

Names in the News

Supreme Court of Appeal

Judge President Craig Howie

Contributed by Jannie Eksteen SC

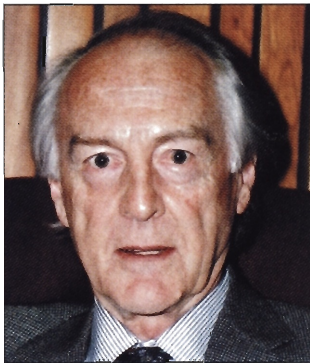


Photo: De Rebus

Craig Telfer Howie was born in Cape Town in 1938. He matriculated at Bishops in 1956 and obtained the BA LLB degree at the University of Stellenbosch in 1961. After serving as a registrar to Judge M Diemont from January to September 1962, he became a public prosecutor in Cape Town until April 1963 and thereafter was state advocate on the staff of the Attorney General, Eastern Cape Division, Grahamstown, from May 1963 to September 1964.

He joined the Eastern Cape Society of Advocates in Grahamstown in October 1964 and was appointed senior counsel in 1976. While at the Bar he served as both secretary and a member of the Bar council.

Judge Howie is recalled by his former colleagues at the Bar in Grahamstown with both respect and affection. He revealed himself to be a

counsel of exceptional ability and the successful practice he built up was the deserved result. While colleagues against whom he appeared knew that they had to do with a formidable adversary, whose brief would have been meticulously prepared, they also had the assurance that they were dealing with a gentleman of the highest of ethical standards. It is with lasting gratitude that his erstwhile colleagues speak of his readiness to assist when his guidance was sought.

While at the Bar he was well known for his ready, dry humour which is illustrated by the following example. In the Bar common room in Grahamstown one morning a member was quoting from a newspaper article about a Londoner who had built a large room in his garden out of beer cans. Judge Howie's prompt comment was "Well, an Englishman's castle is his home".

In February 1978 he was appointed acting judge in the Eastern Cape Division of the Supreme Court and judge in the same division in December of that year. In September 1985 he was appointed to the Cape Provincial Division of the Supreme Court, and in December 1991 held an acting appointment in the appellate division before being permanently appointed in that division on 16 December 1993.

Judge Howie served on governing bodies of various schools and councils, and also on Rhodes University Council. His recreations include aerobics, cricket, mountain walks and bird-watching, and he enjoys

music, wine and theatre.

Judge Howie is married to Claerwen Matthews and has two sons, Cameron and Roderick (a member of the Cape Bar).

Deputy Judge President Lex Mpati

Contributed by Izak Smuts SC



Although born in Durban, Judge Lex Mpati is a true son of the Eastern Cape. Matriculating at Mary Waters High School in Grahamstown in 1967, he worked his way through the ranks of petrol attendants and bar-men until he successfully completed his LLB degree at Rhodes University in 1984.

After completing his articles, he practised as an attorney in partnership in Grahamstown. Much of his practice as an attorney coincided with the troubled times in the Eastern Cape in the late 1980s. He was one of the few practitioners committed to the unfashionable work of representing the interests of far-flung communities throughout the Karoo, whose cases never made the headlines, but whose rights were as important as those whose cases caught the attention of the media.

His community involvement was not restricted to the law, as he was a keen rugby player and administrator, having played at centre for the South Eastern Districts Rugby Union. His arrival at distant centres like Middelburg to conduct court cases on behalf of those in conflict with the State often provided an opportunity for local rugby administrators and players to seek guidance and advice.

In 1989 he joined the Eastern Cape Bar in Grahamstown, and after a few years he moved up the road from St Georges Chambers to join the Legal Resources Centre as their in-house counsel. From here, his continued service to rural communities took him as far afield as Barkley East, where the community was in conflict with the police.

He served as co-chair of the Greater Grahamstown Local Government Negotiation Forum, leading the negotiations to establish a single non-racial local authority in the town. He was also a member of the delegation to Chile which studied the Chilean truth and reconciliation committee with a view to the establishment of the South African body in due course. His continued commitment to the beloved game of rugby saw him serving in various capacities on SARU and SARFU structures.

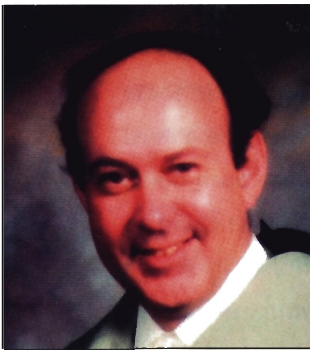
In 1996 he was awarded his letters patent, and soon thereafter was appointed an acting judge. He was permanently appointed to the Eastern Cape Bench with effect

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from 1 February 1997, and to the Supreme Court of Appeal in December 2000.

Fluent in three languages, Judge Mpati's outstanding characteristic throughout his legal career has been his compassion for the ordinary citizen, the weak and the defenceless. His elevation to the position of Deputy President of the Supreme Court of Appeal is an important symbol of hope to those whose only protection may lie in the courts of the land. His former colleagues at the Grahamstown Bar are justly proud of his achievement.

Judge Tom Cloete



Judge Tom Cloete has been appointed as a judge of the Supreme Court of Appeal from 1 January 2003.

Thomas Dante Cloete was born in Johannesburg on 15 May 1948. After attending St Andrews Preparatory School he matriculated at St Andrews College, Grahamstown, in 1965. He obtained the degrees of BA (distinction in English) (1969) Rhodes; BA (1972) Oxford; LLB (1975) Rhodes; and MA (1976) Oxford. He was admitted as an advocate by his father (then judge president of the ECD) together with his brother DJ (who later joined the Department of Foreign Affairs). JW Smalberger (now retired ADP of the SCA) moved the admission. After serving as judge's clerk to his father and Kotzé J in the 1970s he joined the Johannesburg Bar in 1975. He served as assistant general secretary of the GCB in the 1970s. He took

silk in 1989, and was appointed to the Transvaal Bench in 1991. He later became senior commercial court judge of the WLD.

Judge Cloete's hobbies are photography and small bore shooting. He captained Rhodes and Oxford, and obtained colours from Rhodes and half blue from Oxford. He also got colours from the Eastern Province.

He is married to Janet Ritchie; they have two children.

Judge Carole Lewis

Carole Hélène Lewis has been appointed as a judge of the Supreme Court of Appeal from 1 January 2003. Her curriculum vitae was published in 2000 *First Term Advocate* 17 at the time when she was appointed as a judge of the Transvaal high court.

Constitutional Court

Judge Dikgang Moseneke

Contributed by Bill Prinsloo SC, Pretoria



Dikgang Moseneke was born in Pretoria in 1947. Both his parents were teachers. He attended Banareng Higher Primary School, Atteridgeville, Pretoria, and matriculated at Kilnerton High School, Pretoria. He obtained the degrees of BA (1969) (majoring in English and Political Science) BJuris (1973) and LLB (1977) at Unisa. In 1992 he was also

awarded an honorary LLD degree.

He began his professional career as an articled clerk with the Pretoria firms Dyason and Klagsbruns, was admitted as an attorney in 1978, and practised in Pretoria until his admission as an advocate in July 1983. He then joined the Johannesburg Bar before moving to the Pretoria Bar in 1984.

Justice Moseneke is a founder member of the Black Lawyers Association (BLA) and was the first national treasurer of the National Association of Democratic Lawyers (NADEL). He served as a trustee of various projects such as Project Literacy to promote adult literacy, the Project for Primary and Pre-primary Schools, the Africa Cultural Trust and the Sowetan Nation Building project. He was a director of Get Ahead Foundation and a council member of the Medical University of South Africa (Medunsa). He has, over the years, served as a member, trustee and executive member of a wide variety of community-based organisations.

He has travelled to numerous countries, and delivered papers at law conferences and law seminars. In 1989 he received the KWV award of excellence.

He was active politically at one stage of his life. He joined the African Students Union of South Africa (then a PAC student wing) at the age of 14 in 1962, and the PAC in 1962. From 1963 to 1973 he served political imprisonment on Robben Island. He was also served with banning orders between 1973 and 1978, and found himself under house arrest. In December 1989 he was instrumental in the formation of the Pan-Africanist Movement, and in December 1990 he was elected deputy president of the PAC. In October 1991 he was convener and chairperson of the PAC/ANC Patriotic Conference in Durban, and in July 1992 he

was head of the PAC negotiating committee. Some months later he resigned from the PAC and also withdrew from active politics.

It was my privilege to watch Dikgang Moseneke grow as a member of the Pretoria Bar, both as a staunch member of the Bar and a practitioner. He was the first Black member of the Pretoria Bar when he joined the society in 1984. When he took silk he became one of only a handful of Black silks in the country. From the outset he was popular amongst his colleagues, and the fact that he was elected to the Bar council as early as 1990, bears testimony to this.

It came as no surprise when he took silk in 1993 – something which was totally justified, considering the size and the nature of his practice, and his standing in the community and the profession.

He left the profession for a number of years (1996-2001) to make his mark in commercial circles and in the world of parastatals. No doubt, he made a major contribution to the transformation process and, amongst other achievements, he became a highly successful chairman of Telkom.

It can be safely assumed, though, that a yearning for the legal profession was always present and, not surprisingly to most observers, he was elevated to the Transvaal Bench in 2001, on which he served until his recent appointment to the Constitutional Court. The demands of this high office are enormous but, with his talent and all round ability, there is no doubt that he is eminently suited to the task.

His interests include tennis, golf, chess and travelling. He is married to Kabonina Naomi Mashianoke; they have three children.

We congratulate Justice Moseneke on yet another great achievement in his illustrious career and wish him and his family everything of the best.

Chairperson of the Electoral Court

Judge Kenneth Mthiyane



Judge Khayelihle Kenneth Mthiyane has been appointed as chairperson of the Electoral Court from 1 January 2003. His curriculum vitae was published in 1996 May *Consultus* 27 at the time when he took silk, and later again in 2001 August *Advocate* 14 at the time of his appointment as a judge of the Supreme Court of Appeal.

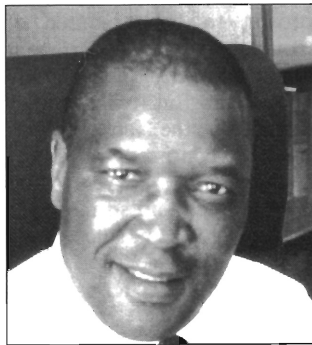
Cape high court

Judge Burton Fourie



Petrus Burton Fourie has been appointed as a judge of the Cape high court from 1 January 2003. His curriculum vitae was published in 2001 April *Advocate* 19 at the time when he took silk.

Judge James Yekiso



Ntlupheko James Yekiso has been appointed as a judge of the Cape high court from 1 January 2003.

Ntlupheko James Yekiso was born in Rouxville, Free State. He attended the Alfred Stamper Higher Primary School in Worcester and matriculated at Healdt Town High School in 1969. He obtained the degrees of BProc (1978) Unisa, and LLM (2000) Western Cape. He was admitted as an attorney in 1979 and practised as such until his appointment to the Bench. Judge Yekiso served as vice-president of the Law Society of the Cape of Good Hope in 2002.

He is interested in sport (soccer, cricket and rugby).

He is married to Nomvuyo Margaret Diamond; they have two children.

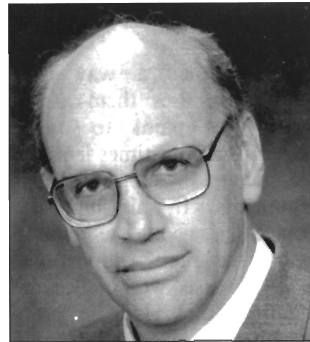
Judge Yasmin Meer

Land Claims Court Judge Yasmin Shennaz Meer has been appointed as a judge of the Cape Provincial Division from 1 January 2003. Her curriculum vitae was published in 1996 November *Consultus* 99 at the time when she was appointed as a judge of the Land Claims Court.

Transvaalse hooggeregshof

Regter Antonie Gildenhuis

Grondeiseregter Antonie Gildenhuis is aangestel as 'n regter van die Transvaalse



hooggeregshof vanaf 1 Januarie 2003. 'n Curriculum vitae van regter Gildenhuis het in 1997 Mei *Consultus* 23 verskyn toe hy aangestel is as 'n regter van die Grondeiseshof.

Judge Fikile Bam



Fikile Charles Bam, president of the Land Claims Court, has been appointed as a judge of the Transvaal high court. His curriculum vitae was published in 1996 November *Consultus* 99 at the time when he was appointed as president of the Land Claims Court.

Judge Justice Moloto

Justice Moloto, a judge of the Land Claims Court, has been appointed as a judge of the Transvaal high court. His curriculum vitae was published in 1996 November *Consultus* 99 at the time when he was appointed as a judge of the Land Claims Court.

Mahomed Jajbhay has also been appointed as a judge of the Transvaal high court, but no curriculum vitae has been received from him at the time of going to press.

Bophuthatswana high court

Judge President Reetsang Mogoeng



Mogoeng Reetsang Mogoeng has been appointed as judge president of the Bophuthatswana high court from 1 January 2003. His curriculum vitae was published in 1997 November *Consultus* 97 at the time when he was appointed as a judge of the Bophuthatswana high court.

Free State high court

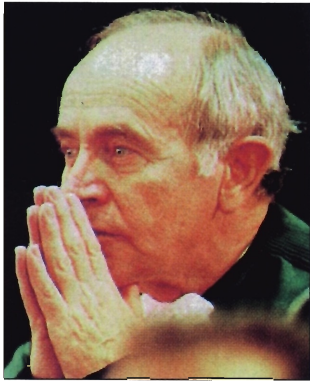
Sharmin Ebrahim has been appointed as a judge of the Free State high court from 1 January 2003. No curriculum vitae has been received from Judge Ebrahim at the time of going to press.

Constitutional Court

Retirement of Justice Johann Kriegler

Justice Johann Kriegler celebrated both his 70th birthday and retirement from the Constitutional Court on 29 November 2002. On the preceding day a brief ceremony, attended by members of the judiciary, the Bar and the attorneys' profession, was held in the Constitutional Court. Chief Justice Arthur Chaskalson

paid a tribute on behalf of the court and the judiciary. He said, *inter alia*:



Justice JC Kriegler

“His career first at the Bar and then on the Bench has been one of great distinction. A leading advocate, chairman of the Johannesburg Bar Council, a judge of the Transvaal Provincial Division, a judge of the Appellate Division, and finally a judge of this court. As if that were not enough he also chaired the Independent Electoral Commission which supervised our first democratic elections, was a founding and active trustee of the Legal Resources Trust, a founder and active participant in the affairs of Lawyers for Human Rights, is the author of a leading text book on criminal law, and has taken an active role in the training of advocates, magistrates and judges. In between [he] went on missions for the International Commission of Jurists, supervised the first elections held in East Timor, and participated

actively in various organs of civil society.

Johann has a way with words. He uses them as an artist uses paint to create powerful and at times irresistible images in support of his arguments. In his hands a hopeless case could be made to assume reasonable proportions; a good case would become unanswerable. Had he practised in the days of jury trials he might never have lost a case.

From his earliest days at the Bar he made it clear where he stood in relation to our unjust society. He is not one to hide his views. He spoke his mind and he spoke clearly. He was willing to describe as evil that which in fact was evil. He would not tolerate dishonesty in any form. He believed in the cab rank rule and unlike many of his colleagues he never turned down unpopular cases if he was free to handle them. He asserted his independence and the independence of the Bar as an institution. He supported colleagues who were under pressure from the security establishment. And as he grew in the profession so did his influence. He became a leader of the Bar in every sense of the word. And the Bar benefited greatly from his leadership.

When the Legal Resources Centre was established he became one of the founding trustees. When he was later appointed to the Bench he continued to be a trustee, attending its meetings and encouraging the young people who worked there and even

some of the older ones. The Legal Resources Centre proved to be a source of trouble to the government and it wanted to do something about that. But it was embarrassed by the fact that its trustees consisted of many distinguished lawyers and even judges. And so messages went out to them, some subtle and some not so subtle. The message to Justice Kriegler was far from subtle. It was direct, from a person of great authority, and it was made clear what was expected of him. His response was equally direct. You can do your damndest but I will not resign. And he did not. Fortunately most of the other trustees took a similar view and the LRC lived on.

I have mentioned his role as chairperson the commission that supervised our first democratic elections. I believe that he has never been given the credit to which he was entitled for the extraordinary service to the nation that he performed on that occasion. To establish an electoral infrastructure in a period of a little more than three months was an impossible task. To keep the elections on track in those circumstances, with largely inexperienced personnel, and in conditions in which political tensions were running high and threatening to explode was a task of immense difficulty. The leadership he showed then, the courage and the skill with which he responded to the difficulties that confronted

him, and the decisive way in which he dealt with them, resulted in the elections being held and the result being acclaimed.

His last eight years on the Bench as a member of this court have been the pinnacle of an illustrious career. He has been a wonderful colleague, bringing to the work of the court his years of experience, his acute mind, his writing skills which he shared with us all, and meticulous attention not only to the judgements he wrote, but also to the judgements of his colleagues. His sharp – and at times some would say explosive – comments ensured that counsel did not stray from their task. Throughout these eight years he has thrown himself into the work of the court, taking on numerous responsibilities within its structures, and without reservation has committed himself to the new constitutional order and the transformation that it demands.

Fortunately his legal skills will not be lost. He has agreed to make himself available to assist in the training of judicial officers and to perform other necessary work in the justice system.

When we broached with Justice Kriegler our intention to record publicly our appreciation of his contribution to law and our evolving constitutional jurisprudence, he evinced both displeasure and discomfort; but ultimately relented saying, not more than five or six words then. And I agreed: so, thank you very much, Johann.”

Hoogste Hof van Appèl

Uittrede van regter JF Hefer, WnP HHA

Bygedra deur Germa Wright

Josephus Johannes Francois Hefer is op 21 Desember 1931 op Brandfort gebore en matriculeer in 1949 in Bloemfontein. Aan die Universiteit van die Oranje-Vrystaat behaal hy die grade BA (1953) en LLB (1955). Hy het ook ’n LLM graad aan Unisa in 1995 behaal.

Hy praktiseer as prokureur vanaf 1955 tot 1957 en tree in 1957 toe tot die Vrystaatse Balie, waar hy praktiseer tot 1975. Hy word senior advokaat in 1972 en gedurende dieselfde jaar neem hy vir die eerste keer waar as regter in Bloemfontein. Nadat hy ook in Kimberley, Windhoek en Durban waargeneem het, word hy op 1 Februarie 1976 as regter in die Natalse hooggeregshof aangestel.

In Augustus 1981 word regter Hefer aangestel as hoofregter van Transkei. Twee jaar later word hy aangestel as waarnemende appèlregter in Bloemfontein. Gedurende 2001 het hy waargeneem as hoofregter totdat hy in Desember 2001 van aktiewe diens onthef is. Op

versoek van die Minister van Justisie is regter Hefer eger aangestel as waarnemende president van die Hoogste Hof van Appèl vanaf Januarie 2002 tot 31 Desember 2002.

Appèlregter Hefer het ’n sterk verbintenis met die Universiteit van die Vrystaat. Hy

was vanaf 1957 tot 1965 senior lektor in Prosesreg en het steeds noue bande met die Kowsie Alumnivereniging. ’n Eredoktorsgraad in die Regte is onlangs deur sy alma mater aan hom toegeken.

Vgl ook *Balienuus Vrystaat op bl 15 van hierdie uitgawe.*



Regter Joos Hefer en sy seun Seef