

APPELLATE DIVISION  
OF THE SUPREME COURT  
OF THE STATE OF NEW YORK,  
FIRST JUDICIAL DEPARTMENT

— — — — —  
1896 - 1996



# PREFACE

A century ago, this state's growing need for a more efficient and modern justice system resulted in the creation of the Appellate Division of the New York State Supreme Court.

The First Judicial Department of the Appellate Division has for one hundred years served the communities of Manhattan and the Bronx. Now we commemorate the Centennial Anniversary of the Court's founding in 1896.

From its beginnings the Court has been closely intertwined with the life of New York City, a city unique in America for its leadership in the fields of art and industry, in financial and intellectual life.

Although individual styles and ideas have changed dramatically over the past hundred years, the rule of law remains a constant. As it has helped us to find our way through the complexities of the 20th century, so it will guide New Yorkers through the future.

Over the last one hundred years, millions of people have seen New York as their first glimpse of America. Here millions of others have come from across the nation to test themselves and their talents, to measure themselves against the city's standards of excellence. New York has always been different. Everything in America that was new in technology or science, in art and literature, was first new in New York. Today, 7 million people live in the city; another million commute here to work every day.



This Court, this bench, this building, has stood for one hundred years. For one hundred years, justice has been done here insofar as imperfect men and women of great will can attempt it.



Many praise this Court's design, its stone and marble and wood. Others note its life in wars, economic suffering, prosperity, and profound social change. Still others point to the increase in the volume, variety, and complexity of its work, all beyond the vision of those who created it.



Yet, this Court cannot be said to be young or old, for the righteousness at its center is unbound by time. Tomorrow, at first light, that righteousness will burn as fiercely as it did before chronicles were kept; and at evening, however much its work may vary, the sole question to be answered will be whether it has been a Court of conscience.

Presiding Justice Francis T. Murphy





## JUSTICES OF THE APPELLATE DIVISION, FIRST JUDICIAL DEPARTMENT

George C. Barrett	1896-1900		Earle D. Bastow	1953-1971	
Charles H. Van Brunt	1896-1905,	P.J. 1896-1905	Bernard Botein	1953-1968,	P.J. 1958-1968
William Rumsey	1896-1901		Benjamin Rabin	1953-1968	
Pardon C. Williams	1896-1897		Joseph A. Cox	1955-1956	
Morgan O'Brien	1896-1906,	P.J. 1905-1906	Martin M. Frank	1956-1960	
Edward Patterson	1886-1910,	P.J. 1906-1910	Francis L. Valente	1956-1966	
George L. Ingraham	1896-1915,	P.J. 1910-1915	James B.M. McNally	1957-1972	
Alton B. Parker	1847		Harold A. Stevens	1958-1977,	P.J. 1969-74, 75-77
Chester B. McLaughlin	1898-1917		Robert E. Noonan	1950-1964	
Edward W. Hatch	1900-1905		Samuel W. Bager	1960-1972	
Frank McLaughlin	1901-1922		Aron Steuer	1961-1974	
James W. Houghton	1905-1910		G. Robert Witmer	1963-1971	
John P. Clark	1905-1926,	P.J. 1916-1926	Ellis J. Staley, Jr.	1964-1968	
John S. Lambert	1906-1908		Louis J. Capozzoli	1966-1977	
Francis M. Scott	1906-1908		George Tilzer	1967-1975	
Nathan Miller	1910-1913		Owen McGivern	1967-1975,	P.J. 1974-1975
Victor J. Dowling	1919-1931,	P.J. 1927-1931	Daniel E. Macken	1968-1974	
Henry D. Hotchkiss	1913-1915		Arthur Markewich	1969-1982	
Walter L. Smith	1915-1924		Emilio Nunez	1969-1977	
Alfred R. Page	1915-1923		Francis T. Murphy	1971 -	P.J. 1977-
Vernon M. Davis	1916-1918		Theodore R. Kupferman	1970 -	
Clarence J. Shearn	1917-1914		Myles J. Lane	1973-1979	
Edgar S.K. Merrell	1918-1935		Vincent A. Lupiano	1974-1982	
Eugene A. Philbin	1919-1920		J. Robert Lynch	1974-1986	
Samuel Greenbaum	1920-1922		Paul J. Yesawich, Jr.	1975-1981	
Edward R. Finch	1922-1935,	P.J. 1931-1935	Harold Birns	1975-1982	
John V. McAvoy	1923-1927		Samuel J. Silverman	1975-1984	
Francis Martin	1923-1927,	P.J. 1935-1947	Herbert B. Evans	1977-1979	
William P. Burr	1924-1926		Arnold L. Fein	1977-1986	
Robert F. Wagner	1926		Leonard H. Sandler	1977-1988	
James O'Malley	1927-1942		Joseph P. Sullivan	1978 -	
Joseph M. Proskauer	1927-1930		Max Bloom	1979-1985	
Henry L. Sherman	1930-1933		David Ross	1979 -	
Alfred M. Townley	1931-1946		John Carro	1979-1994	
Edward J. Glennon	1933-1954		Sidney H. Asch	1982 -	
Irwin Untermeyer	1933-1945		E. Leo Milonas	1982 -	
Edwin S. Dore	1936-1954		Bentley Kassal	1982-1993	
Albert Cohn	1936-1955		Fritz W. Alexander II	1982-1985	
Joseph M. Callahan	1937-1955		Ernst H. Rosenberger	1985 -	
David W. Peck	1945-1957,	P.J. 1947-1957	Betty Weinberg Eberin	1985 -	
Isidore Wasservogel	1945		Richard W. Wallach	1986 -	
John Van Voorhis	1945-1953		George Bundy Smith	1987-1992	
Bernard L. Sheintag	1947-1952		Israel Rubin	1989 -	
Francis McCurn	1951		Eugene L. Nardelli	1993 -	
Christopher Heffernan	1951-1952		Milton L. Williams	1994 -	
Charles D. Breitel	1952-1966		Peter Tom	1994 -	
Francis Bergan	1952-1965		Angela M. Mazzarelli	1994 -	
Sidney Foster	1952-1953				

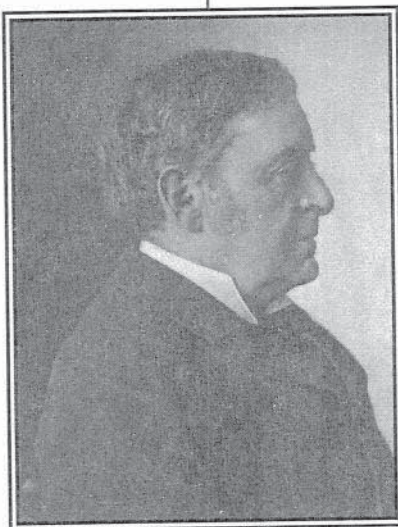
## CLERKS OF THE COURT

Alfred B. Wagstaff	1896-1921	Hyman W. Gamso	1965-1976	Francis X. Galdi	1989-1994
George T. Campbell	1921-1957	Joseph J. Lucchi	1977-1984	Catherine O'Hagan Wolfe	1994 -
Vincent A. Massi	1957-1965	Harold J. Reynolds	1985-1989		



The caseload of the Appellate Division, First Department, has reflected the rich and complex texture of life in New York City.

In 1946, Chief Justice Stone of the U.S. Supreme Court, said of the Appellate Division, First Department, that it "in fact transacted more judicial business... than any other court in the world." Now, fifty years later, the Court is still the pre-eminent state appellate court in the nation.



*Joseph H. Choate*

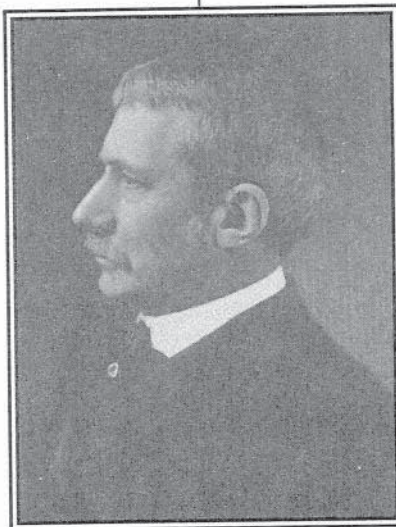
AN OVERWHELMING PUBLIC DEMAND FOR REFORM LED TO THE 1894 CONSTITUTIONAL CONVENTION. IT WAS OUT OF THAT CONVENTION THAT THE APPELLATE DIVISION OF THE SUPREME COURT OF NEW YORK WAS BORN.

The Constitutional Convention convened on May 15, 1894, electing Joseph H. Choate as President. Elihu Root, a prominent New York City attorney, was appointed to lead the judiciary committee that was to make recommendations for amending Article VI of the New

York State Constitution, which governed the judiciary.

The first court system in New York was established by Peter Stuyvesant when the city, then known as New Amsterdam, was still a Dutch colony. When in the seventeenth century New Amsterdam was surrendered to the British and became New York, the courts began to follow the English common law model. However, by the late nineteenth century, the existing court system had become inefficient, wasteful and inadequate to the needs of the day.

When the Constitutional Convention began to prepare its changes to the State Constitution, Root, although a powerful and influential Republican, worked closely with Louis Marshall, a Democrat from Onondaga County, to develop the proposed revisions.



*Elihu Root*

In his opening address to the Convention, Root

noted the two evils that needed remedy



were the great delays in bringing cases to trial and in securing the final disposition of cases on appeal. Many of the difficulties that plagued the judiciary system resulted from the confusing patchwork of courts in existence at the time.

The two concerns of the judiciary committee were interrelated: there had to be a more efficient use of judicial resources; and there had to be greater public confidence in the judiciary system itself.

The two issues seemed to go together. The Court of Appeals had found its caseload increasing because parties had no respect for the decisions of the lower courts. The Legislature had created so many grounds for appeal to the Court of Appeals that virtually every decision of a lower court was appealed. Many of the lower court decisions were appealed to what was the precursor of the Appellate Division, the General Term of the Supreme Court. However, the same judges who sat in the trial courts also served in the General Term; this led, in smaller judicial districts, to the situation where a judge might well be one of three appellate judges hearing an appeal of his own decision as a trial judge.

To eliminate the deficiencies of the existing system, the judiciary committee put forth recommendations that included the consolidation of Superior City Courts with the Supreme Court, the creation of an effective intermediate appellate court with broader jurisdiction and powers, and the limiting

of the powers of the Court of Appeals to declaring and settling questions of law only. In order to lessen the pressure on the calendar of the Court of Appeals, a newly-created Appellate Division was to have the final say on questions of fact and on all interlocutory proceedings. Thus, the General Terms of the Supreme Court were abolished, as were the Courts of Oyer and Terminer, and the Circuit Courts. All these were subsumed under the jurisdiction of the Supreme Court.

THE APPELLATE DIVISION  
WAS CREATED DURING THIS  
REORGANIZATION.

Transcripts of the debate at the convention indicate that the judiciary committee from the outset considered the Appellate Division to be one level of the Supreme Court, divided into four departments. Its jurisdiction, just as that of the Supreme Court, was understood by the delegates to be statewide; it was divided into departments for the sake of judicial efficiency. The Justices of the Appellate Division were to be elected in the same manner as other Supreme Court Justices, for the same Supreme Court terms of fourteen years, and then were to be appointed by the Governor to sit in the Appellate Division. The Constitutional Convention authorized five Justices for the First Department, a number constitutionally increased to seven in 1925. This number has been augmented by gubernatorial appointments, on certification of need by the Court's Presiding Justice. Currently, thirteen Justices sit in the First Department.

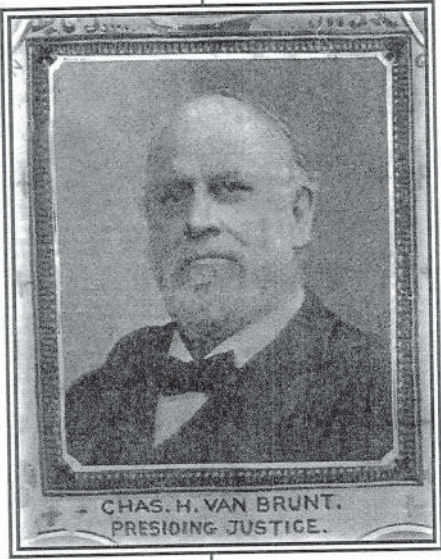




Because of the difficulties inherent in reorganizing the Court system, the judiciary article provided that the change in the system would become effective January 1, 1896.

On January 6, 1896, at one o'clock in the afternoon, the first session of the Appellate Division of the Supreme Court, First Department, took place at 111 Fifth Avenue in New York City.

The Justices seated at that first session were Presiding Justice Charles H. Van Brunt, and Justices George C. Barrett, Morgan J. O'Brien, Edward Patterson and P.C. Williams. They faced a dignified and notable body of spectators, including Joseph Choate and Elihu Root, whose political skills and organizational abilities had shepherded the revisions to Article VI through the Convention. Root, in addressing the new tribunal, expressed his belief that "the Court would be second to none in power, honor and dignity."



IN JUNE, 1896, THE JUSTICES OF THE FIRST DEPARTMENT APPROVED PLANS FOR THE CONSTRUCTION OF A COURTHOUSE SUITABLE FOR THE SORT OF COURT THAT ELIHU ROOT HAD ENVISIONED.

The architect commissioned to prepare plans for the new courthouse was James Brown Lord, who was given complete control of the artists and their



James Brown Lord

work. Lord turned to the high classical tradition's use of columned porches and statues,

drawing on the style and tradition of Andrea Palladio, the famous architect of Vicenza. To fund this courthouse, the City of New York budgeted \$700,000, a large sum for such a building in those days. The courthouse in fact cost only \$633,768, and was completed in time for its scheduled opening in 1900.

On January 2, 1900, the Court took formal possession of its new courthouse at 27 Madison Avenue.

The Appellate Division, First Department, has remained at this 25th Street location since that time.



## THE APPELLATE DIVISION.

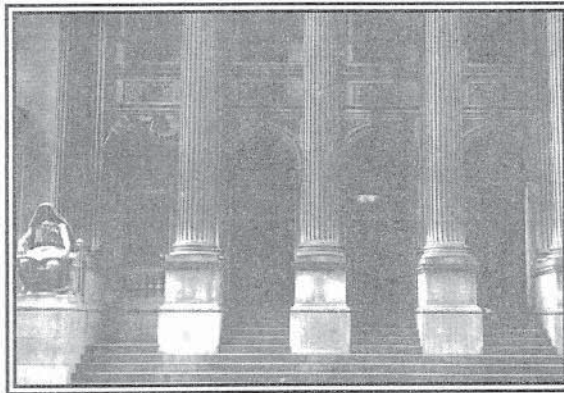
The first session of the Appellate Division of the Supreme Court took place yesterday at the Court room, No. 111 Fifth avenue. There was a large attendance of members of the Bar. Promptly at one o'clock Presiding Justice Van Brunt and Justices Barrett, Patterson, O'Brien and Williams took their seats upon the bench. They were attired in black silk gowns.

Joseph H. Choate, addressing the Court, said in substance: "You will perhaps allow a few moments for the Bar to express congratulation and greetings on the opening of this new and important tribunal. To many of us it is an important event in the judicial history of the county, and we are glad of an opportunity to express the good will which has always existed between the Bench and Bar of this City. It has been suggested that I, as the president of the Constitutional Convention responsible for the new departure, give some of the reasons which led to the establishment of this tribunal; but it is proper that I leave that to my brother, Root, to whose industry so many of the results of that convention are due." In conclusion Mr. Choate said: "The profession welcomes the advent of this Court and wishes it all the strength, all the success, all the prosperity in the discharge of its duties, which shall win for it the gratitude of the Bar."

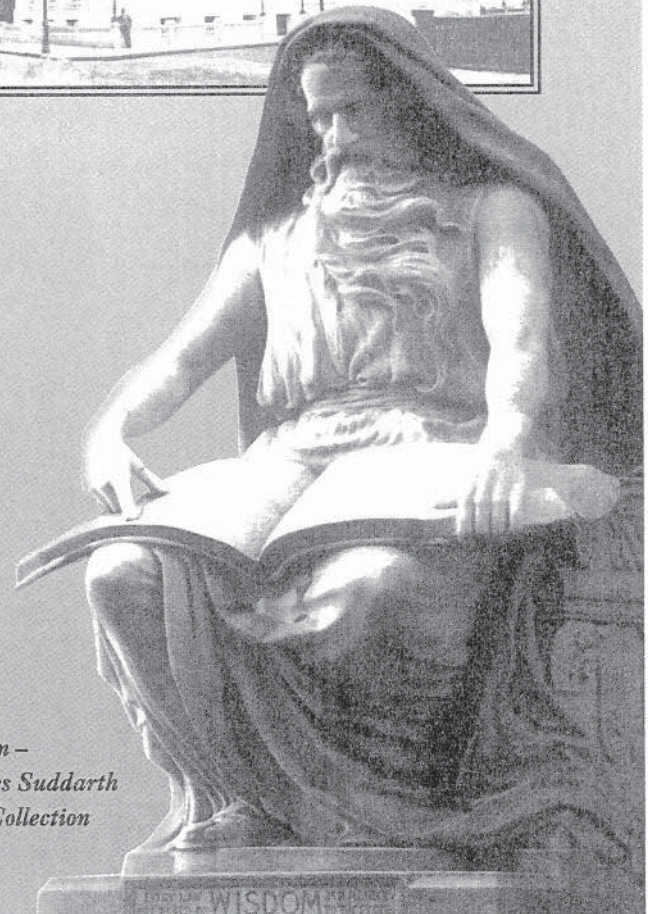
Wm. Allen Butler spoke of the interest with which the Bar would look to the opinions of the Court, and expressed the hope that the weight of its judicial utterances would lessen the volume of appeals to the Court of last resort.

Elihu Root referred to the vast power conferred by the new Constitution on the new Court, whereby suitors are required to be content with the Court's judgment as final upon all questions of fact and in the great domain of interlocutory decrees and orders, and expressed the belief that the new tribunal would be second to none in power, honor and dignity.

Presiding Justice Van Brunt responded as follows: "It is very gratifying to this Court that so distinguished an assemblage of the Bar should be present to greet the commencement of its career. We are pleased that these gentlemen who have addressed us should have thought the occasion of sufficient importance to be with us and to us to say godspeed. This Court has no past to look back upon. It has a future before it which, as it becomes us, we hope to so improve that when it shall have become the past, it shall not be said that we have been working here in vain. By strict attention to our duties and diligence in the performance of our work, we hope to be able to do all the business of this Appellate Division in a manner which will commend itself to the Bar and to the people. Trusting and hoping that in this work we shall have the support of the Bar, we enter upon it with pleasure and confident of success. We thank you, gentlemen, for this manifestation of good will, and we beg to assure you that we will earnestly strive to deserve its continuance."



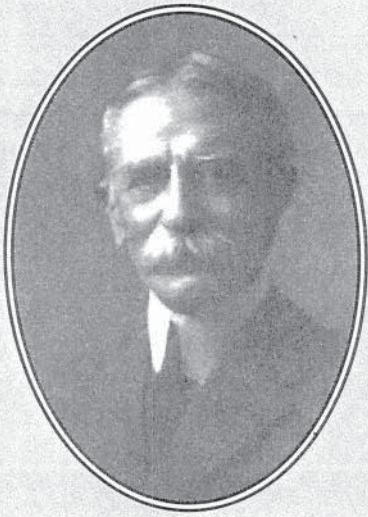
*Architect James Brown Lord's use of columned porches and statues drew on the high classical style and tradition of famed architect Andrea Palladio.*



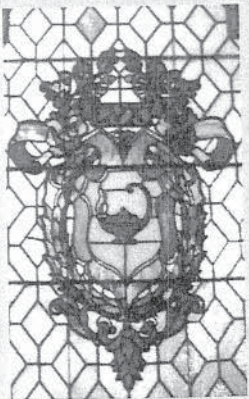
*Wisdom—  
Charles Suddarth  
Kelly Collection*

*An article from the New York Law Journal announces the first session of the Appellate Division of the Supreme Court, First Department on January 1, 1896.*





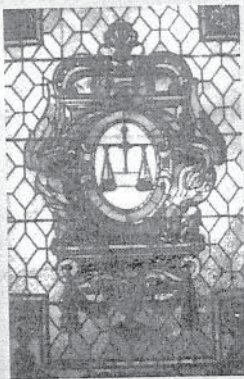
MAITLAND  
ARMSTRONG:  
STAINED GLASS  
OF THE  
APPELLATE COURT



*Lamp of Knowledge*

The stained glass of the Appellate Court building is one of its most impressive features. The building contains 27 leaded glass windows, 13 of which could be considered artistic windows with the remainder more simple geometric designs. The courtroom contains the impressive ceiling dome and 3 windows on both the north and south walls. The dome is composed of 16 radiating panels.

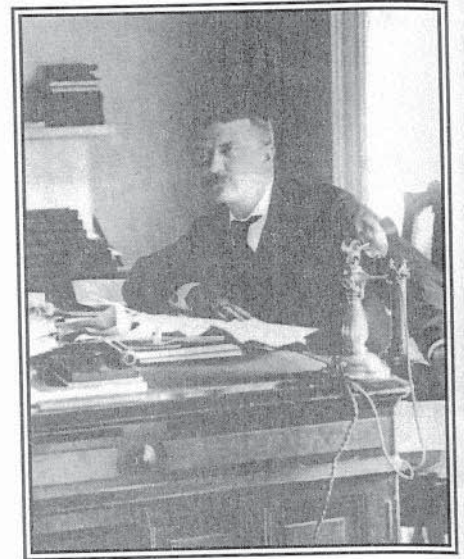
The side windows each have a transom making a total of 12 panels in the walls. There are also additional windows on the second and third floors and in the back stairwell.



*Scales of Justice*

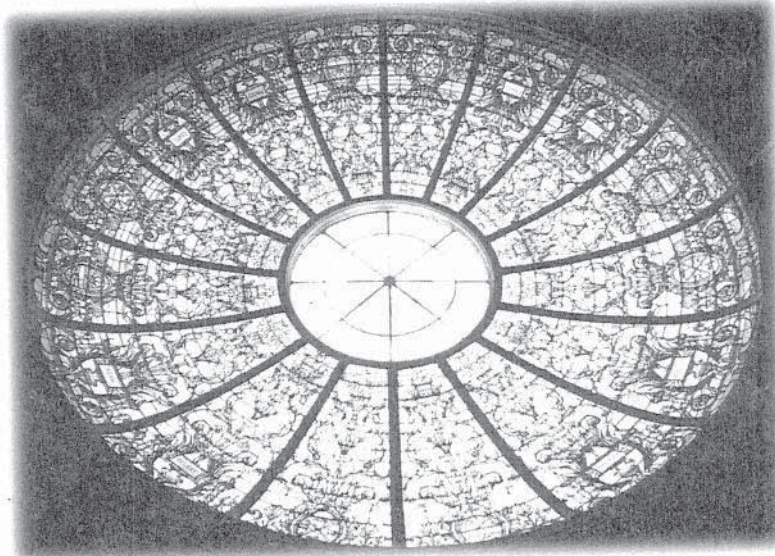
The new Bench early on struggled to establish rules of law that would provide guidance as to the Court's power to review lower court cases. That power proved very broad, and eventually, in 1945, the Court was fully endowed with the power to make new findings of fact as well as of law.

Certain early appeals to reach the Court were the product of the same fervor for reform that led to the Court's creation. These were cases by those former city police officers whom the new "firebrand" Police Commissioner, Theodore Roosevelt, had dismissed from the force for corruption or incompetence. Roosevelt, the youngest Police Commissioner in New York's history, succeeded in creating new standards and a new discipline in the police force.



*Police Commissioner Theodore Roosevelt*

Over the coming decades, reformers would come to challenge the very heart of the power structure that governed New York. Meanwhile, they would sigh with relief when the notoriously corrupt attorney, Abraham Hummell, was disbarred by the Appellate Division. For decades Hummell and his partner, William Howe, had corrupted witnesses and jurors alike to obtain an impressive and highly suspect acquittal rate in criminal cases. Hummell subsequently left the country.



*The Appellate Court Dome, created by Maitland Armstrong, is rich in symbolism*



The coming century seemed to hold great promise for the Court and for New York.

Young Americans were coming from rural areas to find better-paying work in the City, and making their homes in buildings newly divided into separate apartments. At the same time, a great immigrant wave from Southern and Eastern Europe multiplied the City's population. In 1900 that population was 3.4 million; thirty years later it had increased to over 7 million. This growth necessitated an expansion of the City's superstructure and public transportation.

IN 1902, THE FLATIRON BUILDING WAS BUILT ON BROADWAY AND FIFTH AVENUE, OPPOSITE THE APPELLATE DIVISION COURTHOUSE.

At 21 stories, it became the symbol of the New York skyline. The growth of the City resonated in several cases heard in the courtroom at 27 Madison Avenue. A 1909 plan to upgrade the City's water supply resulted in litigation, as did a 1920 dispute over the contract to build the East River Bridge. The Court heard and decided cases concerning the growth of railroads, the subway system, the building of the 42nd Street library, and the regulation of motorized taxi fares. In a 1900 case, the Appellate Division had permitted the Soldiers' and Sailors' Memorial to be placed in Riverside Park.



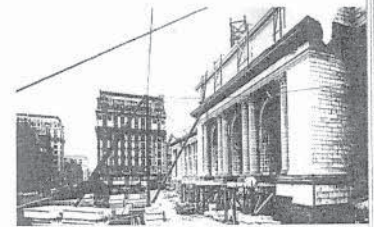
Edward Patterson,  
Presiding Justice 1906-1910

One result of the growing population of industrial workers was the growth of the New York labor union movement. The International Ladies Garment Workers Union, founded in

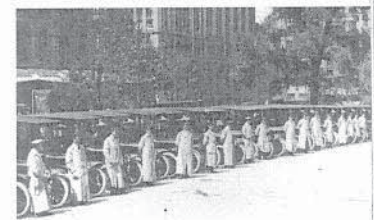
1900, had been unable to prevent widespread sweatshop conditions of the sort that resulted in the tragic Triangle Shirtwaist Factory fire in 1911. But in 1914, the Appellate Division upheld that portion of the New York State Labor Law that forbade factory work done by women after 10 P.M. or before 6 A.M. Union activity by the ILGWU and others was carefully monitored by the Court.



Subway system, circa 1920



Building of Public Library  
1906



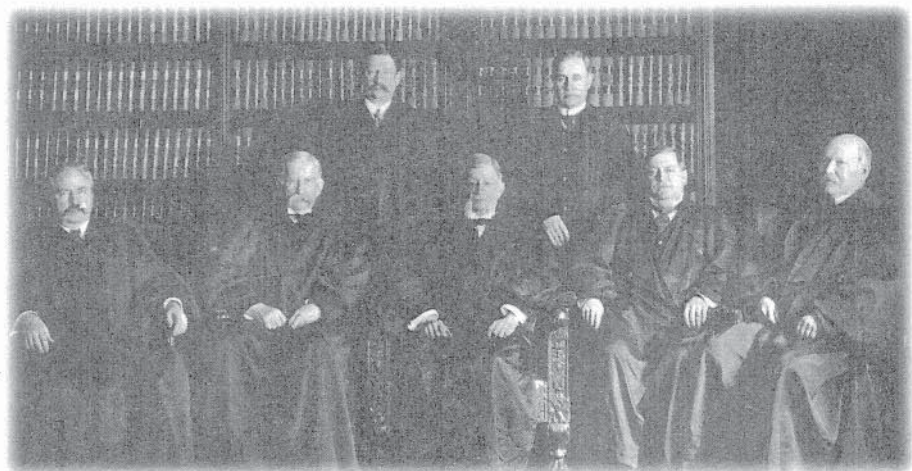
New York City's new fleet of  
taxi cabs, circa 1920

The Bettmann Archive



The Flatiron Building

The Bettmann Archive



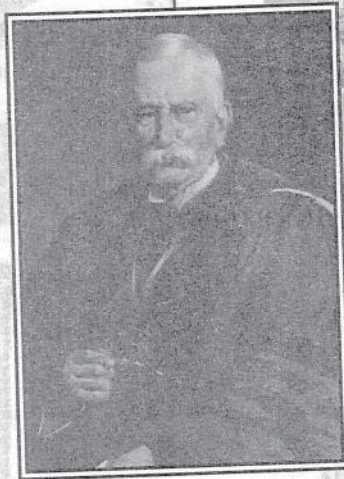
Appellate Division, First Department, circa 1908— Seated left to right: Associate Justices Frank C. Laughlin, George L. Ingraham, Presiding Justice Edward Patterson, Associate Justices Chester B. McLaughlin, John Proctor Clarke. Standing: Associate Justices James W. Houghton, Francis M. Scott.



# The early 1920's saw the Court dealing with the aftermath of World War I.

Those post-war years led to dramatic changes in all aspects of American life, but presented new uncertainties for those having business with European concerns. One leading case involved a suit by a French company against a transatlantic cargo shipper who had refused to fulfill a contract during wartime because of the hazardous conditions at sea created by the hostile German navy. The Appellate Division held that the shipping company had the right to discontinue activities in view of the wartime peril.

In another case concerning the validity of a pre-war sale of German war bonds, the Court held that the sale was not voided, only suspended, during the war. And in a case brought by the Russian Socialist Federated Soviet Republic in 1921, the Court ruled that the plaintiff Republic had no right to sue because it was not recognized in this country as a sovereign state.



*George L. Ingraham,  
Presiding Justice 1910-1915*



*John Proctor Clarke,  
Presiding Justice 1916-1926*

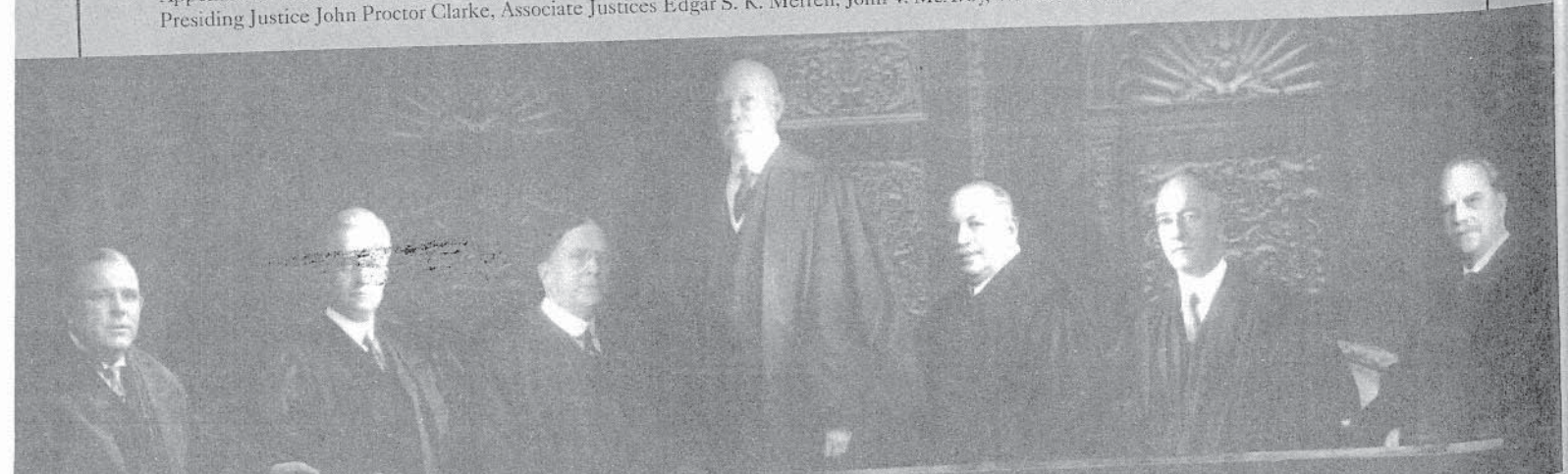


*Lafayette Theatre, New York City*

The Bettmann Archive

The 1920's were a vibrant period in the cultural life of New York City, and the times are reflected in the cases of the Appellate Division. By that time, in the entertainment world, vaudeville had begun its decline, though sundry cases involving everything from contract disputes to lost costume trunks passed through the Court. The Jazz Age was well under way, and "Tin Pan Alley," as 28th Street came to be called, resonated with new and exciting music just blocks from where the Appellate Division Justices heard learned argument.

Appellate Division, First Department, circa 1925 – Left to right: Associate Justices Francis Martin, Edward R. Finch, Victor J. Dowling, Presiding Justice John Proctor Clarke, Associate Justices Edgar S. K. Merrell, John V. McAvoy, William P. Burr.





Early in the century, the City had established itself as a center for the new film-making industry; the "Keystone Kops" and other favorites were a product of New York studios. In the 1920's, film-makers were still active in the City, and film stars such as Mary Pickford and Douglas Fairbanks saw their business disputes resolved in the Appellate Division.

The world of legitimate theater was also beginning to thrive. In 1915, the Appellate Division affirmed a decision which allowed the Schubert theaters to bar drama critic Alexander Woolcott from all their theaters. The Schuberts were angered because Woolcott, known for his biting wit, had written a series of extremely critical reviews for *The New York Times*.

By the 1920's, the "Blue Laws" that mandated the Sunday closing of theaters were gone, and the Appellate Division had put an end to the informal censorship powers of the City's Commissioner of Licenses, who had in the past revoked the licenses of plays he considered "offensive." The decade saw New York nightlife at its height, despite the Prohibition laws that resulted in the appearance of hundreds of so-called "speakeasies," illegal bars that sold bootlegged liquor. Meanwhile, the courts were left to deal with the fate of business contracts drawn up in good faith before the sale of liquor was made illegal.



Supreme Court Staff, circa 1923

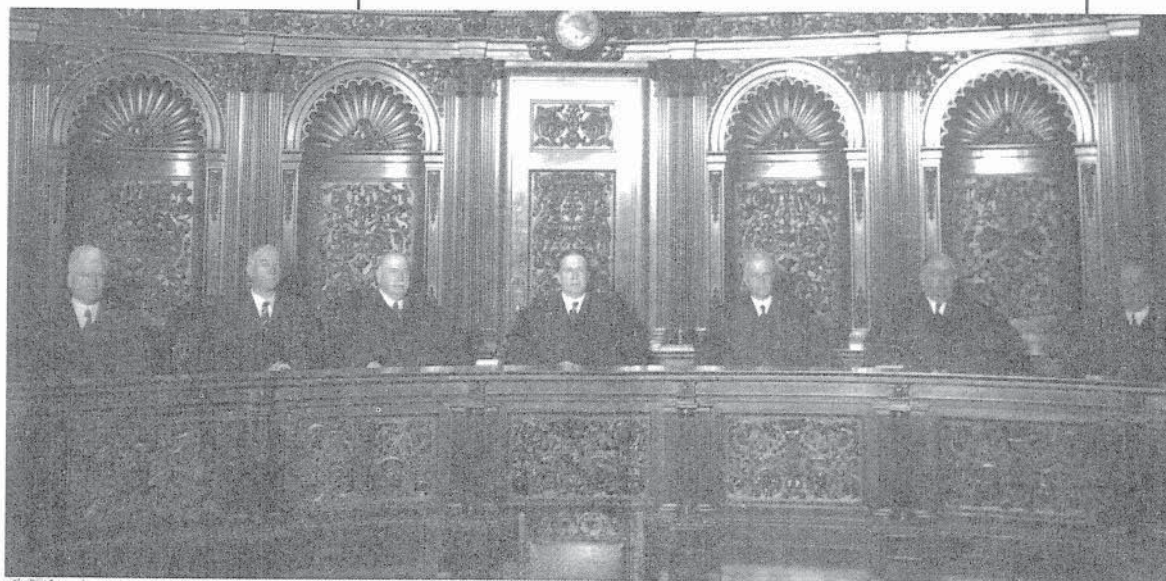
Nineteen twenty-nine saw the great Wall Street Crash, and the beginnings of the Depression. The



Victor J. Dowling,  
Presiding Justice 1927-1931

following year, 1930, also brought a new seriousness to the reform movement in City life. In that year Samuel Seabury, a former judge, was appointed by the Appellate Division to lead a series of investigations into suspected corruption in the New York Magistrate's Courts and in other aspects of municipal

government. These investigations ultimately resulted in decisions by the Appellate Division, which dismissed those judges who had been involved in the corruption.

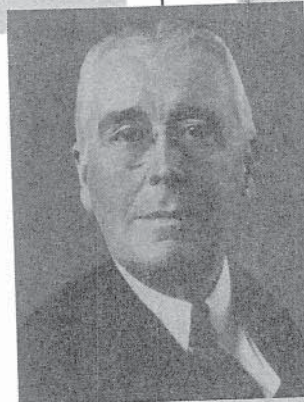


Appellate Division, First Department, circa 1928 – Left to right: Associate Justices James O'Malley, John V. McAvoy, Edgar S. K. Merrell, Presiding Justice Victor J. Dowling, Associate Justices Edward R. Finch, Francis Martin, Joseph M. Proskauer.



The Seabury investigations were prompted by allegations of lurid and endemic corruption within the police and lower court systems.

The Seabury investigation into the Magistrate's Courts revealed a shocking picture of conspiracy among that Court's judges, attorneys, police and bail bondsmen to extort money from those facing trial.



Samuel Seabury

The Magistrate's Court of the City of New York was the Court in which those people charged with certain crimes first encountered the justice system. Throughout the autumn of 1930, the Seabury Commission heard more than 1,000 witnesses - judges, lawyers, police officers and former defendants - paint a shocking picture of false arrests, fraudulent bail bonds, and unjust, peremptory imprisonment.



Franklin D. Roosevelt

Many people - often women, always working class - who were charged with crimes in the Magistrate's Court were totally innocent of wrongdoing, "framed," in police parlance, by lying police

EXTRAORDINARY SPECIAL AND TRIAL TERM ORDER BY JUDGE EDWARD ROOSEVELT AUGUST 19, 1930

SUPREME COURT: NEW YORK COUNTY

THE PEOPLE OF THE STATE OF NEW YORK

- against -

GEORGE F. EWALD AND OTHERS

- and -

WAVIER OF IMMUNITY.

In the matter of an investigation of alleged violations of the Election Law and of the statutes concerning the Elective Franchise by John Doe and others.

I, JAMES J. WALKER, of the City of New York, do hereby expressly waive all immunity, and the privilege, which I might otherwise obtain by giving testimony herein, from indictment, prosecution, punishment, penalty or forfeiture, for or on account of or relating to any transaction, matter or thing, which might be specified herein and which specification is also expressly waived, concerning which I may testify or produce evidence, documentary or otherwise, in the investigations aforesaid, titled, or in any other investigation, or on any inquiry, trial, action, investigation, or other proceeding, before any Magistrate, Judge or Justice, Court, or other Tribunal, grand jury or otherwise, conducting an inquiry or legal proceeding relating to the appointment of said GEORGE F. EWALD as a Justice of the City of New York on or about April 30, 1927, or relating to the act or acts of any person which acts are or might be in violation of the Election Law, or of the statutes concerning the Elective Franchise, or of any other statute or law relating to the conduct of any public or party officer or official or employee, or in violation of any other statute or law concerning similar or different crimes.

I DO FURTHER EXPRESSLY WAIVE any and all privileges which I might or would otherwise obtain against the use against me of the testimony so given or the evidence so produced upon any criminal investigation, prosecution or proceeding.

Done at New York, November 17, 1930

*James J. Walker*

STATE OF NEW YORK  
COUNTY OF NEW YORK

On this 17th day of November, 1930, before me personally appeared JAMES J. WALKER, to me personally known and known to me to be the individual described in and who executed the above waiver, and he duly acknowledged to me that he executed the same.

*Notary Public*

At a term of the Appellate Division of the Supreme Court held at and by the First Judicial Department in the County of New York on the 26th day of August, 1930.

EDWARD H. FINCH  
Presiding Justice

EDWARD H. FINCH  
- EDWARD H. FINCH  
- EDWARD H. FINCH  
- EDWARD H. FINCH  
- EDWARD H. FINCH  
- EDWARD H. FINCH

In the Matter of the Investigation of the Magistrates' Courts in the First Judicial Department, and the Magistrates thereof.

The Governor of the State of New York having requested this Court, on its own motion, to investigate the Magistrates' Courts under its jurisdiction, and the Magistrates thereof.

Now therefore, pursuant to the provisions of Section 125 of the Code of Criminal Procedure, as last amended by Chapter 800 of the Laws of 1930, the Court, on its own motion, does hereby ORDER that Hon. Samuel Seabury be and he hereby is appointed Referee to conduct an investigation of the Magistrates' Courts in the First Judicial Department, and the Magistrates thereof, in accordance with the provisions of the statutes; and report the proceedings on said investigation to this Court with his opinion thereon, and that upon the receipt in of said report such other and further action or proceedings may be taken as to this Court shall seem just and proper.

*Edward H. Finch*  
*Edward H. Finch*  
*Edward H. Finch*  
*Edward H. Finch*  
*Edward H. Finch*

STATE OF NEW YORK  
EXECUTIVE CHAMBER  
ALBANY

August 21, 1930.

Hon. Victor J. Coville,  
Presiding Justice,  
Appellate Division, First Department,  
Julien Ave. and 23rd Street,  
New York City.

My Dear Mr. Presiding Justice:-

Recent charges against certain magistrates have raised a question as to the conduct of the Magistrates' Courts and the magistrates themselves.

As you know, by virtue of the Constitution and statutes of the State, the Appellate Division have been given the supervision of our inferior courts. There are over three thousand judges, magistrates and justices of these inferior courts. These officers are removable by the Appellate Division alone, and by no other authority, not even the Governor or the Legislature.

While it is true that no specific charges have been presented to me with respect to any magistrate now sitting on the bench, the Appellate Division is nevertheless in my opinion charged with the broad responsibility of seeing to it that public confidence in the inferior courts is maintained. May I therefore urge that the Appellate Division acting under the provisions of Section 125 as amended by Chapter 800 of the Laws of 1930, and the provisions of the Code of Criminal Procedure as amended by Chapter 800 of the Laws of 1930, take prompt and effective action, and that the public may know the facts.

Very truly yours,  
*Franklin D. Roosevelt*

Documents from the Seabury Investigations



officers and police-paid "witnesses." The victims usually knew no lawyers and could not afford private counsel. Victims were made to understand that conviction and a prison sentence were a foregone conclusion unless money was paid through certain attorneys to court personnel, police and others.



*Mayor Jimmy Walker*

The conspiracy had been highly effective. Innocent people either parted with their life's savings or faced prison sentences, the women often on spurious convictions for prostitution. It was discovered, during the investigation, that 51 young women had been illegally confined in the women's prison at Bedford.

As a result of the investigation, formal charges of corruption were brought against many involved in the scheme. The Appellate Division ordered the dismissal of corrupt judges. Later, when Mayor Jimmy Walker reneged on his agreement to pay the commission's cost, a writ of mandamus was brought before the Appellate Division, which ordered the mayor to pay. The Seabury Commission's work resulted in a massive shake-up of the lower court system, and in the resignation of Mayor Walker.



*Robert Moses*

The Bettmann Archive

Ultimately, Samuel Seabury would be appointed by Governor Franklin D. Roosevelt to investigate New York's District Attorney, and by the state legislature to investigate the City government.

THROUGH THE 1930'S AND 1940'S, UNDER THE STEWARDSHIP OF MAYOR FIORELLO LA GUARDIA AND PLANNER ROBERT MOSES, THE GROWTH OF THE CITY'S SUPERSTRUCTURE ACCELERATED.

The Appellate Division decided many cases involving municipal projects such as the condemnation of the old Third Avenue El, the acquisition of the site for the Triborough Bridge, the growth of the waterfront, the Bronx River Parkway, the Saw Mill River Parkway, the East River Drive, and improvements in Stuyvesant Town.

Robert Moses did have his detractors. One community group brought suit to prevent him from demolishing Castle Clinton in Battery Park, and another



*Third Avenue Elevated Train platform*





Edward R. Finch,  
Presiding Justice 1931-1935

group, to limit an outdoor dance cabaret in Riverside Park. For the most part, however, Robert Moses exercised such influence over the City's expanded superstructure that he became known as "the Master Builder."

## The Second World War changed the City in concrete ways.

The state of war, and its complicating effect on issues of ownership and commerce, resonated in cases before the Appellate Division. Individuals pressed to regain money they had left in European banks, now under Nazi occupation. Transatlantic shipping companies sought legal recourse for shipping contracts, now broken, that had been made before the war.

There were domestic questions as well. In New York, the Appellate Division held that city firemen who enlisted in the armed forces were

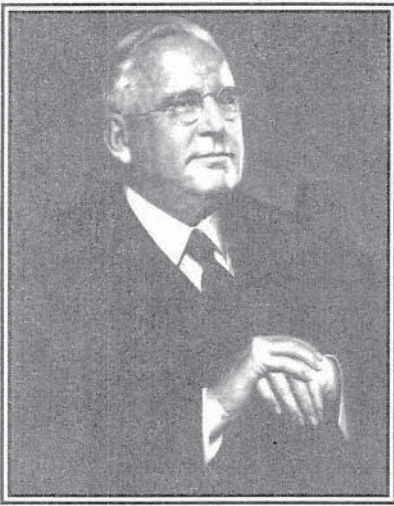
The decades also saw the Appellate Division deal with international issues, including the rights of New York plaintiffs against governmental authority in Soviet Russia.



One plaintiff brought suit against the "Government of Commander-in-Chief of Armed Forces in South of Russia," *a de facto* government against which, the Court held, no enforceable right or remedy existed in New York. Another case, involving the Standard Oil Company, held that the Soviet nationalization of oil property was not subject to attack in the New York courts.

entitled to job protection and other benefits. Anti-German sentiment caused the Court to reverse a criminal conviction, on the grounds that the prosecution used prejudice in painting the defendant as a Nazi sympathizer. One New York attorney was disbarred for extorting money from men subject to the draft, promising to get them "safe" positions in the Army. When the war was finally over, and its end celebrated in Times Square, the Court was left to deal with questions involving the rights of war veterans.





Francis Martin,  
Presiding Justice 1935-1947

THROUGH THE 1930'S AND 1940'S, NEWSPAPER COLUMNISTS SUCH AS WALTER WINCHELL AND ED SULLIVAN HAD CREATED "THE CULT OF CELEBRITY," WRITING DAILY ITEMS ABOUT THE RICH AND FAMOUS IN NEW YORK.

Frequently the target of libel suits, both columnists, among the most widely-read newspapermen in the country, were eventually broadcast on radio and television. Their barbed prose often led to litigation and celebrated feuds.

The new media concentration on the famous and notorious led to one suit by President Roosevelt's son-in-law against Time, Inc., which had printed a story about the man's alleged suicide attempt, and another by an attorney whom a radio commentator had allegedly called "a crooked lawyer mouthpiece."

During the war years and afterward, the Court expanded the rights of individuals harmed by commercial products.

In one case, the Court entered judgment in favor of a woman whose newly-purchased ball gown was consumed by fire, burning her seriously. The Court stated that the dress manufacturer had reason to know that



*Bronx County Court Building/  
Mario Merola Courthouse*

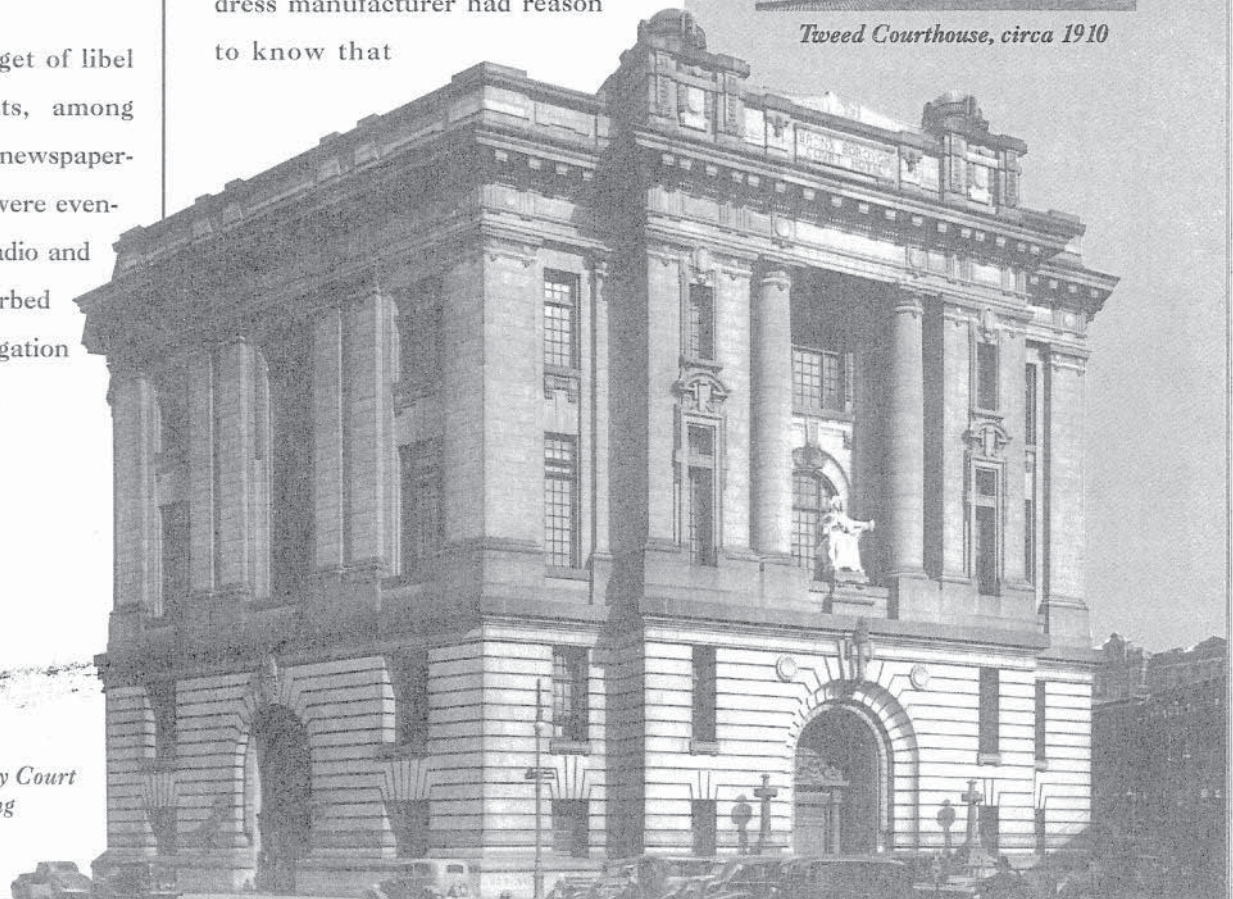


*New York County Supreme Court*



*Tweed Courthouse, circa 1910*

*Bronx County Court  
Building*



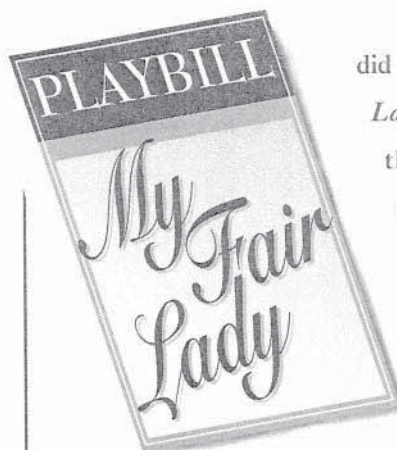


he had made the dress using highly flammable material. The rights of consumers would continue as a major concern for the Court over the next decades.

BY 1954, IT WAS CLEAR THAT THE COURT'S GROWING STAFF AND CASELOAD HAD CREATED SPACE PROBLEMS AT 27 MADISON AVENUE.

In that year, a six-story addition to the courthouse was begun at 31 Madison Avenue. Twelve years later the original courthouse was declared a landmark; in 1981, the courtroom itself was so designated.

In the post-war decades, New York grew in recognition as an international center of culture. The American musical theater was at its height: shows like the *Music Man* and *The Sound of Music*, were Broadway hits, along with more serious fare such as *A Raisin in the Sun* and *A Streetcar Named Desire*. The Actor's Studio and other schools brought new acting talent to the city such as: Marlon Brando, James Dean and Marilyn Monroe. From time to time a theater company or its star would find itself resorting to the Court, as



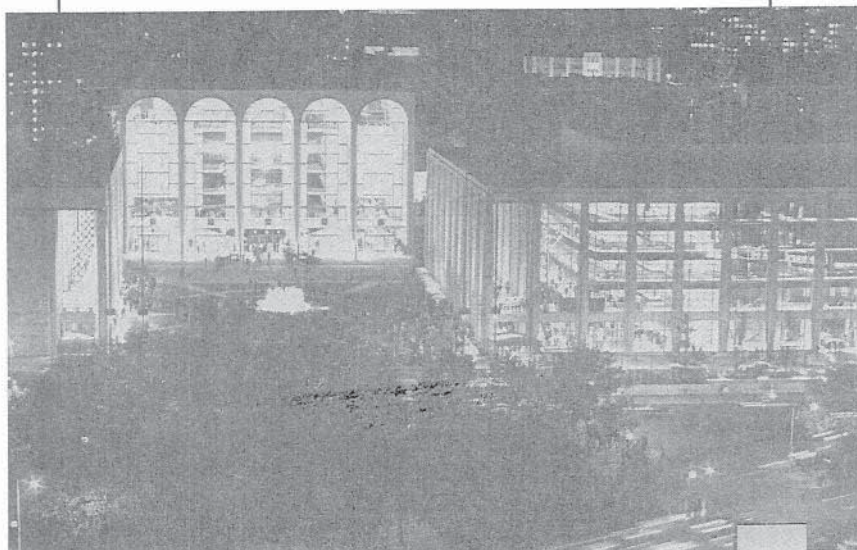
did the producers of *My Fair Lady* when its theater threatened to evict the play. New York was a center for both popular and classical music, the latter celebrated with the 1964 opening of the Lincoln Center

Complex, itself a subject of litigation before the Court.

IN THE 1950'S THE CITY ALSO FLOURISHED AS A CENTER FOR THE TELEVISION INDUSTRY.

The new phenomenon of "quiz shows" figured in Court cases, when one attorney, a contestant on "Twenty-One," was suspended from practice for perjuring herself in an investigation into the rigging of these shows.

The Court over the years dealt with the effects of change on the traditional, married, two-parent family. In 1944, the Court modified the rule of nonliability of a putative father to support his child. Two years later, it ruled for the first time that an illegitimate child could receive death benefits of its putative father under the New York City Employees' Retirement System. Emerging social problems and new models of their management resulted in the Family Court Act of 1962, which emphasized a non-criminal approach to juvenile problems.



Lincoln Center  
The Bettmann Archive



ON THE INTERNATIONAL FRONT, THE  
COLD WAR DECADES AFTER WORLD WAR II  
LED TO MAJOR DECISIONS BY THE  
APPELLATE DIVISION.

In 1950, an American-based group within the Russian Orthodox Church invoked a schism, seeking control of the Russian Orthodox St. Nicholas Cathedral and effective control over governance of the church itself. Plaintiffs argued that, under the thumb of the disapproving Soviet Government, the Russian church authorities had lost all independence. The Appellate Division ruled that the dispute had to be dealt with according to church, not secular, law.

In 1963, a libel action related to international espionage came to the Court. The case involved the exchange by Americans of convicted Soviet spy Rudolf Abel in return for the release of Francis Gary Powers, the American U-2 pilot. The plaintiff charged that he had been libelled when *Time Magazine* named him an admirer of Abel; the Appellate Division held the publication not to be libelous.

At home, the Cold War manifested itself in the drive to identify and punish domestic communists. In the course of this "Red Scare," innocent people were sometimes "blacklisted" and refused employ-

ment. One of these, John Henry Faulk, a well-known radio and TV performer before his blacklisting, sued an anti-communist organization called "AWARE," charging he had lost employment and income as a

result of its allegations. Faulk won a large libel judgment in one of the most publicized cases of 1963.

Among the changes emerging from the post-war period was an energized civil rights movement for racial equality. In one leading 1964 case, the Court held it proper that a school district be

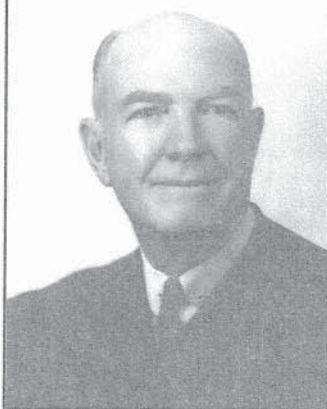
designed deliberately to incorporate minority students. Though New York had not had *de jure* segregation during this time, the civil rights movement greatly expanded access to opportunities for the City's racial and other minorities.



David W. Peck,  
Presiding Justice 1947-1957



Francis Gary Powers  
The Bettmann Archive



James P. McNally  
Associate Justice 1957-1972

A decade earlier, in a case involving religious discrimination, the Appellate Division had affirmed that a New York employment agency's questions to an applicant about her religion and changes in fami-



ly name were discriminatory. The Court also took on religious discrimination in a 1960 case, which held that a Saudi Arabian oil company hiring American workers could not carry out an anti-semitic hiring policy in New York.

Sexual equality became a legal issue, too. In 1957, the Court held against the practice of keeping sex-based eligibility lists for school principals and junior principals of elementary schools, and four years later it declared illegal the New York Police Department's refusal to allow women to take the sergeant's examination.

IN 1963, THE APPELLATE DIVISION HEARD AND DECIDED THE CASE OF *HILL V. JOSEPH HAYES AND TIME, INC.*

This case concerned a magazine article about a fictionalized play based on a 1952 incident in which a Pennsylvania family was held hostage by escaped convicts. The article dwelt on the original incident and mentioned the Hill family by name. The Court's decision holding that the article constituted an invasion of privacy was affirmed by the Court of Appeals but later reversed by the U.S. Supreme Court, which thereby significantly expanded the existing parameters of constitutionally protected speech.

New York's harbor had made it a major shipping center since the days of Peter Stuyvesant, and the Court's caseload reflected the continuing importance of New York harbor. In the modern era, cases dealing with all aspects of the shipping industry - from shipbuilding contracts to questions of sea-

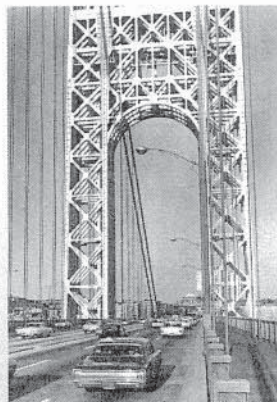


*New York City Harbor*  
The Bettmann Archive

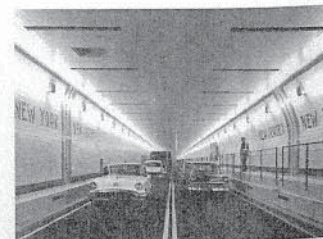
worthiness to longshoremen's collective bargaining issues - have come to the Court's attention. The Appellate Division has been called on to pass upon regulations issued by the Waterfront Commission. Another case, an invasion of privacy action, concerned the publication of a popular book, *Waterfront Priest*.

During the 1950's and 1960's the Court dealt with matters concerning the new Bronx River Expressway, the Lincoln Tunnel, the George Washington Bridge, and a new Port Authority. In one memorable case, the Court would order the builder of a residential high-rise, who had overbuilt the structure in violation of the zoning law, to remove several stories of the building.

As New York's superstructure continued to grow, New Yorkers would give new thought to the preservation of their past.

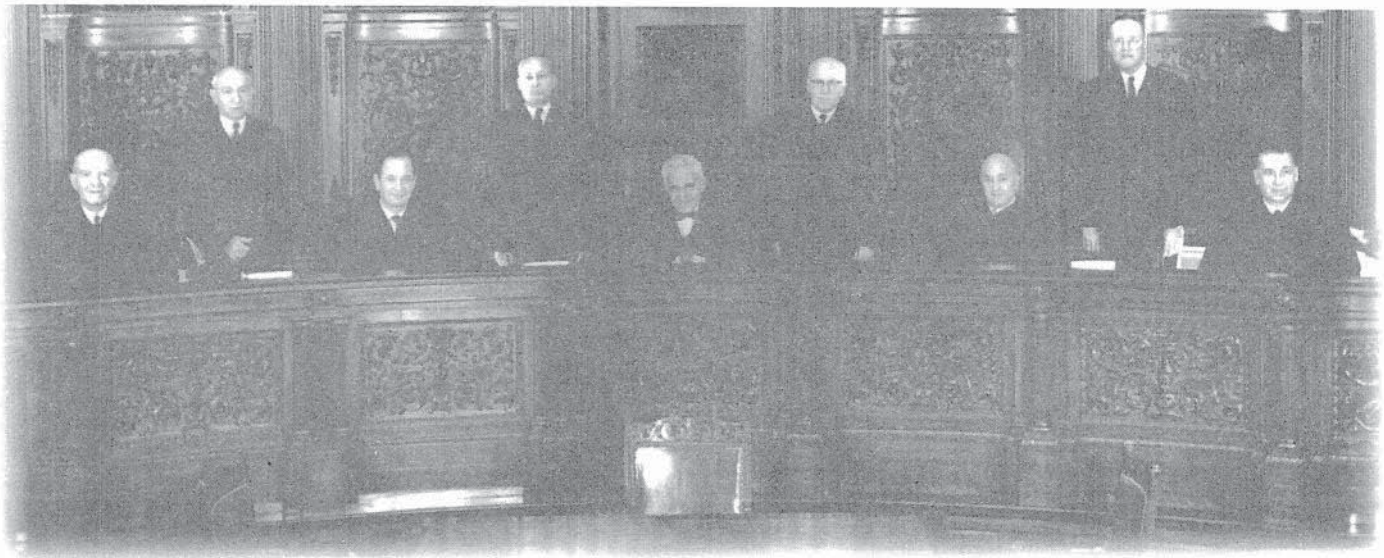


*George Washington Bridge*  
The Bettmann Archive



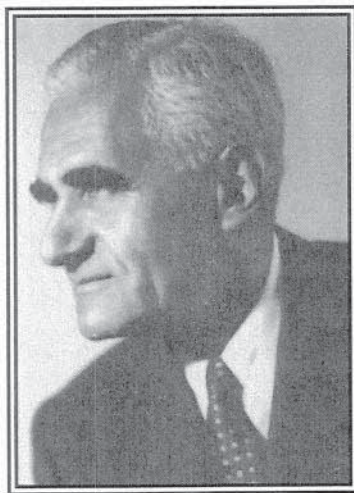
*Lincoln Tunnel*  
The Bettmann Archive





Appellate Division, First Department, 1962 – Seated left to right: Associate Justices James B. M. McNally, Charles D. Breitler, Presiding Justice Bernard Botein, Associate Justices Benjamin R.

Rabin, Francis E. Valente. Standing left to right: Associate Justices Aron Steuer, Harold A. Stevens, Francis Bergan, Samuel W. Eager.



*Bernard Botein,  
Presiding Justice 1958-1968*

As the old New York gradually gave way to the new, the Appellate Division would determine appeals involving landmarks such as a case concerning 22 buildings in the Theatre District. After much controversy, the Audubon Ballroom, site of Malcolm X's assassination, would

be preserved, and plans to demolish Central Park's Naumberg Bandshell litigated. In a case involving St. Bartholomew's Church, the last low-lying building on Park Avenue, the Court declined to interfere in an internal election concerning the sale of the church building and its air rights.

IN THE BEGINNING OF THE 1970's, THE INCREASINGLY ACUTE PROBLEM OF THE LACK OF AVAILABLE HOUSING FOR THE POOR WAS THRUST TO THE FOREFRONT OF THE COURT'S CALENDAR

Although not new to New York City – the Bowery had an estimated 10,000 homeless men early in the century – the problem now assumed a new dimension, with whole families evicted or otherwise forced out of their living quarters.

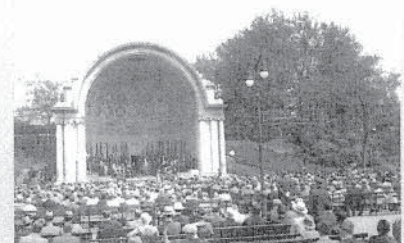
In the early 1980's, a series of cases declared that the homeless had a right to shelter at City expense, if necessary. A massive City shelter program was already underway, with buildings such as armories and City-leased residential hotels separately serving



*Cross Bronx Expressway*  
The Bettmann Archive



*The Audubon Ballroom*  
The Bettmann Archive



*Central Park's Naumberg Bandshell*  
The Bettmann Archive





Appellate Division, First Department, 1968 – Seated left to right: Associate Justices Aron Steuer, Harold A. Stevens, Presiding Justice Bernard Botein, Associate Justices Samuel W. Eager, Louis J.

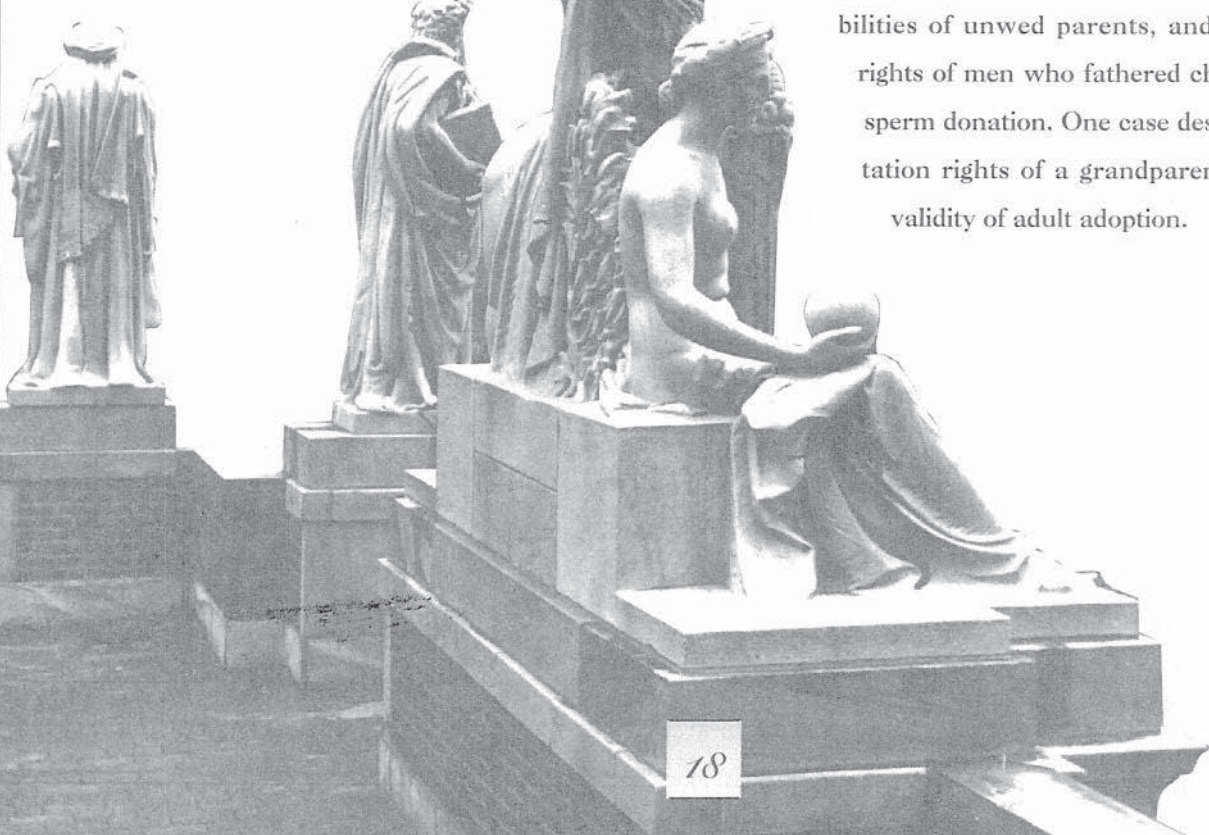
Capozzoli. Standing left to right: Associate Justices Benjamin J. Rabin, George Tilzer, Owen McGivern, James B. M. McNally.

single men, single women and families. In a continuing line of cases started in the 1980's, the Court considered issues ranging from the maximum legal waiting period for shelter placement, to the quality and amount of shelter food, to the benefits available to the homeless who had been diagnosed as HIV positive. By 1995, the City counted a shelter population of approximately 25,000, and the lower courts continued to consider questions regarding the rights and benefits due the homeless.

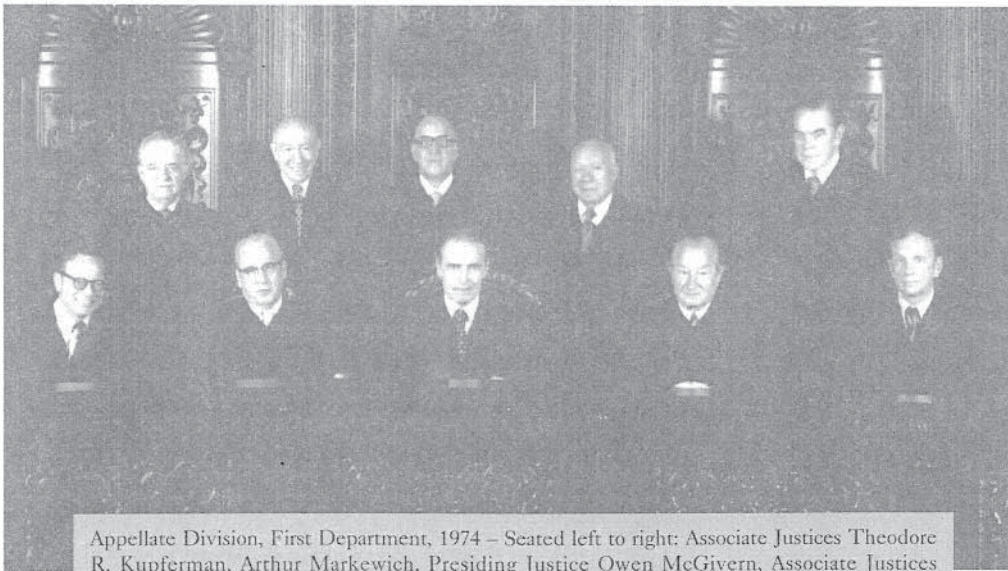
AS SOCIAL CONDITIONS AND STANDARDS CHANGED, NEW QUESTIONS BEFORE THE COURT INVOLVED THAT MOST BASIC OF SOCIAL UNITS, THE FAMILY.

After a landmark case in the 1950's afforded juveniles certain legal rights of their own, the Court was left to ponder the respective rights and responsibilities of the non-traditional family.

The Court set forth the child support responsibilities of unwed parents, and the visitation rights of men who fathered children through sperm donation. One case described the visitation rights of a grandparent, another the validity of adult adoption.







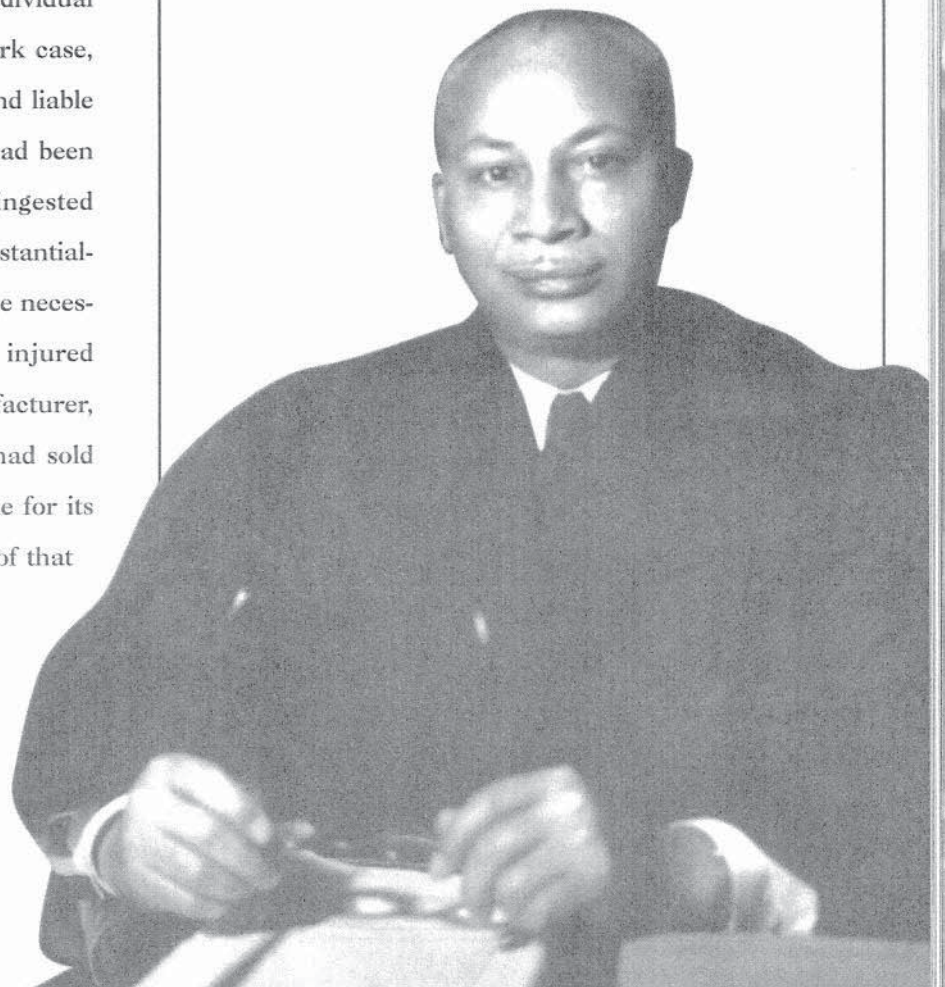
Appellate Division, First Department, 1974 – Seated left to right: Associate Justices Theodore R. Kupferman, Arthur Markewich, Presiding Justice Owen McGivern, Associate Justices Emilio Nunez, Francis T. Murphy Jr. Standing left to right: Associate Justices George Tilzer, Aron Steuer, Vincent A. Lupiano, Louis J. Capozzoli, Myles J. Lane.

The subject of asbestos-related lung diseases arose in a 1993 case involving former workers at the Brooklyn Naval Shipyard. In this class action, the plaintiff class of injured workers was awarded \$73 million in damages.

New medical technology resulted in a court decision regarding the sufficiency of DNA testing in paternity cases. These and other cases challenged the Court to alter a definition of "family" that had governed the law for centuries.

In the area of products liability, the Court gave new consideration to the parameters of individual and corporate responsibility. In a landmark case, manufacturers of the drug DES were found liable for injuries sustained by a plaintiff who had been damaged *in utero* after her mother had ingested that prescription drug. In a ruling that substantially altered the legal doctrine of privity, or the necessity for a direct relationship between an injured person and the defective product's manufacturer, the Court held that the defendant, who had sold DES during the relevant period, was liable for its market share of the drug even absent proof that it had sold the specific pills in question.

Through the 1960's and 1970's the Court benefitted from the talent and dedication of two extraordinary Presiding Justices: Harold Stevens and Owen McGivern.



HAROLD STEVENS,  
PRESIDING JUSTICE 1969-1974; 1975-1977



Presiding Justice McGivern (1974 – 1975) was known during his tenure as an eloquent writer and speaker and an incisive analyst of legal problems. Presiding Justice Stevens (1969 – 1974; 1975 – 1977) presided as a highly respected legal scholar who never failed to consider the human dimension of the law.

THE CURRENT PRESIDING JUSTICE,  
FRANCIS T. MURPHY, WAS APPOINTED  
TO THE COURT IN 1971 AND DESIGNATED  
PRESIDING JUSTICE BY GOVERNOR  
HUGH CAREY IN 1977.  
DURING HIS TENURE THE VARIETY AND  
CHALLENGE OF THE COURT'S CALENDAR  
HAS CONTINUED UNABATED.

In 1975, the Court ordered the preservation of New York's Grand Central Terminal as a City landmark.

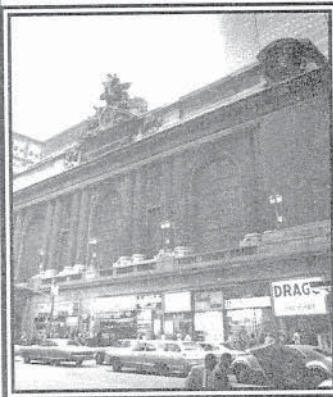
Today, despite a dispute over air rights, Grand Central remains as both a New York historic treasure and a vital transportation center.

OWEN MCGIVERN,  
PRESIDING JUSTICE  
1974-1975

One of the Court's more unusual cases involved a challenge by the donor to the Museum of the American Indian, to the proposed transfer of his donated collection into the stewardship of the Smithsonian Institution. The book collection at issue had been turned over by the Museum to a local library. The opinion in that case held that the original donation to the Museum was not revocable, and that the collection would remain in the New York area library.

Another recent case of interest involved allegations of libel brought by a manufacturer of biological products which had used primates for research. The defendant was an internationally-known scientist who had publicly criticized the corporation's plans for acquiring and using more chimpanzees. The Court held that the letter in question, which accused the plaintiff of "scientific imperialism," was an

expression of opinion and thus not defamatory.



*Grand Central Terminal*  
The Bettmann Archive

In a case that reverberated throughout the City's criminal justice system, the Court held that a delay of more than 24 hours between a person's arrest by the

police, and the arraignment in court was presumptively unnecessary and, unless explained, constituted a violation of a prisoner's legal rights. In that case, one person had been held for 94 hours before arraignment on charges of peddling an umbrella without a license, another for 98 hours on a shoplifting charge.



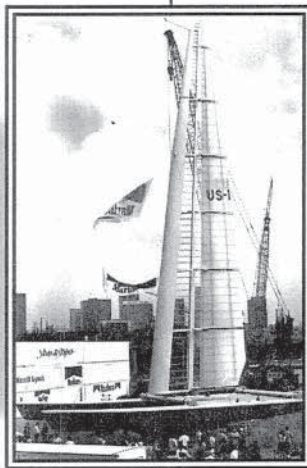
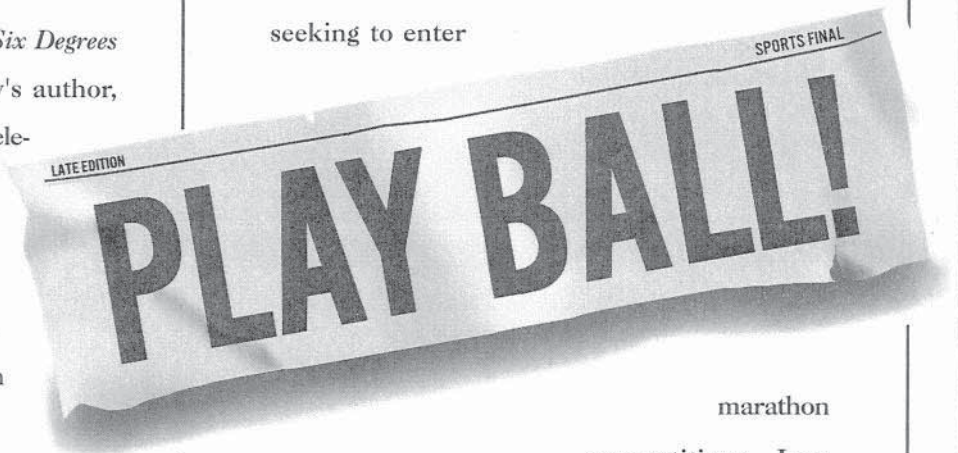
THROUGHOUT THE 1980'S AND 1990'S,  
POPULAR CULTURE CONTINUED TO  
ENGAGE THE COURT'S ATTENTION.

In one unusual case involving a hit play, *Six Degrees of Separation*, the plaintiff sued the play's author, claiming that the author had appropriated elements of the plaintiff's life. The Court denied that claim. In a similar action, the author of a best-selling book was sued by a psychiatrist whose name had been used for a fictional character. As American fashion designers gained in popularity, the Court heard cases involving superstar models and agencies.

IN A UNIQUE CASE, THE COURT  
WAS FACED WITH A DECISION  
INVOLVING THE RIGHTFUL OWNER-  
SHIP OF THE AMERICA'S CUP  
YACHTING TROPHY.

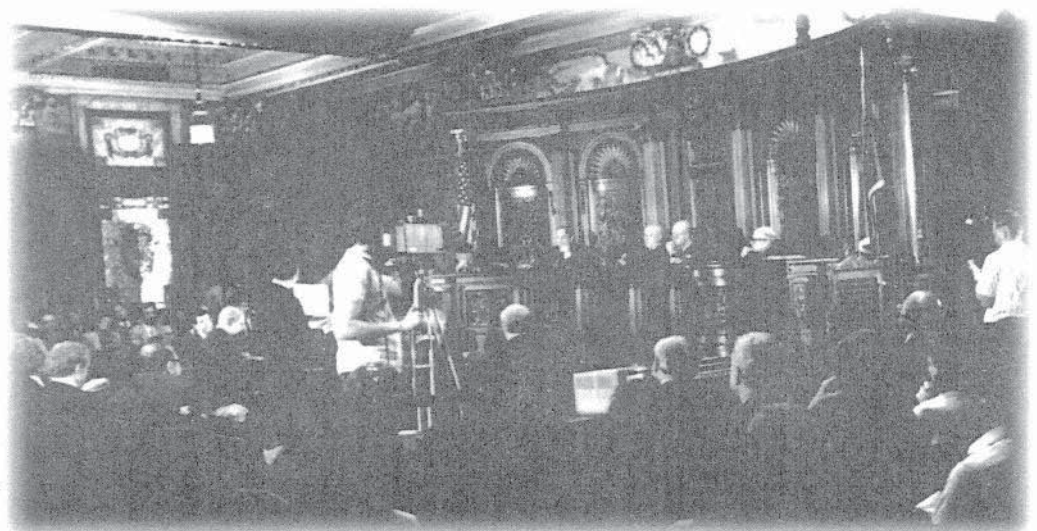
This Court's subsequent ruling gave the trophy to the San Diego Yacht Club, holding that the Club's unusual catamaran design was permitted under the race's charter. The Court noted that "for 140 years, challengers and defenders have spent fortunes...to gain any speed advantage...to enhance their chance of victory. That is the very essence of America's Cup competition."

Other sports cases that have come before the Court involved baseball pitcher Warren Spahn, baseball owner George Steinbrenner, football great Joe Namath and wheelchair athletes seeking to enter



*The Stars & Stripes catamaran  
with a space-age solid wing mast*

The Bettmann Archive



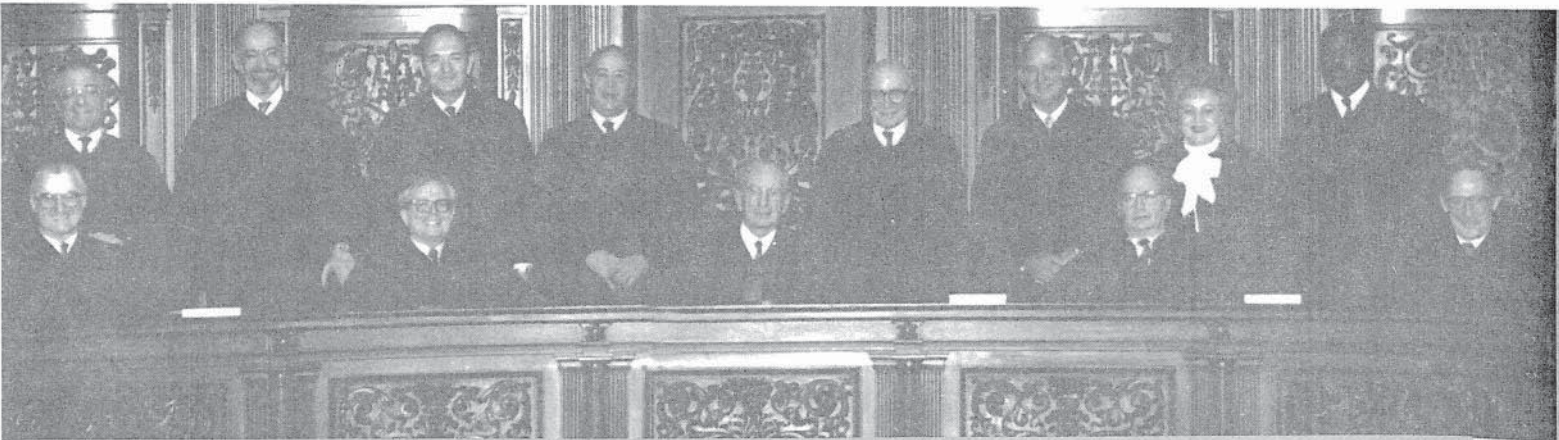
*The Mercury Bay Boating Club Inc. v. The San Diego Yacht Club (America's Cup). The first appeal to be televised at the Appellate Division, First Department. June 8, 1989. Sullivan, J.P., Milonas, Kassal, Wallach and Rubin, JJ.*

marathon

competitions. In a

case involving the dispute over George Brett's use of pine tar on a baseball bat in a game between the New York Yankees and the Kansas City Royals, an Appellate Division Justice rendered his decision with the traditional umpire's call: "Play ball!"





Appellate Division, First Department, 1987— Standing left to right: Associate Justices Richard W. Wallach, Ernst H. Rosenberger, E. Leo Milonas, John Carro, Sidney H. Asch, Bentley Kassal, Betty Weinberg

Ellerin, George Bundy Smith, Joseph P. Sullivan, Theodore R. Kupferman, Presiding Justice Francis T. Murphy, Associate Justices Leonard H. Sandler, David Ross.



THE AUTHORITY OF THE APPELLATE DIVISION CARRIES CERTAIN ADMINISTRATIVE RESPONSIBILITIES.

In addition to his duties as a sitting judge, the Presiding Justice of the Appellate Division oversees the administration of several court-related agencies: the Character and Fitness Committee, the Departmental Disciplinary Committee, the Special Masters Program, the Office of the Law Guardian, the Assigned Counsel Plan and the Mental Hygiene Legal Service agency.

THE CHARACTER AND FITNESS COMMITTEE OF THE FIRST DEPARTMENT, WHOSE MEMBERS ARE APPOINTED BY THE PRESIDING JUSTICE, DETERMINES THE APPLICATIONS OF THOSE WHO SEEK ADMISSION TO THE BAR.

The reforms of the 1890's, which created the Appellate Division, conferred upon the Court the authority to examine the qualifications and moral character of applicants and rule on their formal admission to the Bar.

Today, the 36-member Committee, which is chaired by Boris Kostelanetz, Esq., reviews the qualifications of the more than 2,000 new lawyers admitted to practice annually in the First Judicial Department. Applicants submit an exhaustive written application which forms the basis for an interview conducted by a member of the Committee.



*Boris Kostelanetz, Esq.*

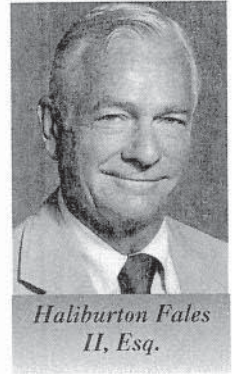
Successful applicants are inducted into the Bar in a ceremony of timeless dignity held in the historic courtroom at 27 Madison Avenue. In a tradition dating back to the Court's founding in 1896, the Clerk of the Court administers the oath of office and one of the Justices delivers a welcoming address to the new lawyers. Those who have been thus admitted to the Bar include Presidents Woodrow Wilson, Franklin Delano Roosevelt and Richard Nixon, as well as Supreme Court Justices, Senators and world leaders, and thousands of working attorneys under the aegis of the First Department.



THE DEPARTMENTAL DISCIPLINARY COMMITTEE OF THE FIRST DEPARTMENT IS CHARGED WITH THE DAY-TO-DAY ADMINISTRATION OF THE ATTORNEY DISCIPLINARY SYSTEM FOR THE MORE THAN 55,000 LAWYERS WHO WORK IN MANHATTAN AND THE BRONX.

Chaired by Haliburton Fales, 2d, Esq., the 45-member Disciplinary Committee, whose members are appointed by the Court, handles approximately 3,500 complaints against First Department lawyers annually. With the assistance of its staff, the Committee screens, investigates and prosecutes disciplinary cases.

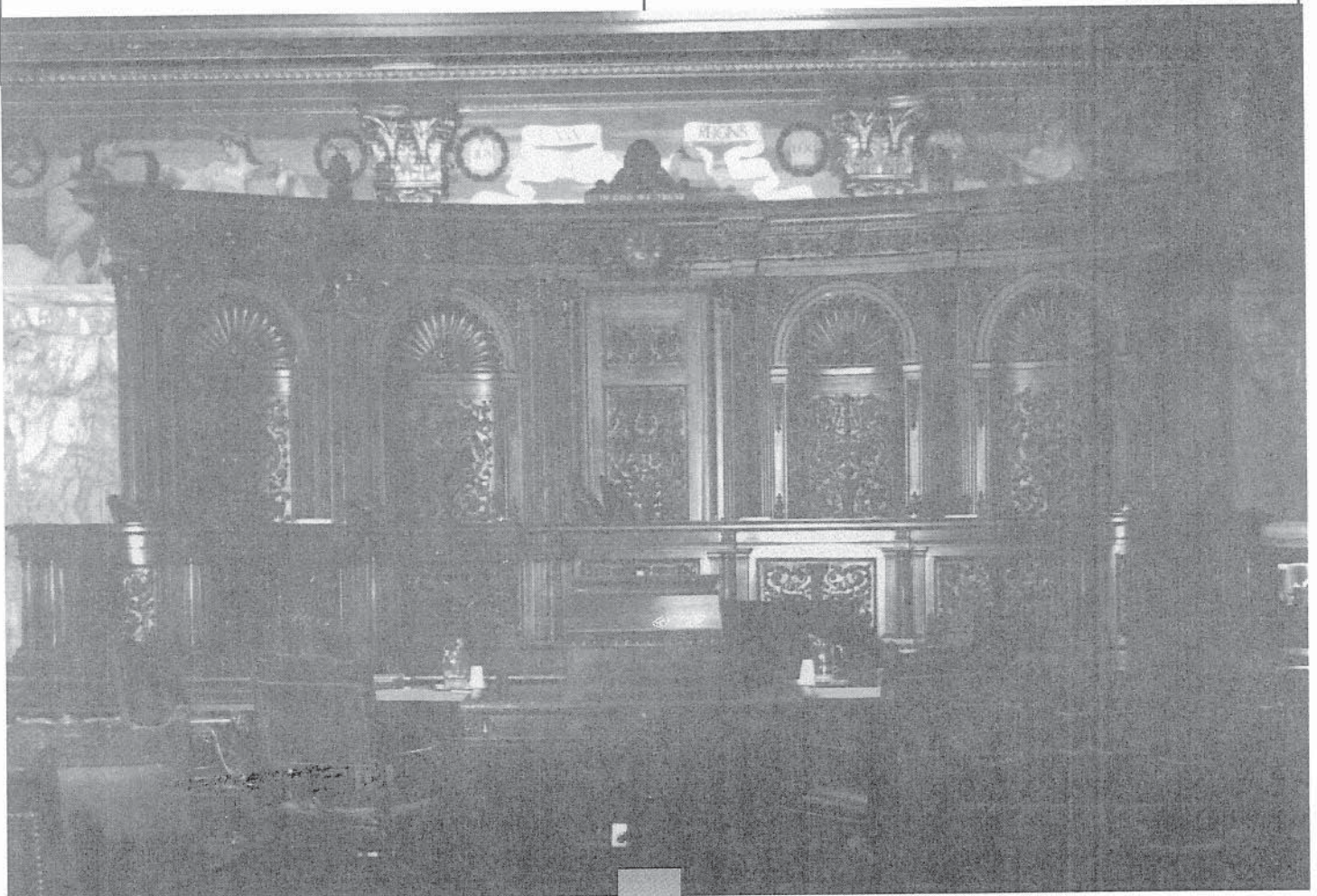
If, after a full due process hearing, charges are sustained, the case is filed with the Court for a final determination as to whether discipline should be imposed.



*Haliburton Fales II, Esq.*

The Special Masters Program

was begun in the 1970's when retired Appellate Division Justices Aron Steuer and Louis Capozzoli began to meet with the parties to an appeal in an effort to reach a settlement. Over the years, the Program has been expanded and formal court rules adopted for its administration. Chaired by Peter H. Kaminer, Esq., the Special Masters Program settles approximately 225 cases annually.





The members of the Disciplinary and Character and Fitness Committees and the Special Masters serve the Court *pro bono*. The Court greatly appreciates their unstinting dedication and generosity.



*Hon. Aron Steuer*

The Assigned Counsel Plan was formed pursuant to the plan of the bar associations and Article 18-B of the County Law. Its purpose is to provide counsel for indigent defendants in the Family, Criminal and Appellate Courts.

The Court's Office of the Law Guardian fulfills the statutory mandate that law guardians be appointed to provide counsel to minors in certain Family Court proceedings.

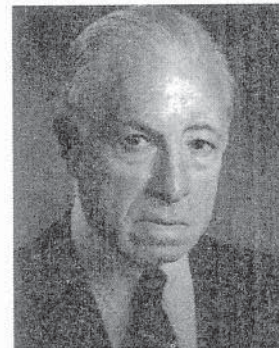


*Hon. Louis Capozzoli*

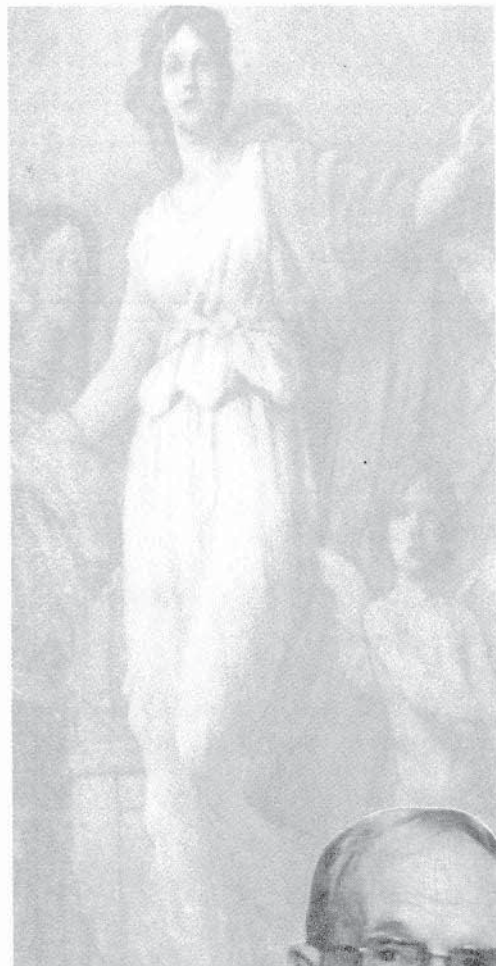
The Presiding Justice appoints both the Law Guardian Director, who administers the program, and a Family Court

With the assistance of the Central Plan Administrator and the Central Screening Committee, whose members are appointed by the Presiding Justice, the office handles over 60,000 cases annually in the First Department. To all the members of these Committees, who serve *pro bono*, the Court extends its gratitude.

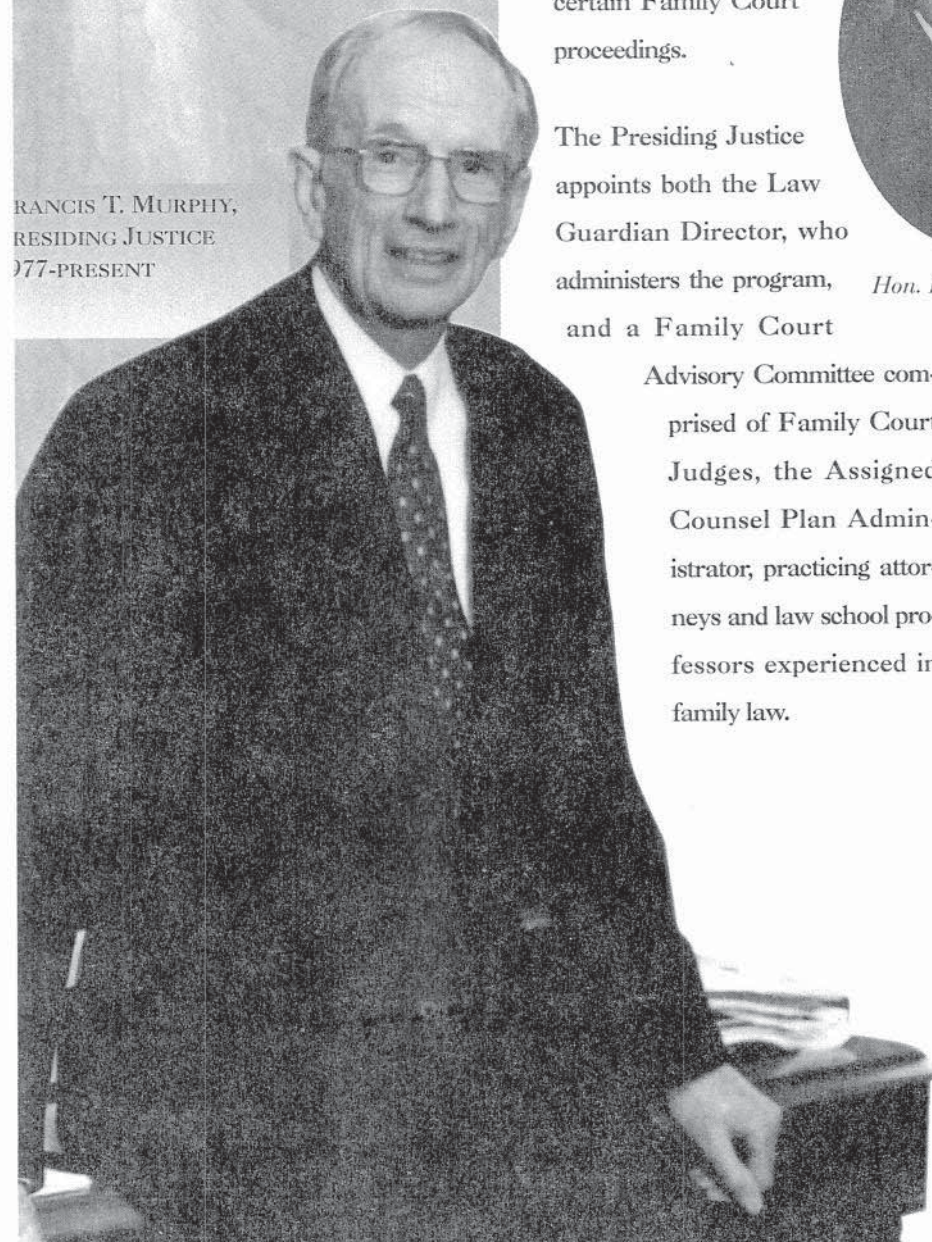
Advisory Committee comprised of Family Court Judges, the Assigned Counsel Plan Administrator, practicing attorneys and law school professors experienced in family law.



*Peter H. Kaminer, Esq.*



FRANCIS T. MURPHY,  
RESIDING JUSTICE  
1977-PRESENT



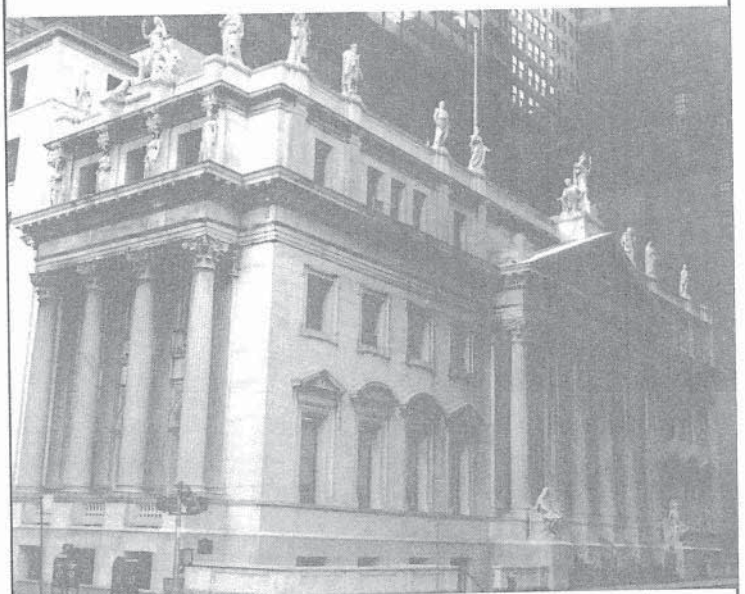





Also under the administration of the Appellate Division is the Mental Hygiene Legal Service, which provides legal representation to mentally ill and developmentally disabled individuals who are voluntarily or involuntarily under care.

Created in 1964, MHLS fulfills its legal mandate by providing counsel for its clients in judicial or administrative proceedings concerning admission, retention, transfer and treatment. It also provides advice and representation regarding standards of care, patient visiting rights and other matters affecting the patient's civil liberties. MHLS reviews more than 25,000 admissions to hospitals and special schools every year, and is involved in over 26,000 client contacts annually.

Efforts to preserve the Court's history are ongoing. In addition, a program has been undertaken to repair and restore the landmark courthouse exterior, as well as the courtroom dome, stained glass and murals.







D  
EDICATION OF  
THE MEMORIAL TO THE  
VICTIMS OF THE INJUSTICE  
OF THE HOLOCAUST

MAY 22, 1990

In the words of Dr. Martin Luther King, Jr., "When evil men plot, good men must plan. When evil men burn and bomb, good men must build and bind."

Every day our city sees countless acts of human kindness, decency and justice. This memorial is one such act. The erection of this monument completes four years of quiet work by many decent human beings to promote justice and respect for the rule of law.

I thank everyone associated with this project, especially Justice Francis T. Murphy, who conceived the idea of a monument at the Supreme Court Appellate Division and worked with my distinguished predecessor in office, Mayor Edward I. Koch, to make it a reality.

And I pay tribute as well to Harriet Feigenbaum, the sculptress of the memorial.

I also thank the host of people who supported this undertaking, including Manhattan District Attorney Robert Morgenthau, William H. Mulligan, William A. Shea, Kenneth Bialkin, David Finkelstein, Alexander Forger, Henry L. King, Denis McInerney and Powell Pierpoint.

Though your acts of kindness do not always receive the attention they deserve, you represent the spirit of New York – the spirit of respect and unity. May God bless every one of you.

*Mayor David N. Dinkins*

We are here, on this gentle spring day, to remember the unspeakable horror of the Holocaust and to mark that evil with a monument to the victims of that injustice.

From the grief and suffering of the murdered millions we here today pledge that the memory of that injustice will never be forgotten, that all who see this monument or enter this courthouse will remember the price exacted when principles of justice are subverted.

The Holocaust is not one story but millions, each unique, compelling and heartrending. With us this afternoon are people who, by sharing their experiences of that nightmare, help us grasp its human dimensions.

This Holocaust Memorial is now and forever a part of this Temple of Justice. It will speak forever of justice under law....

*Presiding Justice Francis T. Murphy*





*Left to right: Governor Mario Cuomo, Judge Gertrud Mainzer, Harriet Feigenbaum, sculptress, Mayor David N. Dinkins, Presiding Justice Francis T. Murphy.*

The loss of the six million Jews who died and the pain suffered by the men, women, and children before their death and of those who survived Auschwitz and other death camps cannot be described. The inhumanity of the Nazis directed at the Jews who were the principal victims at Auschwitz is unbelievable. While every death perpetrated at the hands of the Nazis has to be lamented and recalled with horror, the horror perpetrated against the Jews of Europe was especially cruel.

That is why this monument is so important. The survivors of the concentration camps are now elderly and many are feeble. Soon they will be gone and no one will be left to recall personally what happened. This monument will serve as a remembrance.

*Hon. Edward I. Koch*

In a moment, we will unveil the Memorial to the Victims of the Injustice of the Holocaust.

The Memorial, transformed through the artistry of Harriet Feigenbaum from a mute shaft of Carrera marble into a powerful and striking symbol of monstrous injustice, will be for all who see it a reminder of events we dare not forget.

Of victims, we dare not forget.

Of murderers, we dare not forget.

Of the human capacity for evil, we dare not forget.

Our common, public memory of the Holocaust has been carved into this marble, enclosed and captured in it, kept whole and safe in it.

That is a good and necessary thing . . . .

*Governor Mario M. Cuomo*



On May 22, 1990, a ceremony was held outside the Appellate Division courthouse to mark the unveiling of a Memorial to the Victims of the Injustice of the Holocaust. The memorial, a 38-foot columnar marble sculpture created by the artist Harriet Feigenbaum and the only such monument on a public building in this country, is now a permanent part of the Madison Avenue exterior of the courthouse.

At the ceremony, speaking to an audience that included Governor Mario M. Cuomo, Mayor David N. Dinkins and Mayor Edward I. Koch, Presiding Justice Murphy noted the monument's significance.

"THE HOLOCAUST MEMORIAL WE UNVEIL TODAY IS NOT FREE STANDING; IT IS A PART OF THE WALLS AND FOUNDATION OF THIS COURTHOUSE. . . . IT IS FITTING THAT OUR MEMORIAL BE PART OF THE COURT, JUST AS THE MEMORY OF THE HOLOCAUST SHOULD ALWAYS BE A PART OF OUR CONSCIOUSNESS."

A central concern of the Court has been the quality of legal representation provided to litigants, including indigent parties.

Toward this end, the Court has helped establish clinical and continuing legal education programs for law students and practicing lawyers, including a clinical program in Child Advocacy at Columbia University School of Law, a clinical Family Law

project at New York Law School and an Appellate Practice course at the Cardozo School of Law. Numerous programs in ethics, criminal law and family law are conducted in conjunction with Fordham University School of Law and the New York County Lawyers' Association. The Court has also published many treatises exploring issues of family and criminal law from the practitioners' perspective.

Presiding Justice Murphy assisted in founding the Lawyers' Alcoholism Committee of the Association of the Bar of the City of New York, and the New York County Lawyers' Association. He was also instrumental in establishing a Family Counseling and Alcohol Counseling Program in New York City's Family Court.

The saga of life in New York City throughout the twentieth century is reflected in the many thousands of appeals which have passed through this Court since its birth a hundred years ago.

The delegates to the Constitutional Convention of 1894 were more far-sighted than they knew. The Court they created partly as a means to help restore public respect for the judicial system and partly as a means of relieving the caseload of the Court of Appeals, became something much more: during its first century, the First Department has become a vital and creative partner of a vital and creative City.



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## ACKNOWLEDGEMENTS

The Court would like to express its sincerest appreciation to the members of the Committee on the Centennial for the long hours and hard work they undertook in the preparation of this book on the first century of the First Department: Ronald E. Cohen, Esq.; Sidney H. Gribetz, Esq.; Marcia S. Huttner; Anne D. Lopatto, Esq.; James C. Neely; Emily M. Olshansky, Esq.; Ruth E. Smith, Esq.

The Court also wishes to extend its thanks to the following individuals who contributed their expertise to this project:

Hon. Norman Goodman – *New York County Clerk and Clerk of the Supreme Court*

Hon. Leo Levy – *Bronx County Clerk and Clerk of the Supreme Court*

William J. Diamond – *Commissioner, Department of General Services of the City of New York*

George J. Rios – *Commissioner, Department of Records and Information Services of the City of New York*

Kenneth R. Cobb – *Director, Municipal Archives*

Bruce Abrams – *Archivist, New York County Clerk's Office*

Adrienne Bresnan – *Assistant Commissioner for Preservation, Division of Design and Construction Services,  
Department of General Services*

Lenora A. Gidlund – *Deputy Director, Municipal Archives*

Charles Suddarth Kelly – *Historiographer in Classical Architecture and Sculpture*

Hannah McAninch – *Deputy, Historic Preservation Office, Department of General Services*

Robert Sink – *Archivist, Rare Book and Manuscripts Division, New York Public Library*

Joseph Van Nostrand – *Supervising Archivist, New York County Clerk's Office*





### APPELLATE DIVISION – FIRST DEPARTMENT, 1996

Seated Left to Right: Associate Justice Ernst H. Rosenberger, Associate Justice Joseph F. Sullivan, Presiding Justice Francis T. Murphy, Associate Justice E. Leo Milonas, Associate Justice Betty Weinberg Ellerin. Standing Left to Right: Associate Justice Angela M. Mazzarelli, Associate Justice

Milton L. Williams, Associate Justice Sidney H. Asch, Associate Justice Theodore R. Kupferman, Associate Justice Richard W. Wallach, Associate Justice Israel Rubin, Associate Justice David Ross, Associate Justice Eugene L. Nardelli, Associate Justice Peter Tom.



Clerk of the Court  
Catherine O'Hagan Wolfe



Deputy Clerk  
David Spokony



Deputy Clerk  
Joseph Bleshman



Chief Law Assistant  
Leland Scopp





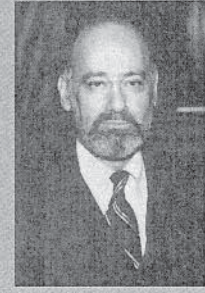
Francis T. Murphy  
Presiding Justice 1977  
Associate Justice 1971-1977



Joseph P. Sullivan  
Associate Justice  
1978



E. Leo Milonas  
Associate Justice  
1982



Ernst H. Rosenberger  
Associate Justice  
1985



Betty Weinberg Ellerin  
Associate Justice  
1985



Richard W. Wallach  
Associate Justice  
1986



Israel Rubin  
Associate Justice  
1989



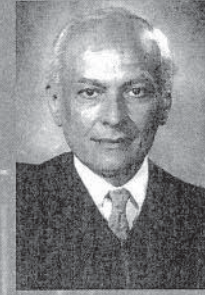
Theodore R. Kupferman  
Associate Justice  
1970



David Ross  
Associate Justice  
1979



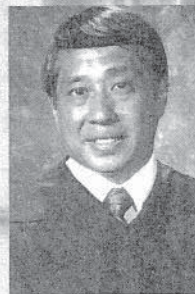
Sidney H. Asch  
Associate Justice  
1982



Eugene L. Nardelli  
Associate Justice  
1993



Milton L. Williams  
Associate Justice  
1994

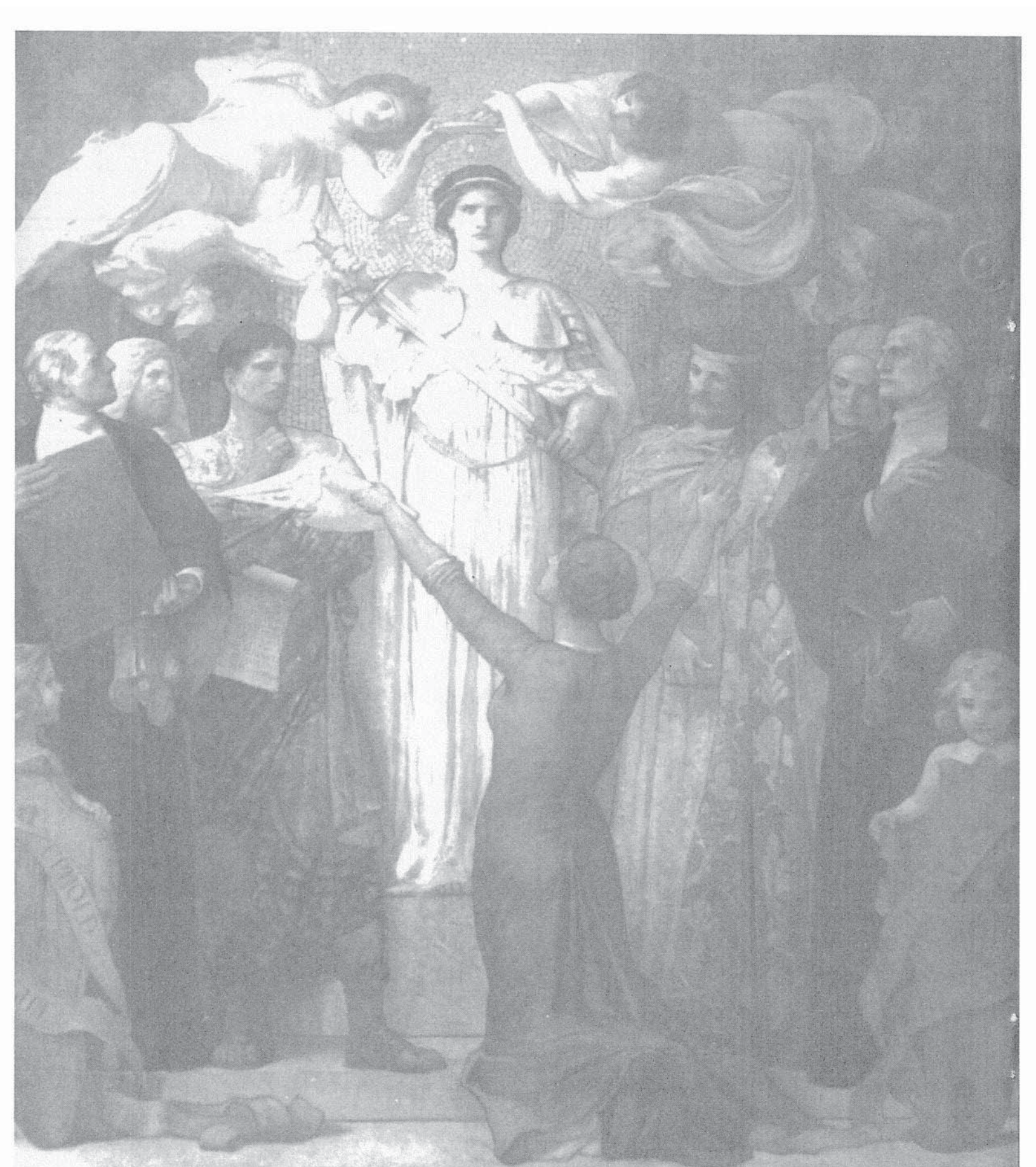


Peter Tom  
Associate Justice  
1994



Angela M. Mazzarelli  
Associate Justice  
1994





Appellate Division of the Supreme Court of the State of New York,  
First Judicial Department  
27 Madison Avenue, New York, NY 10010