir Humphrey O'Leary period of 1946–53. The Second World War had left its mark on the law no less than on the community. What had for years been deplored as a multiplicity of statutes gave way to the dangers of delegated legislation with all its legal complications and difficulties, but Judges like Finlay, Stanton, Cooke, Hutchison, F. B. Adams, Turner, K. M. Gresson, McGregor, and Shorland – some of them still on the Bench – were equal to the task.

And that brings the record down to the late fifties and sixties of Sir Harold Barrowclough, and a company of Judges fairly evenly compounded of experience and vigour. It is probably the youngest Bench in the history of the judiciary, and it is conceivable that this contemporary school is coping successfully with the most formidable judicial task of the century.

Last updated 22-Apr-09

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How to cite this page: 'Court of Appeal Established', from An Encyclopaedia of New Zealand, edited by A. H. McLintock, originally published in 1966.

Te Ara - the Encyclopedia of New Zealand

URL: <http://www.TeAra.govt.nz/en/1966/judiciary/page-2> (accessed 07 Sep 2017)