

Not Without Help

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Austin Amissah (1930 - 2001), an Autobiography of  
my Earlier Years

Austin Amissah

2001-01-01

**Not Without Help - Austin Amissah (1930 - 2001), an Autobiography of my Earlier Years**

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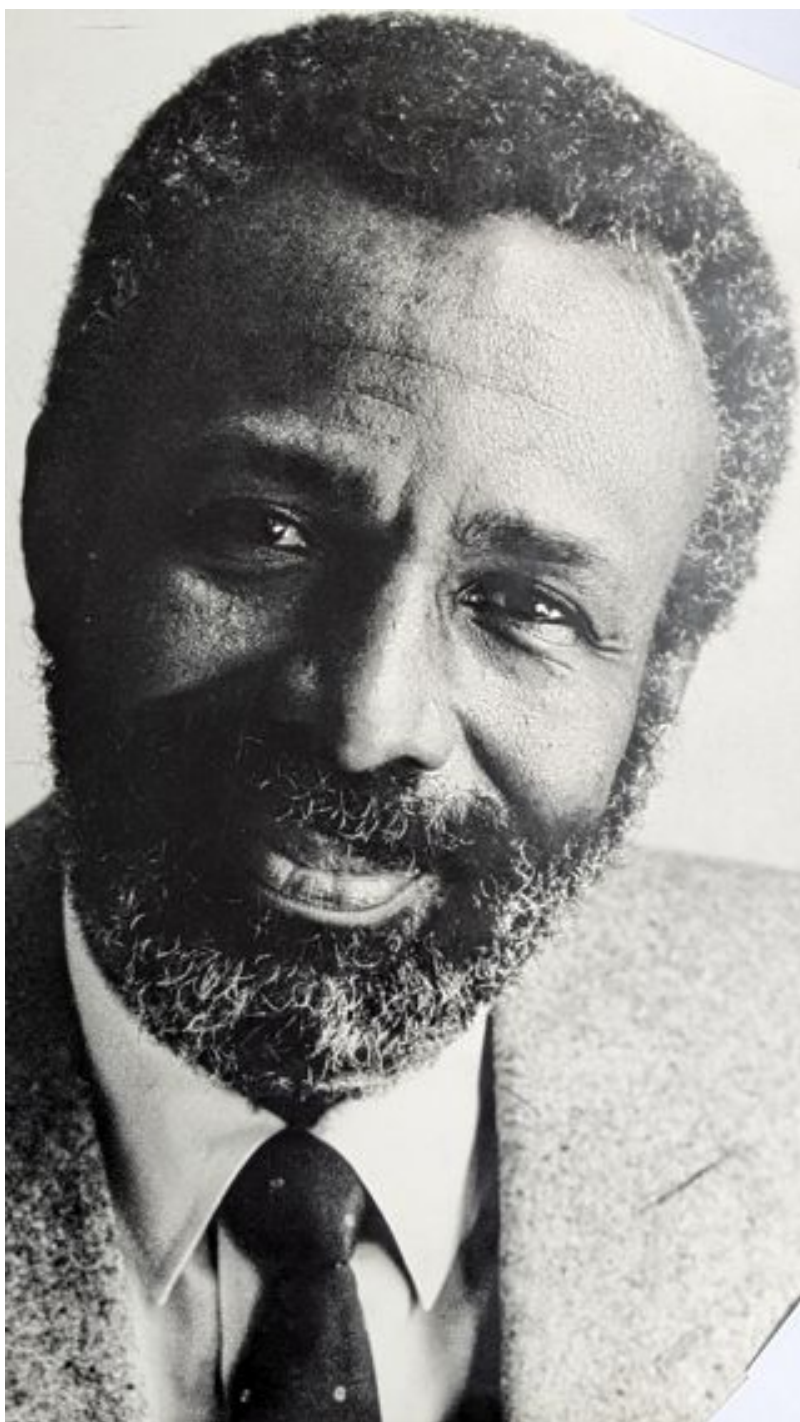
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## **Preface**

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"Austin Amissah"

My justification for indulging in these reminiscences is simple. For many years, I have been trying to persuade our older people to write their memoirs. Most of them cannot

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be bothered to spend their time writing. For one thing, it is not easy to work oneself into that discipline which writing requires. But an even more serious objection they have is to enquire who would be interested in reading about their lives. They consider their recollections trivia. While I was a Trustee of the Valco Fund, I tried to do something about overcoming the first difficulty: if one could not write down regularly what would constitute a memoir, one could from time to time just talk about the events of one's past. With the support of my old teacher and friend, Dr. Modjabeng Dowuona, we got the Trustees to recommend and to fund the purchase of recording equipment and to appoint an editor who would visit the various personalities whose personal lives were to be recorded and get them just to ramble about the past. It was the editor's duty after that to edit what he had got and to make a consistent story about it. This was the beginning of the oral history programme which the Fund introduced.

My only regret was that by the time the equipment was obtained and an editor was appointed, many more of our people whose personal histories would have been worth recording had died. What a rich store could have been gathered if we had got people like the members of the Big Six who never wrote of their lives to have left us with their views of what they saw happen? I once asked Chief Justice Akuffo Addo how Nkrumah became the Secretary General of the United Gold Coast Convention. His reaction was interesting. Of course by now he had long parted with Nkrumah, and must have sincerely believed that most of the woes of Ghana had been brought on to the country by Nkrumah. "Hm..." he said almost in distress, "It was Ako Adjei. When we wanted someone to be the Secretary General to organise the party, Ako Adjei said he had a friend in England who had the ability to do just what we wanted. He was not doing anything in particular, at that time, and he was sure he would be happy to take on the job if invited." From this a series of events was set in train which was to revolutionise Gold Coast society. I wanted Akuffo Addo to write his memoirs but he died without doing so.

There are other distinguished sons and daughters of Ghana in the public services, politics, education, medicine, law, and the traditional Chiefs, etc. From all these, we would have had a substantial amount of material which our historians could have used in presenting the fascinating history of our times. Apart from the national politicians who tend to write their contributions anyway, I would have liked to read the memoirs of Ghanaians like, for example, Sir Henley Coussey, Sir Leslie McCarthy, Sir Arku Korsah, the first Ghanaian Chief Justice, Sir Emmanuel Quist, J.S. Manyo Plange, K. Adumua Bossman and N.A. Ollenu, in the legal field, Amishadai Adu, Enoch Okoh, I.K. Impraim and Lawrence Apaloo, all Secretaries to the Cabinet or close thereto, the Paramount Chief, Nene Azzu Mate Korle, the Police Chief, John Harlley Harlley, in the public service field. But they all departed this world carrying their stories with them. In the case of Manyo Plange, I actually started to record his memoirs, but that was when he was, unbeknown to me, on his death bed, and I, in an attempt to be comprehensive, started from his childhood. He died just when he had got to telling about his return from England to join the Gold Coast Police Force and his courtship of his wife, Gladys. Others like Ephraim Amu, our great composer and music teacher; Robert Gardiner, the distinguished international Civil Servant; Fred Apaloo, the former Chief Justice; Charles Easmon, the surgeon and first head of the Ghana Medical School; Daniel Chapman-Nyaho,



the former Secretary to the Cabinet; Major Seth Anthony, the soldier and diplomat, are still fortunately with us.<sup>1</sup> Ambassador K.B. Asante, for example, seems to be one of the few remaining of those who worked closely with Kwame Nkrumah on his foreign policy initiatives in Africa. It is my hope that they would not treat us the same way. What they have to tell would throw Ghanaian history, political, economic and social development into quite colourful and better relief. I have badgered quite a number of them, both living and dead, to record their reminiscences. They, in turn, would sometimes ask me why I did not write about my experiences. I do not judge these experiences to be as rich as those that I have wanted to see. But it is only fair that I should try my own hand at what I have been preaching all these years. I recognise one problem which Africans face in publishing an objective and critical work involving personalities: the fear of making enemies. In our society, enemies could be made not only on an individual basis but involving whole families and friends. To write anything damaging of another, however truthful or correct, might lead to ostracism by those whose company you might otherwise prefer. The easiest way out is to have the material written published after one's death. But it seems to be a cowardly way. I hope some of us would risk this ostracism in the pursuit of truth. Such writing in itself may help the development of a check on individual conduct in public office. The other weakness to which I think we are prone is the undue respect and praise we heap on the dead. However bad a person is, in death he seems to develop some qualities which he would have been surprised to hear attributed to him during his life-time. Those who speak of him speak in superlatives of goodness. That, of course, would give an erroneous balance to the contribution of the deceased actors in our society. It is a fault which we have to consciously work against when assessing action in contemporary history.

The other reason for these reminiscences is to discharge an obligation to my son, Ralph. Some of the stories which I am about to tell, he has heard told from time to time. He had always asked that I preserve them for him in a more permanent form. Stella, my wife, as well as Tonesan and Juliet, my daughters, supported this idea.

In consonance with what I had asked from others, what I produce is no more than a series of ramblings from my memories of the past. It is not intended as a historical account of events in which I was involved, nor is it a political, social or economic commentary on the times. It is not a story of an angry African writing of the injustices which have been suffered by his people or his race. It is a story of a person who has been relatively lucky in life told largely in an impressionistic form. And it mostly consists of anecdotal recollections. It is hoped that, accidentally, something of historical interest may come out.

The title *Not Without Help* was chosen because I have gone through life so far with the help, quite often of a number of identifiable persons who, without solicitation, have taken an interest in me. Starting from my family, of course, a reading of the book would indicate how much I owe at various times of my life to people like Peter Rendall, who was my last headmaster at Achimota School, Sir Henley and Sir Samuel Okai Quashie-Idun, the judges, and Geoffrey Bing, my Attorney General between 1957 and 1961. I must mention in this category also Kwaw-Swanzy, my Attorney General from 1962 un-

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<sup>1</sup>at the time of writing

til Nkrumah's overthrow in 1966, and Kofi Asante Ofori Atta, the Minister of Justice at various times in the Nkrumah Government. In the past ten years, my supreme sponsor has been Erik Sande of Norway. But I exclude most of that period from this part of my reminiscences, as being too near. Another day, I may be able to tell that story. But to all these I would like through this book to acknowledge my tremendous debt and to extend my warmest thanks to them. I am fully aware that some of the persons described have been controversial; even friends would have considered my association with some of them objectionable and disagreeable. Geoffrey Bing, for example, was almost universally reviled in Ghana. I found to my surprise, when Nkrumah was overthrown, that next to Nkrumah, Kwaw-Swanzy was the most disliked person among the elite of the country. That does not diminish my obligation or gratitude to them, and I tell my story as I found it.

Two institutions made the greatest impact on my life: Achimota School and Jesus College, Oxford. I have been a member of Lincoln's Inn in London since 1950 but apart from calling me to the profession of Barrister and my using its excellent law library from time to time, its influence has been minimal. 10

The reader might find my constant references to associations with successful Ghanaians, Africans or black people generally, whom I have known, rather trying. I cannot help that. The period I write about has been the period of black emancipation, offering vast opportunities and openings to us to handle all kinds of problems. The beginning of that period was with Ghana's independence followed by others in West Africa and the Caribbean. In this development, the role of secondary schools like Achimota, one of the few offering that level of education in Africa, and Oxford University, bringing together young men and women from all over the Commonwealth and Colonies and beyond, has been tremendous. I just happen to have been in both places during the relevant time. 11

## **1. Early Life in The Gold Coast**

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The earliest recollections of childhood that I have are of events which occurred when I was three. During that year I became a member of the Salvation Army School almost across the road from our home in Tudu. I do not remember learning anything in particular except singing in praise of God. I also remember being very fond of a girl my age by the name of Rose Allotey. My family used to tease me that if I went to school and Rose was not there, I came right back home without more ado. I also remember that I had a great fall on my head from the stairs at home. I understand that my mother had great anxiety for some time after wondering whether it had affected my brain. Perhaps it did, but not in the manner that my mother feared.

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My father, Ambrose Bennacle Amissah, was a lawyer. My mother, Diana, was the daughter of Joseph Nathaniel Abeohe Evans, a lawyer. In the circumstances, it probably was not strange that I became a lawyer too, and that two of my three children became lawyers. As my third child protested when she was told that she had an aptitude which best fitted her for the law, she would never join that profession; the rest of the family was without imagination. But more of that later. I was born on the 3rd of October 1930. My mother delighted in telling the story that she had been told by her lady doctor, the legendary Dr. Van Percy [\* what was her first name? ] who practised then in Accra, that I would be born at 9 am., and true enough at 9 o'clock in the morning, I came crying out to this world.

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At my christening, my father gave me all the names, including the surname of my grandfather on my mother's side and, for good measure, added Austin as my first name and, of course, I also bore the surname of Amissah. But to all members of my family and close friends I was always Ninii, which is a child's corruption of Nii, which is either Chief, or in my case, grandfather. Up to this day, when anybody calls me by that name, I realise, if I had even forgotten him, that he must be family or must have known me as a child. However, until my application for a passport before going to England to study in 1949, I bore the resounding name of Austin Joseph Nathaniel Evans Amissah. On that application, I shortened all that to my present Austin Neeabeohe Evans Amissah. Some friends from school still tease me sometimes by calling me Joseph. And for some time after I had, on my own, effected this change of name, I often had to swear affidavits to show that certificates which I had from school in the Gold Coast referred to the same person.

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I have always explained my total lack of tribal feeling on the ground that I had such different blood strains in me. My father was a pure product of the Gold Coast. But as his name Amissah indicates, he descended from Fantis on the male line. Often fellow Ghanaians meeting me for the first time immediately start speaking Fanti to me. I understand them perfectly, but my Fanti pronunciation being somewhat stilted, I feel reluctant to speak it and reply in English instead, which makes me appear awfully standoffish. Where exactly my father's great-grandfather came from in Fantiland I am not sure. My father himself said that he came from Apam. But a person like Robert Baffour who hails from Elmina has claimed relationship with him and to be the current head of his family. He is not the only one who has claimed me as descending from

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Elmina. I have been put forward as one of the chief mourners in the family of a deceased Chief from that area. However, the Fantis, being a matrilineal community would make a weak case indeed in establishing my Fanti lineage. My grandfather on my father's side, John Egbert Vicars Amissah, whom I never met, was reputed to be a surveyor, who lived in Accra. He and his family had large tracts of land near the McCarthy Hill area on the east of Accra. Either he, or some earlier generation male Amissah, had come from Fantiland and settled in Accra. That forefather and his progeny had married Ga women resulting in the continuation of the Amissah name in an increasingly Ga family relationship. It is sufficient to say that I do not have any close Fanti relation whom I recognise as such. All the close relatives that I know are Gas from the Accra area. Even the Quartey, Emmanuel Laud (Nee) Quartey, who retired as the Chief Executive of the Volta River Authority, and Joseph A.K (Fifi) Quartey, the distinguished chemist, whose mother was an Amissah and first cousin of my father, are recognized as Gas. My father's mother, Janet Plange, was from the heart of Accra. Her home was near the Salaga (Sraha) Market. Her family connections were with the Manyo-Planges, the Heward Millses on one side and the Ga Hesses and Randolphs on the other.

My mother, on the other hand, was a complete mixture. Her father was a mulatto, his father, Joseph Evans, being Welsh, and his mother, Beatrice (Aafio) Evans, later Bruce, being the daughter of Chief John Quartey of Accra. Joseph Evans, as legend has it, was one of three brothers who came out to West Africa. Two of them came to the Gold Coast. One of them, who was a teacher and a man of religion was the grandfather of Dr. Evans Anfom, Arthur Chinery and the Lutterodts. He made his home in the Mampong area of Akwapim. He lived to a ripe old age. My great grandfather on the other hand, was a trader who lived in Accra and died in his thirties. He was supposed to have sustained an injury while meeting his father on a ship in Accra harbour at the time when visiting boats could only be approached by canoes and the injury turned sceptic from which he died. Aafio, my great grandmother, who was alive at the time I was leaving for my studies in England had her home in the Otublohum division of Accra. My mother's mother, Tonesan, was a Nigerian, from the Okorodudu family of Warri, now in the Bendel (Delta) State. My mother was born in Nigeria, where her father had been sent as a young man, probably to escape the young ladies of Accra. He was indeed a handsome man. My mother, like my father, was also an only child. My grandfather brought her over to the Gold Coast when he was leaving Nigeria and for the time that she came to the Gold Coast, her "mother" was her father's youngest sister, Mary Evans (later Mrs. Jones Nelson), who was the mother of Mrs. Marion Odamtten, (my Aunt Marion and godmother), Mrs. Frances Alema (Auntie Frances) and Mrs. Genevieve Easmon (Auntie Genevieve). Like these sisters, my mother went to school for some time in Sierra Leone. 17

Having in my time been made godfather to a number of children, and mindful of my many deficiencies in that capacity, I must say that Auntie Marion took her duty as my godmother very seriously. She never forgot my birthday. She always brought me a present on that day. Even when I was a student in England, she would write to me and enclose some money. I remember, as a child, her once coming to our home on an October afternoon armed with a large drum full of sweets for me. She was surprised that nobody was in a festive mood. Everybody, including my mother had forgotten that 18

it was my birthday. On another birthday, I got a huge bundle of aertex material from her which kept me in shirts for many years after. After I had gone to boarding school at Achimota, I always went to see her immediately on my return home at the beginning of my holidays and again before I returned to school. On the latter occasion, I was always loaded with supplies to supplement the school food. I got more supplies from her mother, whom we all called Nanaa. She was a lovely woman. More than any of my sisters and younger brothers I visited her often and enjoyed being with her. If I had been home for a week without going to see her, I knew I was running a grave risk of a serious reprimand when I eventually showed up. She always managed to draw me out of myself. I got to know that she also expected me when I visited to talk to her when, as an adolescent, I once visited and was very quiet. She asked whether something had died inside me. Like my father, she must have died in her early 60s. Both died while I was a student in England. My grandmother, Janet Amissah, was an impressive and enterprising woman. She was a trader in palm oil. Her home was known in Ga as "Muchru Mong" ("Palm Oil Fort"). On her trading profits, she built two houses and educated her only son in England as a lawyer. My father matriculated as a member of the non-collegiate Society of St. Catherine's (now a fully fledged college) at Oxford in about 1918. He retained the formal photograph of himself and the staff and other students of the Society throughout his life. But I have no record showing that he ever graduated. He was called to the Bar by Inner Temple, London in 1922, and returned to Accra to practice. He was then 32. He lived in one of the two houses built by his mother. It was to that house that he took his bride when he got married four years later.

My father had three sons before he went to England, Thomas, more popularly known as Kwaku Nkpa (Kwaku the elder); Herbert, more popularly known as Kwaku Fio (Kwaku the younger), and David, otherwise called Ahene. Before he married my mother in 1926, he also had a daughter, Phyllis, otherwise called Koshie. Marriage to my mother and the birth of their first child, Beryl, occurred within a year after Phyllis was born. Indeed both Phyllis and Beryl have the same birthday, 11th November, a year apart. Apart from my father's children born before marriage to my mother, my father and mother had eight children. Two girls, Beryl and Audrey, preceded me. Two girls, Mildred and Sheila, came after me. Then Ambrose Junior, called Sonny, followed by Rosemary, who died young, and finally Jack, who was named after my grandfather. Between Sheila and Sonny, my father had another son outside the marriage with my mother. That was Cyril (Nee), the engineer with the State Construction Corporation.

I believe my mother and sisters spoilt me. I enjoyed their company. I have as a result been dependent on women all my life.

My childhood home in Tudu was the house, built by my grandmother, Janet, at the place later on developed with the building occupied for a long time by Standard Chartered Bank. My father was not the only lawyer in the area. Just to the north of us was the great leader of the Gold Coast Bar, Lawyer Frans Dove. A native of Sierra Leone, he practised in Accra probably from the beginning of the century. He was father of my Aunties Marion, Frances and Genevieve. He had a large house with a number of tennis courts, which was the home of the Accra Lawn Tennis Club at that time. On the western side of the house was the home of lawyer Akilakpa Sawyerr, father of Aki Sawyerr, whom I had

the privilege of working with in the Law Faculty of the University of Ghana, and who subsequently became Vice-Chancellor of the University. Then across the street on the other side was Lawyer Vernon Buckle, whose family was of our age and with whom we grew up together. Not very far away was Lawyer Hugh Papafio, with whose family we were on visiting terms. But we were not only friendly with the families of the lawyers of Tudu. Right across the street was one of the main means of transportation from Accra to the coastal towns of the west, Sekondi and Takoradi; that was Adra Brothers. It was owned and run by a family of Lebanese called Adra. One of them had a son by a Gold Coast woman. That son was Gilbert Oko Adra, who sadly died in the 1980s in London. Oko was always in our house when he was not at school. He also went to Achimota, where he was a very popular boy. Two sisters, Mrs. Martha Akwei and Madam Annie Brunger lived just beyond the Buckles. The diplomat, Richard (Akwei) Akwei, who apart from service in the Ghana diplomatic corps culminating in his Ambassadorship to China, was for some fifteen years the head of the Public Service Commission of the United Nations, is the son of Martha, and the former Attorney General of Ghana, Joe Reindorf, is the son of Annie. Both Akwei and Joe were a bit older than me. But we have always been close friends ever since, as also with Auntie Martha's other children: Sigismund, the eldest who spent so many of his later years in Sweden, and Iris (Naawaa), who married Professor Frank Torto of the University of Ghana, the closest friend among them.

I did not last very long at the Salvation Army School. At the age of 4 years 3 months I was admitted to the Government Junior Boys School at Adabraka. The state minimum age for admission was 5 years. As many did not know their exact ages, or if they knew were prepared to falsify it, a test of maturity had been devised whereby the prospective student had to demonstrate that he could comfortably reach the ear on the other side of his head by holding his arm over the top of his head. If his arm was too short for this exercise he failed admission. I could just about touch my ear by that process. But I was admitted. I spent from 1935 through 1938 at that school. To start with, the medium of instruction was Ga. But we started the rudiments of English as a language. I do not recall many incidents of interest at that school. Because it was a rare event, I remember a fight I had with one of my friends while on the way back from school one day. I also remember that I was rapped over the knuckles when I attempted to write with my left hand. Doing things with the left had was taboo in our society. Therefore, although I was naturally left handed I had to learn how to write with my right hand. This led to the curious result that in later life I could do certain things better with my right hand and others only with my left hand. The rough and ready classification was that, with hand movements, I became better using my right hand, but with arm movements, my left hand was still better. When I played cricket at Achimota, for example, I batted and bowled with my left hand. Until I went to England at an age bordering 19, I thought writing with the left hand was inherently wrong. As a result, one of the earliest cultural shocks I suffered when I had just arrived in England was from seeing so many students writing with their left hands without anybody paying attention to them. In spite of trying to conform with custom by doing as many things as I could with my right hand, my left trait was so distinct that at school, my most enduring nickname was "Abeku", which means left. I often wonder whether this insistence on my using my right hand when I

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should naturally have been using the left had restricted my development.

Another vivid memory which I have of this time was the earthquake of 1939, which must have been the worst Accra had experienced this century. I was at home which was then just outside the old Accra Technical School. I was sitting chatting with my half-brother, Ahene, who was the closest to my mother's children and stayed with us most of the time while we were growing up. He was fun to be with. A very good sprinter, I think, he would have been much better if he had followed a strict regime of training. He loved a fight; he had the reputation of taking on about six opponents at one time and knocking them all out. Once, he took me to watch a football match between the arch rivals of football in Accra at the time, Hearts of Oak, of which he was a member, and Standfast, which I supported. About five minutes before the end, when supporters began to whistle to indicate to the players that they had no more time than within which to put in their best efforts, Ahene turned to me and said, "Ninii, you must go home, because now we are going to fight". I do not recall which of the teams was leading at the time. I don't think it would have made the slightest difference. The time for footballing was ending and the time for fighting was about to begin. Ahene was my hero, without a doubt. Anyway, I was with him in the verandah of our house, when the earth began to shake. He shouted to me to leave the building, and I gave such a leap to get out as I have never leapt thereafter. The earthquake did great damage to houses. Government officials went around marking the damaged houses with large crosses, to show which had to be demolished. It led also to some low cost housing being constructed at speed in some areas. Some of the houses can be seen on the Osu-Labadi road today. 23

I also remember following the military band lead the soldiers who were being sent together with others from other British West African colonies as the Royal West African Frontier Force (RWAFF) contingent to Burma during the war. I loved the martial music, the only thing I liked about the military and as the band went from the Government Boys' School at Kinbu to the Accra Railway Station at the head of relays of soldiers brought from Cantonments by lorry to complete their last part of their journey out of Accra on foot, I followed them. I learnt quite a number of the marches which the regimental band as well as the Police band played. 24

I graduated to the Government Senior Boys' School at Kinbu, near the present Government Ministries area in 1939. It had some well-known teachers, such as Mr. Nylander, [\* first name? ] who became an Ambassador and a Minister in Nkrumah's time, and Mr. Frimpong. [\* first name? ] Both of them were feared by students because they were adept with the cane. Mr. Nylander had the nickname, "Okpleng", meaning a cannon. I looked forward to being in their class with great trepidation, but I escaped, as I was at that school for only one year. In 1941, I joined the Lower Primary (LP) of Achimota School. From that time onward, I ceased to be a day student and became a boarder at the School. 25

Achimota had always been a co-educational school. But due to the dislocations of the Second World War, the boys of LP were in the central part of Accra, at a place known as the old Technical School. The perimeter fence of Technical School was only a few yards from my home. My parents could see what we were doing on the play-ground and 26

sometimes the boisterousness of the boys had apparently alarmed my mother. From this time onward, my friends came more and more from my school mates and I lost contact with the wider Ga family and earlier school friends I had made before. The Akweis and Joe Reindorf's family eventually moved from Tudu to Achimota Village and I continued visiting them there. But Richard, Joe Reindorf, Naawaa and the Buckles, in any case went to school at Achimota.

At the Technical School, I made my acquaintance with the first member of the remarkable Nigerian family of the Attas. Adamu Atta, one of the biggest and strongest boys in the LP at the time who became my friend and protector, was the son of the Atta of Igbirra. Their home was in Okene and Lokoja round about the confluence of the Rivers Niger and Benue in Nigeria. The Atta of Igbirra was one of the far-sighted Chiefs of West Africa. He must have seen the need that would arise for African professionals and public servants in their countries and gave the best possible education to his children. Achimota was the best known school in West Africa, and the Atta of Igbirra [\* Uncle Rodger adds ] sent a number of his children there. Adamu later on became a lawyer and Governor of Kwara State in Nigeria during the Shehu Shagari regime. 27

Abdul Aziz who also came to Achimota, became the Permanent Secretary of the Ministry of Finance and the most senior civil servant in Nigeria at the time of the Biafran civil war. He had gone to Oxford after Achimota and the story goes that on his return to Northern Nigeria, his father, who was then in the Legislative Council, proposed that places should be found in the administration of the country for the sons of Nigeria who were bound to come back from training abroad in increasing numbers with higher education qualifications from then on. There was not one Nigerian in the service of Northern Nigeria at the time. The proposal was not popular amongst his conservative fellow rulers of the North. In the course of the debate, the Atta of Igbirra had said that he had no personal interest in the matter. That gave one of his colleagues the opportunity to bring the debate to an end by saying, "It's no use the Atta of Igbirra saying that he has no personal interest in the matter, because he has!" Abdul Aziz is said to have sworn never to work in the administration of his home region in the North. He joined the administrative service in Eastern Nigeria and rose to the top-most position in the Nigerian public services without ever serving in his northern home. Some say that the fact that there was so little strife and recrimination between Eastern Nigeria and the rest of the country after the war was due in no small measure to people like Abdul Aziz, who were in the highest advisory positions in the Gowon Government at the time. 28

Abdul Aziz's brother, Abdul Mumuni, also an old Achimotan, became a doctor. He worked in the North, and was in Zaria for a long time. Of the sisters who came to Achimota, Rakiya (Mrs. Scott) joined the diplomatic service of Nigeria, Katsina (Mrs. Claude Enin first and then later, Mrs. Majekodunmi), my class-mate, became a nursing sister, and the youngest, Sefi, who married the poet Chris Okigbo, the younger brother of my good friend, Pius, and was widowed in the Civil War, became the first woman graduate of Northern Nigeria, and after representing Nigeria in UNESCO eventually became Director-General of the Federal Ministry of External Affairs and later Ambassador to Rome. I later met their eldest brother, Abdul Maliki, who did not come to Achimota, when he was Nigeria's first High Commissioner in London. That was a truly 29



distinguished family. The other African Chief who impressed me as having a similar appreciation of the value of education was the Bechemhene, Nana Fosu Gyeabour, but then I met his son Patrick Anin much later at Achimota.

I must have been a smallish boy at school, always slightly below the average age. I participated in most things that the students did but outdoor sports were not a favourite past-time of mine. I was quite proud of my academic work and I spent some time at reading. One thing which coming to the school in LP did was to qualify you early as an old boy and relieve you of the worst form of bullying which initiated all new students, especially to the secondary and teacher-training sides of the school. There was a minor form of bullying by the older and bigger boys in LP. But even from this I escaped, as one would incur the displeasure of Adamu, recognised as one of the two tough boys in LP, if one did. The other tough guy was Ludwig Richter. There was speculation as to which of the two was the stronger. But they kept the rest guessing as they did not offer to have the doubt resolved. When I later joined the Secondary School, I found that no one bothered to bully me as a new student to the side, although they bullied the newcomers mercilessly. It was a practice that I found revolting but could not do anything about. To my amazement, some of those who had suffered from the brutalising when they joined the School were themselves the most active and the worst offenders when they found that in their turn they were entitled to bully others. ~~By the time our son Ralph went to the School, I understood that the practice had been abolished. [\* it had not RA]~~

Johnny Quashie-Idun was my class-mate. He was a family friend as his father, then a Magistrate, but later to become a judge of the High Court in Ghana, the Chief Justice of Western Nigeria and a member of the East African Court of Appeal and to be knighted Sir Samuel Okai Quashie-Idun, was a good friend of my father. Uncle Okai had a wonderful sense of humour. I remember walks with him both in Ghana and Canberra, Australia in 1965, where we met again after he had left the Ghana judiciary, enlivened by anecdote after anecdote. Johnny himself inherited quite a bit of the humour and common sense of his father. He had a gift for coining nick-names for his colleagues. The more they objected to the name, the more he insisted on calling them by such names. One soon found out that the best way of avoiding an undesirable name from sticking was to appear not to be offended at all by it. In his effort to find a name which I objected to, he called me a number of names, among them, "Abeku", because of my left-handedness, "Sapiens", for studying too hard, and "Cupidus", because he thought I was fond of the girls. I took them all in good spirit, and found that those who used them did so affectionately. Another such family friend in my class was Akilowu Akiwumi, whose father, Augustus Molade Akiwumi, was also a lawyer and a friend of my father. Johnny's name for him was "Avarus", because Johnny accused him of being a miser. Akilowu hated it; Johnny persisted with the name. John (Kweku) Appiah, who became a soldier and a member of the Ghana Engineering Corps, was also a friend from this time. George Amuah also joined the military as a naval officer. Some of my mates I lost sight of soon after Achimota. Among these was George Assad and Charles Haick, the latter of whom I saw many years later when he announced that he was now "on his fourth wife." I am afraid I was not good at making friends with those younger than myself so that while I had many friends much older than myself, those who were younger came to my attention only for a particular reason. Among friends from the younger groups

forms were, Willie and John Bossman, children of Kofi Adumua Bossman, the lawyer and judge; Johnny Francois, later to become the Chief Conservator of Forests; Vishnu Wassiamal, later Ambassador to Brazil and Japan; Adonten Asafu-Adjaye, the son of Sir Edward Asafu-Adjaye, the lawyer who became Ghana's first High Commissioner to the UK. Adonten was on his mother's side distantly related to me.

The head of the LP boys school, when we were at the Technical School site was Miss Dunnet. My form master was Mr. Asirifi Bonsu Attafua, who was to be my form master again in a later form. He later went up to Balliol Oxford and read history and then became a lawyer. He was always an admirer and a very good friend of Busia. When the latter became Prime Minister in 1969, Mr. Attafua became his High Commissioner in London. The other teacher who had much to do with my education and who was around at the Technical School was Mr. Tom Boaten, born in the Seychelles when his parents were in exile with the first King Prempeh of Ashanti. Mr. Doku-Nartey, was also a teacher at the Technical School. From Achimota came Mr. Turkson [\* first name? ] to take us in carpentry. Many years later, I had the honour of working with his son in the Law Faculty. 32

It was during that time that Owura (the Akan equivalent of Mr.) Ephraim Amu returned to Ghana and also came about twice a week to take us in music. He had just returned from England. He was the supreme nationalist. So much so that some conservative minded Ghanaians following in the British tradition in clothes and attitudes then prevailing, my father included, thought he was a crank. Owura Amu tried to express himself, when speaking in a local language, purely without using English words. He would use the nearest representation the local language was capable of in expressing the idea in order to achieve this purpose. So bicycle and the motor cycle, which was his means of transportation from Achimota to the Technical School, were described as "dade ponkor" (literally "iron horse"), a pen was "tchreudua" ("writing stick"), a doctor of letters was "ongumadruyefo" ("a medicine man on books") and so on. He refused to spell or pronounce my name according to the accepted norms of the time. He could not understand why a Gold Coast name ending in an "a" should have an "h" at the end. And he would put the emphasis on Amissah not on the first but on the last syllable. All the same, I found him delightful and an inspiration. He taught us music and later on, drumming. He wrote beautiful music: both tunes and lyrics. In a local language like Ga in which he was not too fluent, the lyrics became a bit stilted. But coming from Peki in the Volta region where both Akan and Ewe were used, his songs in those languages were beautiful. Some of them would live for ever as the expression of our national ethos. With all due deference to Mr. Phillip Gbeho, who was also my music teacher at Achimota and who won the competition for Ghana's national anthem just before independence in 1957, for expression of the Ghanaian's faith, pride and pledge of service to his country, I think Owura Amu's "Yeng ara asase ni" (This is our very own land) ought to have been chosen as the national anthem. 33

I remember him in those days when I was an early teenager. In line with his Africanness, he wore a tunic shirt, buttoned up to the neck and a pair of shorts, all made of the cloth which was then woven in Nigeria and known as "Kano cloth". He even made a rain cape of this material. It was sad to see him after the seven mile journey from Achimota to 34

the Technical School through the tropical rain. Of course, he would arrive all wet. But it took him some time to take the practical course and get himself a proper raincoat. Johnny Quashie-Idun repeats a story told by his father when the latter travelled with Owura Amu on one of the passenger boats from the Gold Coast to Europe. They had had a European meal which by any standards was a good meal. Owura Amu leant over to Mr. Quashie-Idun, then a Magistrate in the Colonial Service and whispered in Twi, "Magistrate, se me nya ode bi anka..." (Magistrate, if only I had had some yam...").

From time to time, we lost contact and then again revived it through the years until I left Ghana for Europe in 1982. I had considered Owura Amu as one of the greatest Ghanaians I had known. I had occasion to serve with him on the Valco Fund for some thirteen years; it was always wonderful to see him at the Board meetings. This was between twenty to thirty years after he had taught me. His ways had not changed much, though he was now in his eighties. But he had come to be recognised more as a national institution by then. I was happy to note this metamorphosis. I very much enjoyed his contributions at the meetings. 35

A year after our stay in the Technical School, we went back to the Achimota School compound. But that did not last long. It was in 1942 and the decision was taken then that the General Headquarters (GHQ) for the West Africa [\* North Africa? Uncle Rodger], with Lord Swinton as the head of the war effort, should be based in Achimota. The Girls' School side of Achimota was chosen for the GHQ and the girls were moved from there to the boys' side of the school. Readjustments had to be made and this resulted in both the boys and girls of LP being moved from the school compound to the Aburi Gardens, some 23 miles from Accra on the Akwapim hills. 36

I have visited Aburi many times since I grew up and I am astonished how small the Gardens are. But at the age of 12-13, it was a very large Garden. Then, as now, it was a beautiful place to be in. Our teachers who had been in the Technical School came with us. But Miss Dunnet [\* first name? ] was replaced by Mrs. Wilkinson [\* first name? ] as the head. Indeed, I never saw Miss Dunnet again after this. Owura Amu stayed behind in Achimota. His place as music teacher was taken by Phillip Gbeho. In addition, we had Mr. Ofosu Appiah, who later joined Ghana Broadcasting, and Mr. Amuah, [\* first name? ] who died early. The teachers of the girls, who went to Agogo in Ashanti with them while we were in the Technical School, also joined us. So there were teachers like Miss Angela Christian, who could not have been back from her studies in the UK for very long, and the Hannah-Gardiner twins. The girls lived on the top floor of the main building in the Gardens and the lower floor was used for classrooms. The boys lived in some of the houses nearby. Some of the teachers had to make do with the out-houses and garages attached to these houses. But Mr. Gbeho who was married with children took a house in the town outside the Garden. Our dining hall, which was the main assembly hall, was quickly constructed in timber for our use. 37

I was delayed for a fortnight in leaving Achimota for Aburi because, just before the move, I was in the school hospital with malaria, which used to take me there regularly at least once every term. This time, after I had recovered, the hospital authorities decided to quarantine the inmates of the hospital for two weeks, because a patient 38

among us had come down with measles. So we were kept there, healthy young boys and girls doing nothing, just passing the time. It was quite frustrating. One of the boys under quarantine was my distant cousin, Nee Lante Heward Mills, nick-named "Agra". We found that our appetites were much better than the hospital rations we got and we often found ourselves hungry. That was until Agra's sister, Eileen (Naa Lamiorakor), who later married Dr. Robertson, [\* first name? ] got to hear about our plight. Our quarantine barracks was a wooden shed not too far from the girls' houses. Thanks to her, we were all right after that.

The Gardens were colder than anywhere else I had ever been before. The usual requirement that we had our baths twice a day became a chore, as the water was so cold, especially in the mornings. Aburi did not have much water at that time. The houses where we lived had large tanks for the collection of rain-water. But these were treated mostly as emergency supplies. For our water, we either had to go to a spring or to the village well either of which was at least a mile or two away from the Gardens and fetch our water in buckets. The traditional routine of classes, communal eating, resting in the afternoons, games thereafter, then prep, when we did our homework for future classes, was followed. 39

I got on very well with my teachers. At the time when they undemocratically appointed form captains to maintain order in the class, I was always appointed to that office. So, I had been form captain, although probably one of the smallest boys from my first year at the school when we were in the Technical School, and I continued this office in my second year at Aburi. But to demonstrate their independence or show me how unpopular I was, or both, once the election of form captain was thrown open to popular vote, I ceased to occupy that office; and that continued to be so right through the rest of my school career. That situation seems to have been repeated in my future career, because although I was appointed a Commissioner (Minister) of Justice and Attorney General by an undemocratic military Government and held a number of posts, I never held elective office. But then I never sought one, having firmly stuck to my father's saying that the day that we heard that he was seeking election to the legislature of the country, that very day, we should have him certified. 40

In spite of the fact that I was never proposed as form captain, I had a large number of friends at School. A simple recital of their names would be boring. Some of them appear later on in my life and it would be more appropriate to mention them then. But I got attached to the friends that I made throughout my days at Achimota. They were more my family than the natural family I had. That was understandable because the school term then was thirteen weeks. Mid-term was an extra day's holiday, which you might choose to spend at the School or go on an excursion with other students, once we were at the senior School where such excursions were organised or have an exeat to Accra. Mid-term did not consist of several days' break when you could go for a mini-holiday at home. Most of the year, was, therefore, spent in the company of my school friends. When later my mother was identifying members of my real family, even if somewhat extended, to me in the expectation that I would keep closer company with them, she found that I had, very little, and in many cases could develop no, feeling for them. 41

My friends at the school even at that time were not confined to the boys. Katsina, Adamu's sister in my class; Akosua Kuffuor, later Mrs. E.O. Dodoo; Theresa Striggner, now Mrs. Striggner-Scott, Ghana's Ambassador to Paris; Cecilia Nana Atoo, later Mrs. Manwere Opoku; and Effua Etru, were all contemporaries and good friends. 42

The road up the hill to Aburi was then not tarmacked. There was no protection built to its open side. The School hired the Adra lorry to take us from Achimota to the Gardens at the beginning of the School term and to bring us back at the end. The driving could look dangerous. Johnny Quashie-Idun's father was then stationed in Koforidua as a Magistrate. His jurisdiction extended to Mampong in the Akwapim area, which was quite near Aburi. He would come to fetch Johnny at the end of term. The first time I had to come down from Aburi at the end of term, he suggested to my father that he would pick me up as well and take me to Koforidua, where I could stay with his family for a few days then take the train from there to Accra. The road from Aburi to Koforidua was hilly but it did not present the same dangers as the part from Aburi to Accra. We did this a few times. But later I joined my other colleagues who were facing the peril of the Adra lorry trip down the hill to Accra. 43

I recall a visit our class made with Mr. Tom Boaten to the Provincial Council of Chiefs at Dodowa. That was an object lesson in civics. It probably is from that time that my respect for chieftaincy in the country developed. The Council was presided over by Nana Kwadade II, the Omanhene of Akwapim, and the father of my friend Kodwo Awere, whom I got to know better in the Achimota Secondary School. Before Nana Kwadade assumed the chieftaincy, he was Lawyer Awere, a friend of my father. Indeed, he was my godfather. There he was resplendent in his chiefly robes, discoursing with his fellow-chiefs about the affairs of their province. There was some majesty about their proceedings. They did not have ultimate power. But they had more power than they were left with in independent Ghana. It has been my belief, perhaps germinated at that time, that a constitutional structure in our independent country without a responsible role for the Chiefs would be a weak structure. 44

After a year and a half in Aburi, my class went back to the Achimota campus for our secondary, and some for teacher-training schooling. That was in 1944. We stayed in Achimota until we took the Cambridge School Certificate in December 1948. Most of my class-mates left at that point. But a few of us stayed on as the first intake of the new Sixth Form. I stayed on in that class for a term. But as my father planned to send me to England later on that year, I left after that extra term. 45

The Achimota I met had a system of student prefects, who were the senior boys and girls thought by the school authorities as responsible enough to control themselves and the other students in their charge. Each House had its prefect. Then there were overall Senior prefects, one for all the boys and the other for all the girls, as well as prefects for school sports and entertainment. Each House was more or less divided into four dormitories, with each dormitory having a monitor and with the boys, there were monitors for "groundwork", an attempt to improve the surroundings of the House by gardening. 46

I was first in Livingstone House, which was then for the smaller boys of the secondary/teacher-

training school. I stayed there for two years. Many others stayed for only one and moved on to the more senior houses. Our house prefect in Livingstone at one time was Sekyi, who became a businessman later. Harry Richardson, later an accountant, and Saka Akwei, artist, sculptor, and musician, were monitors in my time there. We had C.T. Shaw and Attoh Okine as house masters. Mr. Shaw did not actually teach me. But Attoh Okine did. He taught me history. As indeed did A.B. Attafua, when he came back from Aburi. Both of them later went up to Balliol College, Oxford for their degree courses. Attoh Okine also taught us various voice parts in hymn-singing that we sang at our evening prayers in the House. He was a good cricketer, having, I believe, played for his country in the inter-West African cricket matches and, under him, I learnt the rudiments of cricket.

After the two years, I moved to Cadbury House. I had not asked to go to Cadbury. We were asked to give our choice of senior House that we wished to go to. I then chose Aggrey House, the house quite close to Livingstone House. I cannot now remember why I preferred Aggrey House at this time. I remember that Adzei Bekoe, who later read Chemistry at Legon and Oxford, and was Professor and Vice-Chancellor of the University of Ghana after Alex Kwapong, who had occupied the bed next to mine in my dormitory the year before, had gone on to Aggrey House. I probably heard of the interest of the Cadbury Housemaster, Mr. Charles Percy Woodhouse, in getting good cricketers to his house and I, with some pretensions to passable cricket at the time, did not want to come under his driving influence. 48

I was not too surprised when I found on my return to the school at the beginning of the year that I had been sent to Cadbury House. I was not too distressed: all my best friends, like Roger Korsah, Adamu Atta, J.H. Mensah, later economist and politician, Emmanuel Ofei Dodoo, later University Administrator, Johnny Quashie-Idun, Frank Vardon, now an accountant, Nee Quartey, the eldest son of P.D. Quartey, our physical training master, who for a short while also taught us Gold Coast History, were there. We formed some sort of group which ate together. The hard core of the group even pooled resources together, our pocket monies, gari, corned beef, sardines, tinned dry milk and other foodstuffs brought in chop-boxes to supplement the food we had in the dining hall. Roger was then the most senior among us, and some of us met him as a sports prefect, his specialities being the high jump and swimming. He acted when he could, as the protector of the members of the group whenever any of them got into trouble with the student prefects. 49

One of the many causes for protection was the interest in horse racing which some of us, notably, Adamu, Johnny, together with Nee Lante Heward-Mills of Aggrey House, whose father A.G.(Agbado) Heward-Mills, was one of the leading horse owners in the country, Bia Thompson of Aggrey House, son of A.W. Kojo-Thompson, the lawyer, who had actually become a jockey at a young age, Kodwo Awere of Gyamfi House, and myself, developed at school. We followed horse racing news, went to Accra on the week-ends to watch not only the races but the practice of the horses and got to know some of the trainers, jockeys and horse boys. This was an exciting past-time. Bia was a natural story teller and would embroider the most ordinary horse racing story in a manner which made it most thrilling and he had a lot of stories to tell, which would hold 50

us captive for ages. Some of us chose stables which we supported: Nee Lante naturally supported his father's stable. The opposition consisted of stables controlled by some Lebanese, notably S.E. Sassine and the Chahin brothers. The racing horses were at that time imported from northern Nigeria and further on in the north of that country. They were not as good as Arabians, or thoroughbred European horses; when some of these were eventually imported into the Gold Coast, special races had to be organised for them or if they mixed with the West African breeds, had to run with long distance and weight handicaps. At its height, some of the owners in Nigeria, like Chagoury, raced their horses in the more important races in Accra. The premier race was the Governor's Cup, which like any premier race in any country was preceded by exciting rumour, argument about the merits of the various entries and high expectation. Would it be Zouzou, Victory Day, London, Royal Mail, Miracle or Jubilee's race, or that of a rank outsider? The horses remained more or less the same over a period, as there was practically no breeding in the Gold Coast, the horses were allowed to compete in the same races year after year until they were incapable and valuable horses did not appear on the scene too often. We got involved in all this excitement.

That involvement meant that we broke rules about going to Accra from time to time. Normally, each student had an exeat to Accra twice a term. He had a chit officially signed by the housemaster, or at least a prefect, granting him the permission to leave the school compound. He had to leave the compound at about 9 am. and had to be back before dining hall dinner, in the evening, which meant 6 pm. at the latest. But if one wanted to watch an early morning gallop by the horses, one had to be at the beach or racecourse in Accra, 7 miles away at dawn, at about 5 to 6 am. And if one watched an afternoon gallop or went to the races, the likelihood of return to the school before 6 pm. was remote. Besides, pursuit of the pastime necessarily involved going to Accra, not twice in a term, but maybe every weekend. Some of us did so more than others. Of course, the frequent visitors to Accra to indulge in this horse racing pursuit were from time to time caught out for breaking the rules. If you were caught by a sympathetic prefect or monitor, you may get away with it. If, on the other hand, you were caught by a staff member, or student officer, keen to enforce the rules, then you were in for a bad time. It may mean punishment in the form of digging a defined area, usually of hard gravelly ground about three or more feet deep and then filling it in after inspection, or in the worst case, suspension from the school for a period. That was where a prefect like Roger could be helpful; in turning a blind eye to an infringement, pleading for forgiveness with other colleagues, or for a lighter sentence, when you were caught by them. Fortunately, although I was the chief supporter of the Sassine stable, my non-exeat visits were not that frequent and did not meet with any official discovery. The other good thing about our love of horse racing at this time is that none of us, to my knowledge, gambled heavily then or turned into a gambler in later life. The worst it made me was that when we were students in England, I used to make a book for the English Derby for my friends, who placed small bets for the fun of it for the occasion.

Talking about visits to Accra reminds me of one rule which one had to live by. If you had no exeat and you saw Owura Amu come on the transport to Accra, then you must come off it at once. To begin with, the transport that we had to Accra at that time was

an Adra Brothers' lorry. The accepted wisdom was that if Owura came on the lorry, he would pay the fare for the students he found on it. After doing so, he would turn quietly on the student, and ask, "Na wu krataa wo hen?" (and where is your document, meaning exeat?)

As was to be expected, C.P. Woodhouse started building his team for the cricket matches against the other Houses as soon as we got to Cadbury House. The team he had was quite formidable. No other House could touch us in cricket. Emmanuel Haizel, in the class a year ahead, played all the strokes we were taught not to play. But he always made a large score. To crown it all, he could bowl the opponents out as well. His was a keen eye in sports. Supported by K.K. Korsah, whom I met in Cadbury as the Senior Prefect of the School, Adamu, Johnny, Ofei Dodoo, E.A. Banful, myself and, later on, Nee Quartey, Johnny Francois and Fred Augustt, [\* check ] we were invincible and won the House cricket matches year after year. But I found Woodhouse's cricketing regime oppressive; and would cut practice as often as I could. I also played on the School team, when we were coached by our Ceylonese (Sri Lankan) master, A.H.R. Joseph, popularly known as Paa Joe. He had played some county cricket in England before and he was a pillar of the cricketing world in the Gold Coast. But I was not terribly good. Paa Joe once likened me to Wally Hammond, who had a lovely style but did not manage to produce a decent score. My commitment to the game is characterised by the fact that I have forgotten most of the facts about my participation in it at Achimota eg, the teams we played. My best batting performance on the School team, as I remember, was a modest but valuable score which I made when I once opened the innings with A.B.B. Andrews (Nee Blebo) of Aggrey House and I can remember a fine catch I took which brought to an end the innings of Major Bean of the Gold Coast mining community who also had a reputation as an English county cricketer. But I did enjoy watching people like Attoh Okine, Paa Joe, Kofi Atiemo, then an Old Boy who visited from time to time, and Kester play.

My opposition to Woodhouse was not limited to his cricketing regime. I got to a point where I tried to dodge doing anything that I knew would please him. I was not a particularly bright spark in the house. I would not have won great marks for tidiness or hard work. But I enjoyed the atmosphere and the friendships. The wonderful thing about the School was that if you started there at an early age, you had a long range of people in several years of classes that you get to know. At the beginning, you would know, if you took into account those taking the London University Intermediate level examinations, popularly know as Inter, students over a seven year span, as you moved up every year, new students came up, and depending on how well you get to know them, the number of years covered is expanded. When I started at the Secondary School, the war had increased the number of those at the Inter level because the students at that level from Yaba College in Nigeria had been moved to Achimota. This brought in an interesting injection of new blood, new attitudes and perspectives to the School. People like Sam Ikoku, who became one of the African advisers of Nkrumah after independence, Ben Chukudebelo (Chude), Birabe, whom I knew well and who was kind enough to act as my barber, Pius Okigbo, whom I was later to meet at Oxford were among the Yaba students. For me, they also brought to the Gold Coast the closest Nigerian relative of my mother that I got to know, her first cousin, Michael Okorodudu, who was one of their



masters. Fraternising with all these people was a wonderful experience.

The one very sad note into an otherwise enjoyable life was introduced by the sudden death of Nee Quartey. We were dumbstruck. His immediate family was, of course, on the compound. While we grieved for his parents and brothers and sisters for their loss, I was surprised to hear that his mother's great concern was over how we were going to manage without our friend. I was very fond of Mrs. P.D. Quartey and thought she was a very brave woman. I also lost my sister Rosemary Naa Kwarnor while I was at School. I did feel sad. But I did not know her that well. She had been born and lived most of her short life while I was at School. I remember her as a beautiful child and wish I had known her better. Although I was no great shakes in the House, my class work was not bad. The only subject that I was not very good at was Latin. In my worst academic year at the school, that was in 1946, when I was in Form 3, my Latin master, E. Amanor Boateng, advised me to drop the subject as there was a distinct chance of my failing in the final examination. I was lazy and could not bother to learn the grammar. But I knew that many British Universities then required a pass in School Certificate Latin for admission, and I had every intention of going to a University in Britain, preferably, Oxford or Cambridge, so I declined to follow Amanor Boateng's advice. But although I picked up later, I never became good at it. Mr. Alex Kwapong who taught me the subject in Forms 4 and 5, always knew how much preparation I had done before class and would invite me to translate texts only after my prepared passages had been exhausted. I later asked him how he managed unfailingly to know when we reached the parts of the set work which I had not prepared. He said it was easy, I always had a fixed smile on my face when we got to the part I had not prepared.

The Gold Coast Government then had a scheme for sending its bright scholars to England for degree courses. There was then no University of Ghana. The limit which one could reach in his studies in the Gold Coast was the London University Intermediate degree (Inter). That was taken two years after the School Certificate degree. The Inter course was run in Achimota. As a result, the School at that stage did not only have students who had finished their School Certificate in Achimota but it had the cream of students from other Schools who could only continue their Inter course there. The time that I recollect was getting towards the end of the Second World War and the scheme of scholarships for study abroad lasted for some time after the war. One other result of the war was that there was quite a shortage of teachers in our secondary school, as up to that time many of them had been recruited in the UK, and the war made such recruitment difficult. The examination year in the Gold Coast in those days ended in December. Those who had taken exams had to wait a few months before they heard the results. In any case, as the University year in the UK started in October, there was a gap of a few months' waiting for those who had completed their education in the Gold Coast and wished to continue abroad.

While waiting to go to England for such further education, some of the selected students filled the gap by teaching their younger colleagues. Right through my years at Achimota, we had such temporary teachers and they were some of the best that I remember. Silas Dodu, later on a brilliant medical consultant was one of the earlier crop. Then there were Amanor Boateng, who taught us Geography and Latin, and later

took his degree in Geography at Oxford, returning to teach at the University of Ghana when it was opened and later became Vice-Chancellor of Cape Coast University; my cousin, Fifi Quartey, who taught us Chemistry, and later on went to Queen's College Cambridge to distinguish himself and returned to teach his subject at the University of Ghana; Fred Sai, who also taught us biology, and became a distinguished doctor and international civil servant; A.A. Amar, who taught us physics, and went on to do medicine and specialised in family planning; K.B. Asante, who taught us Mathematics, and went on to do his degree at Durham University and later on was selected as one of the first six candidates to train as diplomats for the coming independence of Ghana and has since held many major diplomatic posts, including Berne and Geneva, Brussels and London; and Alex Kwapong, who taught us Latin, then took a first in Cambridge in Classics, taught at the University of Ghana and was later its Vice-Chancellor, and the Vice-Rector of the United Nations University at Tokyo. Achimota was at that time returning very high results for the Cambridge School Certificate exams, and it was due in no small measure to these inspired teachers. I remember that Fifi Quartey, after he had left for Cambridge, was succeeded as our Chemistry master by an Englishman, Lawrence B. Fry. After our first test, Mr. Fry told us that we already knew too much of the subject and could afford to forget some of it before our Cambridge exams.

The war brought some dislocation also in the filling of the headship of the School. Achimota was known as the School of Aggrey, who had given utterance to the famous apothegm that the keys of the piano were black and white and one did not get the best music out of playing either the white keys by themselves or the black keys by themselves. The best music is obtained by playing both keys together. The logic of the saying being, as the School motto, "Ut omnes unum sint", that all may be one. But after Aggrey, who attained the high post of assistant Vice Principal under the first Principal, H.G. Fraser, no black man attained similar high office among the staff until after I had left the School. In my early years, the Reverend R.W. Stopford, later to become Bishop of London, became Principal. That was in 1941. With his coming, a fear swept across the School that all students who did not do well were to be sent down. The "disease" was called "Stopfordises". It must have raised the level of academic achievement quite a lot. But Stopford did not stay very long at the School. In any case, apart from learning one of Owura Amu's songs to welcome him as head, I was too young to have anything to do with him. And until Peter Rendall came to be headmaster towards the end of my school days, there was a succession of acting heads, including the stylish Jack Marshall, Mr. H.C. Neil, and for short periods, Charles Woodhouse, my housemaster in Cadbury House. H.C. Neil taught me Latin at one time but I did not get to know him too well.

I said that 1946 was my worst year academically. In most other years, I managed to win prizes in two or three subjects, and sometimes collected the form prize as well every year.[\*] But in that year I won no prize at all. I remember sitting among the crowd for the first time at the prize-giving ceremony quite disconsolate. That year, the prizes were handed down by Sir Arku Korsah, the father of my very good friend, and now also my brother-in law, Roger. By the time I got home, the news had got to my family that I was not working at school because I had more or less become a womaniser.

I had quite a miserable holiday. For the first time my father who all through my life I

could remember hitting me only once and practically never gave me a serious talking to at any other time, gave me a long lecture. Then came the time when I went to say good-bye to Auntie Marion, my godmother. I received another sermon there. By the time I went round to Nanaa, I knew what to expect and was more braced up for that encounter. I met her on her way out. But she spent a little time talking to me about what she had heard I had been doing at school. Her case was simple: this chasing after girls, I had the rest of my life to do. I would even get tired of it. Why did I not concentrate on my studies for the time being? She went on to name the girl I had been wasting my time with. It was such a relief because, although I knew her well, I was not at the time even on speaking terms with her. So I was able to rubbish the report she had heard. Whether she believed me or not, I do not know, but I felt good being able to tell her, at least, that there was no truth in the allegation. I had always had my suspicion of who it was who reported me to my family. I believe it was a teacher who thought he was doing me a great deal of good, though in that case I would have respected him better if he had spoken to me first instead. But I did not change my life style much at the school because of the incident, except that I made a serious effort to get back to prize-winning, which I resumed the following year.

By the time I came to choose subjects for my School Certificate exams, I was equally good at science and the arts subjects. At one time, I had wanted to be a doctor. My father never tried to dissuade me from my frequent enthusiasms for qualifications. Because of the fact that the largest single employer was the Government and one did not want to be beholden to it unduly, he, of course, wanted me to have a profession which would leave me free to pursue my own interests if I did not want permanent employment. 61

Mr. Miguel Ribeiro (Uncle Mike) became my History teacher in the last two years before I took my School Certificate exam. It was he who put me firmly on to reading law. His father had also been a lawyer and I think he was in love with the law. He once took me aside and asked me what I wanted to be. I said I was not sure. I was inclined to do medicine but I was not too happy with the practical experiments in the biology lab. I could not stand blood. But my marks were very good. He said I could be good at a subject but it did not mean that I was going to be happy living with it for the rest of my life. He knew that my History was also very good. He thought I would be much happier reading law than medicine. I do not know how he came to that conclusion, because what disqualified me in his eyes for a future in science would equally apply to the arts subject in which I did well. I knew, however, that while I did not feel too happy in the biology lab, I could spend hours among my father's papers when I was at home. I read his books on law, especially on great cross-examinations, famous trials, legal biographies of such trial giants in England As Marshall Hall, Carson and Patrick Hastings, and legal anecdotes. I read some of his opening notes to trials he had conducted. Some of the latter, I re-read, after I had become a Crown Counsel, and often wondered why he was not a great lawyer in his day. Anyway, I managed to be persuaded by Uncle Mike and from then on started thinking seriously of becoming a lawyer. 62

In those days, the material used in teaching us arts subjects was heavily eurocentric 63

and, even more so, focused on the British Isles. If a student said that he had chosen Literature as one of his examination subjects, it was nothing else than English literature. So he would read Dickens, Galsworthy, Sheridan, the Brontes, Jane Austen, Somerset Maugham and so forth. There was not the spate of African writers which are found nowadays to use as text books. As I wanted to take the additional science paper in which I knew I would do well, I did not take English literature. But English as a language was a compulsory paper. Although the students' vernacular languages were no more than optional papers. English, Maths and General Science were the core subjects in which every student had to pass in order to get a certificate. My chosen subjects were therefore, these core subjects, the General Science II paper, History, Geography and Latin. Throughout the School, I had only one year in which we read Gold Coast History as part of the history course. We did not expect to be examined [in it] by the Cambridge authorities and therefore, as often is the case, we gave low priority to it. The only book we had on the subject was Gold Coast History by W.E. Ward, a classical text book by one of the British teachers at the School.

We spent most of our time learning about the Tudors, the Stuarts, the Hanoverians and the French Revolution. Of text books, Trevelyan's book on English History was our mainstay. I thought it was inspiring writing. That was supplemented by those interested with Fisher's European History. I remember inheriting a very good textbook on British History by Ramsay Muir from my friend, J.H. [\* Mensah? ] I got to know portions of it as I knew any other book. I could always score some bonus points with that because, unlike Trevelyan, I was the only one who had that book. I remember our using a cram book called Edwards when the exams were drawing nearer. And when Teacher Attafua returned from Oxford and took us a few hours in the subject, he introduced us to Stubbs. We had to take both physical and regional Geography, in which our great textbooks were by Dudley Stamp and Jasper Stenbridge. We learnt about Africa, especially its climatic and relief geography and we did study a bit of the Geography of the Gold Coast. But the concentration was heavily on the Geography of the British Isles. I knew more about the rivers of Yorkshire, of which we coined the mnemonic, "Sunwad", to cover the rivers Swale, the Ure, the Nidd, the Wharfe, the Aire and the Don, than I knew of the rivers of the Gold Coast and more about the cotton industry in Lancashire and the wool industry in Yorkshire than of the cocoa industry in the Gold Coast or any other industry in Africa. 64

My School Certificate results were good. It was only in English language and Latin that I did not score a mark which was among the best three in the class. In subjects like General Science which had to be taken by everybody, that class was of some ninety students. 65

By now Achimota was embarking on a Higher School Certificate course. We were the first to be taken on that class. Although my grandmother, Nanaa, was pressing my father to send me to England to continue my education, I joined this Sixth Form class. It had not only colleagues who had completed the School Certificate with me at Achimota but a few students from other schools which did not have such a course. Thus we were joined by Kodwo Debrah, who later was Ambassador to Washington and Addis Ababa, and High Commissioner to London, and the top civil Servant in General Acheampong's 66

government and, upon retirement was employed by the Commonwealth Secretariat to train new diplomats in Zimbabwe, Papua New Guinea and Namibia. We were also joined by Ebenezer (Yosi) Laing who later became Professor of Botany at the University of Ghana and my brother-in-law married to my sister, Mildred, as well as Nicholas De Heer, the son of one of our leading Paramount Chiefs, Nana Sir Tsibu Darku, and who later became a doctor serving both at home and in the international field. I had definitely decided to read law at University, so I abandoned the science subjects in which I had done so well and limited myself to English Literature, History and Geography.

But I stayed on the Achimota Sixth Form course for only a term. My grandmother's pressure on my father became too intense, and my father gave the undertaking to send me to England in September that year to continue my Sixth form. In doing so, he undertook a great financial sacrifice, perhaps greater than what he knew at the time that he could bear. Peter Rendall who had just joined Achimota as headmaster from St. Bees was asked to advise. He was interested in an exchange programme for his students at Achimota with students in equivalent classes in St. Bees for example. He proposed that I go to St. Bees or to Felstead, where he had also taught. My father chose St. Bees and it was arranged that I should go there from September that year. At the end of that first term, on the 20th of April, 1949, I left Achimota for the last time as a student. That same day, my sister Beryl had her daughter, Diana. From that time until I left for England, I spent my time rummaging through papers or reading desultorily in my father's office below our living accommodation at Tudu, or in the Accra Public Library, or occasionally going to the Courts to hear lawyers like Koi- Larbi, recently returned from England with a reputation for brilliance, attending lectures given by people like Ako Adjei or helping my brother-in-law, Kweku Fori Ofori Atta, Beryl's husband, keep shop on Horse Road in Accra.

I had enjoyed Achimota tremendously. It had been my home for over eight years and the most formative years at that. Most of my Ghanaian friends were made in that School. I had developed a highly competitive academic spirit at the School. I had learned to love reading in its library. It was a good library with a regular supply of most of the literate British papers, weeklies, as well as a number of educative magazines apart from its books. Willie Bossman and Samuel Ofori Amaah, now the paediatrician specialists, made copious notes for their class subjects from the Encyclopaedia Britannica. We avidly read The London Times, The Spectator and The Listener every week. It was in Achimota that I developed my liking for classical music. Owura Amu and Mr. Philip Gbeho organised music evenings over the weekends when the catchy tunes of Bach, Beethoven, Schubert, Schuman, Mendelssohn, Dvorak and Chopin were played from the library to the students who cared to assemble in front of the Administration Block. And, of course, many students who did not care particularly for the music milled around because the occasion gave them an opportunity to be with their girl or boy-friends for longer than usual. Religious services, every morning, except Saturday, and on Sunday evening were non-denominational Christian. But the Catholics had their own service. Everyone had to attend a service, in school uniform during the week or in national dress or blazer on Sunday evenings. This, of course did not cater for Muslims, of whom there were a few, or others who claimed to be non-Christians. For them they had to go to the reading room, where they read in silence during the period of the service. I

managed to go to all three. I was not a good member of any of the Houses in which I lived because I was quite lazy and did as little sports as I could manage to get away with. I could, with effort, have become a good cricketer but I did not want to be one of Charles Woodhouse's boys. My football was indifferent and my hockey, as a left-hander playing with right-handers at their game, was just awful. But I knew I belonged and it was fun and, when the time came, I was sad to leave.

I was fielding at the school cricket oval on February 28 1948 when news came round that Accra was burning. The place was filled with excitement and anticipation. We all knew that due to the high cost of living there had been a boycott organised and led by that romantic figure, Nee Kwabena Bonne, Osu Alata Manche, who in his business life had been known as the Theodore Taylor of the European shops. This burning and looting of shops had taken place after the boycott was called off. It was followed by the arrest and detention of Nkrumah, Akuffo Addo, Willie Ofori Atta, all old Achimotans, Danquah, Obetsebi-Lamprey and Ako Adjei, who became known as the Big Six. We were not sure whether they had any part in the organisation of the chaos but we were quite proud of them. Achimota tried, like other schools, to organise its own strikes and protests. The girls were not supportive; they saw the boycott of classes in terms of boys, who were more clever, wanting to take a holiday from studies which they could not afford to lose. The staff did not have too much difficulty in crushing any rebellion. We followed the fortunes of the Big Six as taken before the Watson Commission appointed by the British Government to look into the causes of the riots. We avidly read the cross-examinations of Dingle Foot, who became a legend of forensic ability in the country, before the Commission. I did not, of course, dream at the time that I would one day read as a pupil in the Chambers headed by him in London. We read and re-read with fascination the report of the Commission which led to much debate and discussion. But on the whole, I do not think that we were stridently political. We were too interested in getting good academic results to enable us pursue further studies.

There was in the country quite mild agitation for the advancement by Britain, the colonial power, of the country to self-government. The newspapers, "The Morning Post", "Spectator Daily" and "The Echo" often castigated the local administration. The Government consisted really of the Governor, who was advised by an Executive Council of certain important officers of State, like the Colonial Secretary, the Financial Secretary and the Attorney General as well as a few nominated local members. The Legislative Council was heavily packed with the heads of the various Government Departments. Cities and towns like Accra, Cape Coast, Sekondi-Takoradi, and later Kumasi had elected representatives. Then there were members of the Assembly nominated by the Government. There were no political parties with country-wide support. One heard of the Aborigines Rights Protection Society. It had seen its best days and was at the time I am speaking of a rump organisation with ageing members in Cape Coast and Sekondi-Takoradi. In Accra, the political parties which offered themselves for elections were the "Mambii Party", a sort of citizens' party, and the "Ratepayers". The old Dr. F.V. Nanka-Bruce had been a pillar of one, and A.W. Kojo Thompson, the lawyer, was a pillar of the other.

The most famous prosecution of the times that I remember was the prosecution of

Kojo Thompson for extortion by a public officer. It stirred up strong emotions. For the prosecution was Manyo Plange, Crown Counsel. He was also a distant relative of the accused. There were some who objected strongly to Manyo Plange's conduct of the case, especially in submitting his cousin to the gruelling cross-examination which took place. There were those who thought that Kojo Thompson had been framed by the Colonial Administration to discredit him and Africans generally. The prosecution was put on the basis that the evidence showed that Kojo Thompson had made the demand of the Association of West African Merchants (AWAM) as consideration for refraining from making a speech revealing the activities of and condemning AWAM. Kojo Thompson was convicted and sentenced to a fine and a day's imprisonment, which meant that he lost his seat in the Legislative Council. The case went all the way to the Privy Council. The legal question at issue was whether membership of the Legislative Council made one a public officer. Manyo Plange shrugged off the criticism levelled at his conduct of the case on the ground that he was not going to change the manner he prosecuted a case just because the accused was a relative. The United Gold Coast Convention (UGCC), formed by Pa Grant, an entrepreneur and elder statesman, and the intelligentsia of the country, including the Big Six, was the independence movement of the day when I was about to leave the Gold Coast for England. As pointed out earlier, its leaders were thought by the Colonial Administration to have fomented the rioting and looting in Accra on the 28th of February and were detained. But the Watson Commission did not think it necessary to determine the issue of responsibility. It recommended that the Constitution of the Gold Coast should be reviewed to improve the indigenous representation in Government. The Committee appointed by the Government for this review was headed by the eminent judge, Sir Henley Coussey. They were still deliberating on these weighty matters when I left the country. By this time, Nkrumah and his more radical following had broken off from the UGCC, and had formed the Convention People's Party (CPP).

I left a country whose political leaders, though no more detained, were out in the wilderness. In the Civil Service, there were very few in the senior service positions. The Attorney General's Chambers had only Manyo Plange, just about to move to Nigeria, as Crown Counsel. Sir Henley Coussey and Sir Arku Korsah were judges of the Supreme Court, as the High Court was known at that time. A native of the Gold Coast, Mr. Woolhouse Bannerman, and Sir Leslie McCarthy, originally hailing from Sierra Leone, had been judges of the High Court in the 1930s and 40s. But most of the local lawyers on the bench, like Van Lare, Quashie-Idun and Acolatse, were Magistrates. 72

On the 7th of September, 1949 I left from Takoradi by the Elder Dempster passenger boat, MV Accra, to Liverpool. Before that, I had gone round family and friends saying goodbye. Some gave me some money to hold on to, which gave them the excuse to deliver a lecture to me on comportment abroad. In front of our house in Accra to see me off to Takoradi were my father and mother and sisters, Sam Anie, who became the CPP Trade Unionist, a vital operative in Nkrumah's development of public corporations and, later on a businessman in his own right producing printed fabrics in his Anitex factory and whom I had always regarded as a brother and his sister, Jessie, who had looked after me as a child. My father had for some time been unwell, suffering from diabetes. His last words to me were that I would not be returning to meet him alive, a 73

statement which brought tears to the eyes of all present and protests from Sam and others. But, as it turned out he was right.



## **2. Education in England**

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My cabin companions on the MV Accra to Liverpool that September in 1949 were my old music master, Phillip Gbeho, in whose eyes I never grew up until he died. He always repeated whenever we met and whatever the company that he had taught me when I was that high, demonstrating my short height by his hand, but he always added how clever I was. It was a bit embarrassing but I got used to it. On the boat were the Trade Unionist, Frank Wood, later to change his name to Wudu, as he said that the English had. I was called to the English Bar by Lincoln's Inn in July 1955. I had been a member since I was at St. Bees School in 1950. Why did my father, who was a member of Inner Temple send me to Lincoln's Inn? His argument was simple. Both his old Inn and Middle Temple had been severely bombed during the Second World War. Lincoln's and Gray's Inns were relatively intact. Of the two, he preferred Lincoln's Inn.

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As my education in Oxford and my final year at Lincoln's Inn had been sponsored by the Gold Coast Government, I was under an obligation to work for the Government for five years. Why the period of five years was chosen for students' bonds was never clearly articulated. It certainly bore no relationship to the amount of money that Government had laid out on the student's behalf. Nor was it a sufficient deterrent for the man determined to leave Government service. Later, as Crown Counsel, I had to deal with a number of cases where bonded students had defaulted before the completion of their bonded service. One of my senior officers, Johnny Glover, in his dry-humoured way, put forward the theory that the period was determined on the basis that by the end of it the bondsman would have run into a groove which sheer inertia would prevent him from getting out of.

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The bond penalty represented a substantial deterrence but it was not the important factor which kept me in public service for so long. An even greater deterrence was a promise I made to Sir Henley Coussey before I was given the Government scholarship that I would, whatever the temptation from private legal practice, work for Government when I qualified. That commitment had no time limitation. The thought of it always decided me in continuing with Government service whenever I was persuaded that it should be better for me to seek my fortune elsewhere. The promise came to be made in the following circumstances.

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I first went to England in September 1949. That was when I went to St. Bees School in Cumberland to do my Higher School Certificate, the equivalent of the modern A Level examination. I was a private student sponsored by my father. My father, who had spent some time in his day as a member of St. Catherine Society at Oxford University, was determined that my University education should be at either Oxford or Cambridge. I knew my chances of getting into Oxford were slight because that University at the time required knowledge by the candidate of one ancient and one modern language as a minimum qualification for admission. I had the ancient language, for I had taken Latin for my School Certificate examinations at Achimota School. But English being the official language of the Gold Coast, I thought it would be unacceptable as my modern language by Oxford. Cambridge, on the other hand, did not insist on this two language requirement. So from St. Bees, I applied to Queen's College, Cambridge. In choosing

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Queen's, I was influenced, to a considerable extent, by the fact that my distant cousin, J.A.K. (Fifi) Quartey, whom I greatly admired, had only recently taken a first class degree in Chemistry at Queen's. I was called to an interview but failed to get in.

The Students' Office of the British Colonial Office which was responsible for placing students from the colonies at the time, found me a place in Exeter which was then a University College granting London University degrees. But when my father heard of it, he advised against my accepting the place. For him, my University was to be either Oxford or Cambridge or I would just have to read for the Bar at Lincoln's Inn and return to the Gold Coast. One could still qualify as a barrister without taking a degree at that time. As he was paying the bills at the time and as I did not in any case know much better, I followed this line laid down by him and duly declined the offer from Exeter. This did not go down at all well with the Students' Office. The extent of their displeasure can be gauged by their attitude towards me after this refusal. 79

After my failure to get into Queen's, Cambridge, Mr. Reekie, the Headmaster of St. Bees, who was himself an old Cantabridgian, continued his efforts to get me a place there. He told me that Downing College had assured him that they would take me if I was sponsored by the Colonial Office. I approached the Colonial Office. It refused to sponsor me on the ground that I had already got a place at Exeter. 80

After coming down to London from St. Bees in 1950, I stayed at No. 10 Philbeach Gardens in Earls Court. The cousins K.K. Korsah, now a gynaecological specialist, and K.R. (Roger), who after serving as a High Court Judge in Ghana is now a member of the Supreme Court of Zimbabwe, were already there. I started taking some of the Part 1 subjects of the Bar Exams and, to supplement the allowance which I got from home, working part-time in the Post Office, in a department which dealt with death records. My companion at the Post Office was Laryea from Accra, who many years later I met again in Ghana when he was on leave from his engineering job at Heathrow Airport. I managed to pass the papers in Roman Law, Constitutional Law and Legal History and Criminal Law. I found working and studying a rather difficult combination and, from that time onwards, gained a healthy respect for all those who managed to combine the two successfully. 81

I eventually got a place in Jesus College, Oxford, through efforts on my behalf by Mr. Peter Rendall. He was then Headmaster of Achimota School. It was he who had arranged for me to go to St. Bees in the first place. He must have felt some sort of responsibility towards me and when he had heard on his leave in England that I was finding it difficult to get into Oxford or Cambridge, had approached the Principal of Jesus. However, I did not know at the time. 82

How I got in was like a fairy tale. Some time in August of 1950 when I had given up all hope of going to any University, I found in my morning mail a long brown envelope. When I opened it, I found a blank application form from Jesus College with a slip carrying the compliments of the Tutor for Admissions of the College. I was puzzled. I had not asked for it and I did not know how it came to be sent. I was, however, filled with excitement tinged with the fear that even if I applied I would be disqualified on the ground that I did not possess the required minimum of an ancient and a modern 83

language. I was then living in Philbeach Gardens, Earls Court in London with K.K. (none of his friends called him anything else but few knew what the K.K. stood for) and Roger Korsah. They advised me to apply, nevertheless, as there was nothing to lose. So I did. The application form stated that it ought to be accompanied by two testimonials. I had heard that Mr. Rendall was on leave in England but I did not know his whereabouts. I therefore wrote to Mr. Reekie and asked him to give me one of the testimonials. I also told him of my knowledge of Mr. Rendall in England and asked him, if he knew where Mr. Rendall was, to ask him to give me the second testimonial. Mr. Reekie wrote back to say that Jesus College already had my testimonials.

I was invited to an interview by Jesus College. By then I was in a slightly better position that when I went to the interview at Queen's, Cambridge. By the time of the Queen's interview, I did not have my Higher School Certificate. By the Jesus College interview, I had that certificate. I had taken one instead of the normal two years over it and I had done quite well. To my utter shame, I was late for my interview. I chose to go to Oxford by coach. The coach did not arrive in time. I dashed hot and flustered to the College to be welcomed by the Principal, Mr. J.T. Christie, who just dismissed my apologies with a wave of the hand. But the atmosphere was formidable; it seemed as if the whole array of Fellows had assembled to interview me. The tension that this sight instilled in me was broken by Mr. Christie's first question which was, "And how is Mr. Rendall?" I was so surprised by it that I must have started stuttering. I knew he was in England but I did not know where he was. It turned out that Mr. Rendall had been Mr. Christie's student in Rugby School. The only question at issue at the interview was whether I would want to read some other subject than Law, in which case I could come up that very October. But if I insisted on reading Law, then I would be put first on the list of those to read Law the next year. The Law Tutor that year was already preoccupied with duties as the Senior Proctor of the University and could not take on another student. I needed time to think about it. The College gave me a week. 84

In the event I decided to stick to reading Law. I needed financial support if I was to take up the place at Oxford. It was quite clear by this time that my father would not be able to pay for it. He had been ill for some time, and further sales or mortgages of his property, which was the way he had been financing my education in England, would not, in my view, now be sufficient. Time was necessary to organize other financial assistance. 85

I applied to the Gold Coast Government through the Colonial Office for a scholarship to cover both my studies at Oxford and at Lincoln's Inn, which I had already joined. The Colonial Office once more had the advantage over me. Its major weapon this time was that the Gold Coast Government had never before given a scholarship to any student to qualify as a barrister. The late John Kwesi Sagoe, whom I eventually joined at Jesus College, was then holding a scholarship for law but it was to enable him to qualify as a solicitor. The expectation was that, on his return to the Gold Coast, he would work in the Government Lands Department as its lawyer. Barristers, as the political history of the Gold Coast had shown, were a thorn in the flesh of the colonial administration. It was understandable, therefore, that no interest had been shown in a scheme to increase the breed. Besides, striking out on a new path is always much more difficult 86

than following an already well-trodden path. On that estimation, my application, in the view of my Colonial Office friends, stood little chance of success. However, some time later, I was asked to come to the Colonial Office to see Sir Henley Coussey. Sir Henley, the distinguished lawyer who was one of the first Africans from the Gold Coast to be appointed to the High Court bench and who had been Chairman of the Constitutional Committee appointed by the British Government after the 1948 riots to look into a constitutional structure to suit the country at the time, was then the President of the West African Court of Appeal. But even more important, from my point of view, was the fact that he was also Chairman of the Scholarships Board in the Gold Coast. He was on a visit to London and he asked me to the offices of Mr. Walker and Miss Appleyard, the officers in charge of Gold Coast students, at the Colonial Office. I recall that Miss Appleyard was present in the room when I arrived. So was Mr. Amishadai Adu, later to distinguish himself as Secretary to Nkrumah's Cabinet, then Secretary-General to the East African Community and finally as Deputy Commonwealth Secretary General. But at the time he was the officer responsible for Africanisation of the Gold Coast Civil Service.

Mr. Adu was not directly involved in the interview between Sir Henley and myself. He was preoccupied with some other matter. Miss Appleyard produced my file to give Sir Henley a picture of me. It was a bulky file. I remember wondering how they had managed to compile such a record of me in less than two years. But it was also a somewhat disorderly file; for it started in the middle and run first to the end before coming to the beginning to continue its course. Miss Appleyard was explaining the intricacies of the file arrangement to Sir Henley, when she was briefly thanked and told that Sir Henley did not need to read the file because he knew me already. 87

I was not really interviewed by Sir Henley. I was given a brief lecture, after which he made me swear a personal oath. He told me that the Attorney General's Chambers in the Gold Coast was a last stronghold of the colonial administration in the country. It had seldom had African lawyers. Sir Leslie McCarthy and Justice Manyo Plange had been in it. But the British administration had always resisted lawyers from the Gold Coast joining it, and since Justice Manyo Plange left for Nigeria in the 1940s, the administration had been reluctant to give a permanent appointment there to an African. Mr. E.A.L. Bannerman, later to become Chief Justice of Ghana, had been given a temporary appointment, but was eventually posted to the judiciary. It was necessary, Sir Henley thought, that the country should have African lawyers in the Chambers. He, therefore, wanted to know from me if I would work in those Chambers when I qualified. My answer was a swift and unequivocal yes. There was the possibility that this would enable me to get the scholarship I needed for Oxford. Besides, I had some idea of the risks in private legal practice, as had been shown by my father's inability to keep his practice going on account of his ill-health. "No, no, my son" said Sir Henley, you should not answer so lightly. I would find that the temptation to chuck the Attorney General's Chambers for private practice was greater than I thought. He asked me to promise that, if given a scholarship, whatever the temptation, I would not abandon service in the Attorney General's Chambers for private practice. I gave that promise. 88

Sir Henley then told Mr. Adu that here was a boy who had on his own got a place in 89

Oxford, which like Cambridge, the Colonial Office was always telling them how difficult it was to get colonial students into. Did Mr. Adu not think they should help me with a scholarship to take up my place there? Mr. Adu agreed.

So confident was the Colonial Office that my application would fail that some time after this interview I met Mr. Walker casually at our hostel in Hans Crescent. He asked me how the interview had gone and after telling him briefly what had transpired he said I should not place too much hope on what Sir Henley said. The Gold Coast Government, said Mr. Walker, had never given a scholarship for the Bar, and there is no reason why it should change this position. 90

I got the scholarship. Sir Henley had other supporters in the Gold Coast on this issue, notably Justice, later Sir, Samuel Okai Quashie Idun, my class-mate Johnny Quashie Idun's father. I went up to Oxford in October 1951 to read Jurisprudence. I have often wondered whether under the present day stringent examination conditions for entry into Oxford I would have got there. I am sure that without the advocacy of Sir Henley and other friends I certainly would not. It was, therefore, the promise that I made to him, more than anything else, which kept me in the public services for as long as I stayed. In times of doubt and temptation to leave the service, for on the latter, Sir Henley was far clearer sighted than I was, I remembered that promise and decided that my obligation was to honour it. 91

But before I went up to Oxford, I stayed in Cambridge for about ten weeks. What led up to that gave me an interesting insight into the conduct of colleagues. I acquired a reputation as a student agitator while waiting for the decision of the Gold Coast Government on my application. This of course confirmed the doubts of the Colonial Office over me. No. 1 Hans Crescent, Knightsbridge, London, a few yards behind Harrods, was open as a Colonial Students' Hostel in 1950. For colonial students, this was a popular move. They had, for a very long time had problems in finding suitable accommodation at reasonable rents in London. Student hostels were a way of minimising this problem. 92

I moved from Philbeach Gardens with K.K. into Hans Crescent towards the end of that year. Roger had then gone to Hull University. K.K. and I shared a room in Hans Crescent throughout the time we were there together. I had occasion, many times, to be grateful to him. If for any reason my allowance did not come or was late, he took over the payment of the full rent for the room. 93

In 1951, all residents of Hans Crescent were given notice to quit as the rooms would be given to a fresh batch of students, some arriving in Britain for the first time. The resident students took the view that the authorities should open more hostels to ease the student housing problem and, as they had new students whom they must house, this was an opportunity for the authorities to do so. The residents, therefore, decided to ignore the notices and to stay on. I had been on the entertainment committee of the hostel. I do not know whether it was because of this but I suddenly found myself elected as the Secretary of the Committee in the hostel to organize and co-ordinate the student resistance to the demand that they quit. 94

My chairman was the late Adedapo Aderemi, the eldest son of the Oni of Ife, the spiritual 95

head of the Yoruba people of Nigeria. We were quite contrasting characters. Ade, as he was called by his friends, was a much more mature student with considerable experience of radical student politics. I would not, in hindsight, describe him as a firebrand. But he certainly had leadership qualities. He was articulate, purposeful and confident, with a capacity for dispelling other people's doubts. I then, as now, often had doubts about the rightness of the proposed action. Ade had a wonderful sense of humour, his best stories being told in the broken English spoken in Nigeria. I remember walking up a street with him once when he saw a pair of pyjamas on display costing 100 pounds. That was a lot of money in those days. What! he exclaimed; do they mean to tell me that if I sleep in that I will never want to wake up? He was always smartly and expensively dressed, even when casually, turned out. This I found to be curiously inconsistent with his avowed claims to being a communist. I was happy to find to my surprise in October that he had been admitted to Lincoln College, just a few yards away from mine in Turl Street, also to read Jurisprudence. I was distressed to hear a few years after his return to Nigeria that he had died.

However, in the battle for Hans Crescent, he, assisted by me, led a losing battle right from the start. Even as the resident students were meeting as a body to elect us to lead their cause and the cause of the general body of colonial students in London, they were individually making their own private arrangements for alternative accommodation. As and when they found it, they left the hostel without bidding us farewell. Soon the Committee found itself beleaguered, fighting for residents who had left. The popular British press gave slanted notices of our motives in staying on. We were portrayed as a small group of selfish colonial students intent on keeping our privileged accommodation at the expense of more deserving new arrivals. The case we were trying to make, that it was the responsibility of the Colonial Office to ameliorate the accommodation problems of colonial students in London by opening more hostels scarcely received a mention. By July, Aderemi and I found ourselves amongst a handful of stragglers who were staying on. Our position had become untenable. We decided that it was time to pack up and leave. 96

From the Hans Crescent episode, I gained a cynical appreciation of the value of popular support. I also should have learnt a lesson about the power for perversion of the press. But I did not at that time. It was a mark of my naivete that I did not recognize at the time that my activities in connection with the Hans Crescent sit-in would be noted by the Colonial Office. 97

I went to stay in Cambridge at No. 56 Eltisley Avenue in a flat belonging to my cousin, Fifi Quartey, who was spending his summer holidays that year in Yugoslavia. There were old friends of mine, like Joe Reindorf, who was reading History at Caius. Like other Ghanaians who were doing extremely well in Cambridge at the time, Joe was expected to get a first and he had the brain for it. But his Tripos II did not come up to that expectation. I believe we were more sorry for this than Joe himself, who had always managed to give that easy-going impression of himself. He delighted my old friend and class-mate, Johnny Quashie-Idun, who came up to Selwyn College [\* ?? college added ] while I was staying in Cambridge by saying that in Cambridge one lived on credit and overdrafts. Johnny fell into the spirit of the adventure, and went around 98

opening accounts and buying most of his initial requirements on credit. He did it to such an extent that once when he went to buy some tomatoes from the market, his sister, Frances, asked him whether he was going to do so on credit.

We had an amusing visit to Heffer's, the booksellers. Johnny, whose father was at Selwyn some twenty five odd years before him, thought his father had an account with Heffer's when he was up and he could make some savings by buying his books on that account. So off we went to Heffer's, where he asked whether Samuel Quashie-Idun had account with them. Just a minute, said the attendant, and went away to refer to the books. She turned up a few minutes later with a yes, he owes us twenty six pounds. Johnny signalled me to withdraw quietly. He could not pursue his object of buying into the account. But he mentioned the incident to his father, who did not even know that such an account was outstanding, Heffer's immediately got their money. 99

It is quite fantastic to think of the richness of talent from the Gold Coast which was at Oxford and Cambridge at the time. It should be interesting to write a serious study of these men and their various contributions to Ghana, Africa and the international world generally. Of the Oxford students, I will speak later when I come to deal with my Oxford days. Of those at Cambridge, Dr. Kwesi Kurankyi Taylor, perhaps the most brilliant law student of his time from the Gold Coast, was at the time sharing 56 Eltisley Avenue with Fifi Quartey and Chris Dade. The qualification to Kurankyi Taylor's supremacy is introduced because there was always a question whether Kuku Sekyi who went to Dublin was his equal or better. Kurankyi Taylor won every scholarship that he chose to compete for while he was at Manchester University. He also won the Barstow Scholarship at the Bar. Kuku Sekyi had the reputation of having a photographic memory which enabled him to recall whole textbooks after reading them once. We were all waiting to the crossing of swords between these two back in the Gold Coast. But Kurankyi Taylor, who went into politics, established a law practice in Kumasi dealing mainly with constitutional cases of the chieftaincy type, fell ill not very many years after his return to the Gold Coast and died relatively young. Kuku Sekyi, on the other hand spent long periods of time in the hospital, and was not able to stamp his personality on to the practice of law as a person like Joe Reindorf did. 100

Staying with Kurankyi Taylor and his wife was Kwaw-Swanzy, who had also been at Manchester University but at the time was doing an M. Litt in Cambridge. Kwaw read for the Bar, took over Kurankyi Taylor's practice when the latter fell ill and, in 1962, became Attorney General of Ghana, with whom I worked very closely. The other tenant of 56 Eltisley Avenue, Chris Dade read agriculture. After service with the Ghana Government, he went to the FAO. After his retirement, I had the privilege of serving with him as non-executive directors of UAC of Ghana Ltd., the largest commercial concern in Ghana which was a subsidiary of the Anglo-Dutch Unilever Group. 101

Joe Reindorf, after his History degree read for the Bar, and for years was one of the leading advocates at the Ghana Bar. Between 1979 and 1981, he was Minister of Justice and Attorney General in the Government of Dr. Hilla Limann. Johnny after Cambridge and the Bar went into private practice where he remained through his practising days, founding the prestigious law firm of Lynes Quashie-Idun in Accra. 102

Others in Cambridge at the time were equally interesting. Alex Kwapong, who got a first in Classics at King's College, became the Vice-Chancellor of the University of Ghana in 1966 and held that office for quite along time. Later he became Vice-Rector of the United Nations University based in Tokyo. Fifi Quartey, who got a first at Queen's was for many years Professor of Chemistry at the University of Ghana, and later worked with the Atomic Energy Commission in Vienna. Kenneth Dadzie, also of Queen's, in the course of a most distinguished diplomatic career became a Deputy Secretary General to Dr. Kurt Waldheim at the United Nations, Ghana High Commissioner in London, and became the Secretary General of UNCTAD in Geneva. Albert Adomako of Downing College became a Governor of the Bank of Ghana, then a Vice President at the World Bank under Mac Namara. Patrick Anin of Selwyn later read law in London University, was called to the Bar and went into private practice in Accra, and then later in his home region of Brong-Ahafo. He was elevated to the Ghana Supreme Court bench under the Constitution of 1969. He also became a judge of the Court of Appeal in The Gambia, where he was based after the coup in Ghana at the end 1981, performing the duties of Chairman of the Law Reform Commission. Felix Amarquaye of Fitzwilliam College, whose study time I must have wasted as I spent quite some time with him while he was working for his exams, became a Psychiatrist Specialist with the Ministry of Health in Ghana. 103

I was most comfortable in their company and frankly regretted leaving them for Oxford in October 1951. 104



### 3. Oxford Days and Pupillage

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For the next four years, I lived in Oxford. Three of those years were devoted to getting a degree in jurisprudence at the University. The fourth was spent working for my Bar Final.

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Getting to like Oxford as a city after the ten week stay in Cambridge was difficult. I complained of Oxford's comparative lack of beauty to Alex Quayson Sackey, who was then at Exeter College. In his expansive way, he merely said, "You just wait, you will find that Oxford grows on you." It took me some time to find out that while the beauty of Cambridge was open and immediately striking to the eye of the visitor, you had to look behind the walls, usually dull and grimy at that time, to find the beauty of Oxford. In time, I came to agree with Quayson Sackey. I still do feel a sense of exhilaration and excitement each time I enter Oxford. No other place in Britain gives me the same sensation.

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1951 - 1955 were quite eventful years. Queen Elizabeth II succeeded her father, George VI, and thus became Queen of the United Kingdom and Colonies and of the Commonwealth. Stalin died and was succeeded for a while by a troika, which soon shook down again to the rule of one man: Krushchev. When in early 1988, it was announced that Malenkov, one of the troika had died as an obscure pensioner, one thought how long ago it was that he was a figure to be reckoned with in his country. The Americans overwhelmingly rejected the scholarly liberal, Adlai Stevenson, for the fatherly, if soporific and incoherent, Dwight Eisenhower as President. Everest was conquered by Edmund Hillary and Sherpa Tensing, who was to die in 1986. Roger Bannister ran the first sub four-minute mile. There was considerable excitement, enough to keep students pre-occupied.

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I do not, however, recall any great events in Oxford itself. About that time, the retiring age for professors was introduced. And as often happens during such changes, holders of office appointed before the change were exempted from the application of the rule. Professor Jolowicz was the Regius Professor of Law. He was in his early sixties and was caught by the retiring age rule. But Professor R.W. Lea, the father of Roman Dutch law in the University, who was in his eighties was not. He could, therefore, serve as long as he liked. I remember Professor Lea's friend and contemporary, Dr. Elemer Balogh, the champion of Comparative Law, telling the story that Professor Lea intended to apply for the Regius Chair when Professor Jolowicz was obliged to retire. H.L.A. Hart succeeded A.L. Goodhart as the Professor of Jurisprudence. I recall a number of people asking who Hart was. All that was known about him was that he had practised for a short time at the Chancery Bar and had been an intelligence officer during the war. Why was he elected, they asked? No one knew that during his tenure he was going to make such a great contribution to philosophy of positivism in jurisprudence as he did, in fact, make.

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Dr. Balogh was a character whom law students using the library were bound to see. He always appeared at the Radcliffe Camera during the summer holidays. Some said that this was the time when he put in the requisite residence for keeping up his British nationality. He had his special table at the library which was always piled up with

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a large number of quaint books. He was believed to be writing his magnum opus. Whether he achieved this ambition, I did not know. He was of regular habit, making his copious notes from his array of books every day in his, by now, shaky hand, taking his nap amongst the books after lunch and a short walk around at about tea-time. He somehow took to me and I spent some delightful hours in his company. He could in a sentence sum up his views of well-known academic legal figures. One of them who produced a number of books and whose scholarship was held in high esteem by tutors and students, was dismissed with the sentence, "Oh, that man, he writes more than he reads." During all the years that I was in England as a student, the only time that I left its shores for another country was when I was invited by Dr. Balogh to attend the Congress of the International Association of Comparative Lawyers in Paris in the summer of 1954. As speaker after speaker, including the great Roscoe Pound, paid him tribute from the stage, it was clear what a moving spirit behind the distinguished assembly of lawyers gathered there from all over the world, Dr. Balogh was. I had just then finished my final exams at Oxford. Some of the people present, Professors Yntema of Michigan, Friedman of Columbia, Scott of McGill, were names that I had read as authors or legal philosophers. It was an exciting experience. Unfortunately, it was the last time I was to see Dr. Balogh.

As will be recalled, Mr. J.T. Christie was the Principal of my College. He had been a headmaster at Rugby and Westminster Schools before. He still carried the mien of a headmaster. The students at Jesus College unimaginatively called him "the Headmaster" but he held a place of affection in my thoughts. It was, indeed, through his having been a headmaster of Rugby that I owed my place in Jesus College. He had a dry sense of humour which was illustrated by a story he once told me about his service as a member of a commission of enquiry into education in one of the Commonwealth countries. Nothing came of their recommendations. As he wryly commented, to that Government the appointment of the commission was in itself the solution to the problem, not their recommendations. In later, [\* latter or later, latter used ] life I found how true this remark was. 111

Although we lived in diagonally opposite corners of the first quad in Jesus College in my first year, I saw very little of him. But it was not only him that I avoided out of shyness. I practically avoided all dons I was not obliged to meet. The College Chaplain, the Rev. Whitely, who died in 1988, was my Moral Tutor. I met him in his rooms once over a cup of tea. A sort of get-to-know-you meeting. Thereafter, I always acknowledged his presence from a distance. I am happy that this behaviour did not have an adverse effect on the reports that he wrote on me. 112

In the year that I entered the Jesus College, there was no resident law tutor. I understand that the last time there had been a law tutor was in the time of Principal Hazell in 19[ - ]. [\* missing date ] To me, it was a minor revolution to go back in 1986 to find that the College not only had two law dons but a distinguished lawyer, Dr. Peter North, a former Law Commissioner of England, at its head. A couple of weeks before I met Dr. North at the Jesus Gaudy in 1986, I was talking to Justice Patrick Anin, a past student of Selwyn College, Cambridge, in The Gambia. When Dr. North's name was mentioned, he said he started appreciating Cheshire's Private International Law when Dr. North became the 113

editor. Now that I thought was very high praise. I had, as a student, thought of Professor Cheshire as an author of great clarity and lightness of touch. A writer who made the dullest subject, like Real Property, sound entertaining. In that estimate, I was not alone. If a book of his could be improved upon to the extent mentioned by Justice Anin, then Jesus College must have a scholar of the foremost quality as its Principal.

That was the situation in 1986. In my first year at Oxford, with no law done in the College, the five of us reading law were farmed out to Mr. Alan Brown of Worcester College. Apart from Alan Brown, my memory of Worcester as a student was of an occasion when I deeply offended the College Porter by calling the famous College lake "Worcester Pond". "Pond? pond? You mean the Lake!" My put-down was complete. Alan Brown had been the Senior Proctor of the University in the previous year. It was because he held that office and could not take any more students that my invitation to come up to Jesus College to read law was postponed for a year. I was glad things turned out that way, because had I been asked to start from October 1950, I would have had to confess that my finances were not in order. 114

With Alan Brown, we discussed not only law but a number of other interesting subjects. He was an Australian who had had his first experience of the English courts when he was junior counsel in the famous contract case of *Grant v. Australian Knitting Mills* when that case was before the Privy Council in London. Of the background to that decision, we heard much. He was a man with a puckish sense of humour. As Mayor of Oxford, he once had to give evidence against the grant of planning permission for the construction of some commercial building in the centre of Oxford. Counsel for the applicants had spent a frustrating afternoon cross-examining him at length without getting anywhere. Eventually, counsel threw his parting shot, "Well Mr. Brown, the wheel has gone full circle, hasn't it?" Whereupon, Alan Brown serenely replied, "Yes, but isn't it what they're supposed to do?" 115

After our first year, Ian Evans, a student of Brown at Worcester, became our tutor for the next two years. He was resident in Jesus, but he was not a Fellow. Ian Evans saw us through to our Schools examinations. Jesus College then advertised for a Law Fellow. I believe he applied but he did not get it, the person elected being Arthur Rogerson. By then, I was no more affected. But I was sorry that Ian Evans did not get it. I had got on very well with him. I thought he had all the qualities of a good tutor. Obviously, the authorities thought otherwise. Many years later, he told me that his handicap was that he had not taken a first at Schools. Apart from my grounding in law, I believe my first glasses of claret, a subject on which I became an avid though not a particularly knowledgeable reader, were taken after tutorials in his company. 116

I was delighted when some six years later he appeared in the Attorney General's Department in Ghana on loan from the United Kingdom as legislative draftsman. He had been interviewed and invited to join the Department by Geoffrey Bing as successor to Francis Bennion, the draftsman of the 1960 Republican Constitution, ~~by Geoffrey Bing~~ while he was a member of the United Kingdom Treasury Solicitor's Office. But he served mainly under George Commey Mills Odoi, who did not have the same conception of his potential usefulness as Bing. As a result, he was relegated to drafting subsidiary legislation most of the time. I do not think he found his assignment in Ghana challenging 117

enough. He was the last of the draftsmen loaned by Britain to Ghana.

Ian got married in Ghana. I was his best-man, which gave me great pleasure. Years later, when I based myself in England, he was one of the old friends I called on from time to time. He was then Secretary and Legal Adviser of British Steel Corporation. He retained a lovely sense of humour which always made him excellent company. His wife, Virginia, not the lady at whose wedding I had officiated, was quite fond of my son Ralph. When Ralph got a Research Fellowship at the University of Tromso working on English contract law, he needed an academic in England to whom he could look from time to time for inspiration and guidance. When I asked Ian whether he would be prepared to fill this role, his immediate answer was that inspiration could much better be provided by Virginia, and he was not quite sure that he could give much guidance either. 118

My contemporaries reading law with me at Jesus College were Jaques Labesse, Michael Mitzman, Alan Maclaren, and McOuat. Perhaps of the lot, Jaques Labesse, who came from Jersey, was the most colourful. In the days when the mode of transport used by most students was the bicycle, Jaques zoomed around on a most powerful motorbike, often with his girl friend in tow. [\* riding pillion? ] We got to know each other well when Ian Evans took us on a reading party to a place near St. Mawes in Cornwall during the Easter holidays before we took Schools. Labesse offered to transport me there on the back of his motorbike. I was relieved when Mitzman also offered to take Maclaren and myself by car. I accepted Mitzman's offer with speed. It was fun in Cornwall, working in the mornings, doing whatever took our fancy in the afternoons, meeting together to enjoy a drink of beer in the evenings. Ian Evans had his yacht "Paloma" moored outside and those who enjoyed the sea went yachting in the afternoons. I was not one of them, the most I would have to do with the sea being to join the small boat to the pub at St. Mawes to fetch our keg of beer. I was happy to see Mitzman and Maclaren again at the Gaudy in 1986. Mitzman had become the partner of the well known firm of Bartlett de Reya specialising in property. Maclaren with whom he had kept close touch through the years was in a country practice as a solicitor. We had news that Jaques Labesse was thriving in law practice in Jersey. But of McOuat, no one knew anything. 119

I worked quite hard at my books. There were some in the Senior Common Room who expected me to get a first. I did not, though my grades for a second as Rogerson said were very good. 120

I made some very good friends at Oxford. It was only natural that the students from abroad should get to know each other and that those from the British colonial territories should see each other most often. For the internationally minded students, a club by the name Ikwan-es-Safa was formed. Its first President was an Indian, Anandraman, a science graduate student of Trinity, probably the first "black" person that Trinity ever admitted. Trinity had had that reputation for a long time. There was some rivalry over the issue with Balliol next door which had the opposite reputation, as is illustrated by two incidents while I was there. I was once walking down Little Clarendon Street. There was an old man, obviously in his eighties at least, coming opposite me, his eyes fixed on the ground, his heavy step dragging on the pavement. As he got to me, he raised his head, looked at me, merely shouted "Balliol!", and continued with downcast eyes and heavy feet along his way. 121

The other incident occurred when I was secretary of the West African Students' Association. Our President then was Alex Quayson-Sackey of Exeter who was later Ghana's representative at the United Nations; the President of the General Assembly in 1965 and Foreign Minister in the latter part of Nkrumah's regime. The College Bump Races were over, and apparently, according to tradition, members of the various colleges were on the river amusing themselves. Among the boats was one from Trinity with a crew which had painted itself black and labelled itself "Balliol". This brought great resentment amongst race conscious students who thought we were being ridiculed, which no doubt we were. But this took a serious turn when I was asked to summon a meeting of the Association to discuss what we should do about this insult. 122

I duly summoned the meeting in my rooms in Jesus College. The longer the meeting lasted, the more angry and heated the argument became. There was a growing body which thought that we should lodge some form of protest with the Vice-Chancellor over the matter. The shrinking numbers of those who advocated that the incident be ignored was getting desperate when Eldred Jones of Oriel College, the English scholar, later on to become the Principal of Fourah Bay College in Sierra Leone walked in. Calm, though late, he asked to be told what all the furore was about. Upon hearing the story, he merely asked, in astonishment, but what have we got to complain about, aren't we black? The effect of the question at the time was staggering. It left the hawks quite speechless and the meeting soon dissolved without resolution to carry the matter further. 123

Amongst students at Oxford from Ghana, then still the Gold Coast, when I got there were Alex Quayson-Sackey, already mentioned, Edward Quist Arcton of Brasenose, John Sagoe of Jesus College, and Kwesi Dua Sekyi of Barnett House. Lawrence Ofosu Appiah, later a Professor of Classics in Ghana and the United States, and Richard Akwei, diplomat and Chairman of the United Nations Public Service Commission, had already left. Even before them had been Abdul Aziz Atta, one of the many children of the far-sighted Atta of Igbirra in Nigeria, whom I had got to know and like when we were at Achimota. Abdul Aziz became the head of the Federal Civil Service in Nigeria, was one of the main instruments in ensuring that the aftermath of the civil war in his country was not one of bloodshed and retribution. But Aziz visited Oxford on his refresher, Second Devonshire Course, while I was there. 124

Quayson-Sackey, who read PPE, made it plain that he was training to become a politician, though he preferred to describe himself as a budding statesman. Quist Arcton read forestry. He was the most literate forester that I ever came across. I do not know of his ability with trees. But his love of literature was unquestionable. He read widely, often quoted large chunks of some beautiful writing that he had read. He made it a habit of reading The Times daily from beginning to end, often during the summer lying in his digs in Wellington Square without a stitch of clothing on. He was a good companion, except when a couple of weeks had passed by without him hearing from Grace, his girl friend in the Gold Coast, whom he later married. Then it was advisable to avoid him. He could be querulous and unpredictable. He became Chief Conservator of Forests in Ghana, then Principal Secretary of the Ministry of Agriculture. He later worked for many years with the FAO in Rome. I have an impression that without the responsibility which 125

he had had in the busy Ministry which he had headed in Ghana, he felt rather wasted. He could pursue his literary taste but it was insufficient occupation. When Grace died in 1979, he was lost. He was invalided from that organization.

John Kwesi Sagoe, was a year ahead of me in Jesus College, reading law. He was easily one of the ten best dressed men in Oxford. He was on a scholarship to train as a solicitor for the Lands Department in the Gold Coast, where he had been previously employed. But he found the solicitor's course after Oxford rather dull and he started flirting with philosophy. Eventually, he went back to Ghana as a member of its new foreign service. But he did not last very long in that service. He later told friends who enquired what he was doing that he was farming. It was difficult for those of us who knew him in his Oxford days to reconcile that memory with the life of a farmer in Ghana. Unfortunately, he died rather young. 126

Dua Sekyi was older than most of us. We, therefore treated him, and he enjoyed being treated, as the "chief" amongst us. He had had considerable experience of chieftaincy affairs in his native Akim Abuakwa State. He read Public Administration at Barnett House, then he was called to the Bar and he went home to practice. While I was at the Attorney General's Department, he joined us as one of the Senior State Attorneys. We remained good friends until 1962 when by command of Nkrumah, he and I switched jobs. I saw very little of him after that. 127

Others from the Gold Coast joined us later in Oxford. One was my old class-mate from Achimota, Joseph Kwame Boafo. Like Dua Sekyi, he came from Akim Abuakwa; like him, Boafo had been connected with the stool administration of that State; and like him, Boafo was originally attached to Barnett House to read Public Administration. But after his course there, he became a member of the Queen's College, where he read PPE. Boafo and I had the common background of school back home. We lived in the same digs in Wellington Square. He was on an Akim Abuakwa State scholarship administered by the Cadburys who, through their cocoa interests in the Gold Coast, had become old friends of the Okyenhene of Akim Abuakwa. That scholarship was more generous than that given by the Gold Coast Government. Boafo being a very generous man, often found himself, towards the end of the month, having to meet some small financial obligations on behalf of his friends. 128

With him, I worked twice at Bournville during the summer holidays. He had approached one of the Cadburys in charge of his scholarship once, I believe it was Lawrence Cadbury, and asked for holiday jobs for himself and me. Mr. Cadbury told him that there was nothing much that he could offer for unskilled temporary people like us. What he had available was chocolate packing during the night. We said we were prepared to try that. It was fun eating all the chocolates one wanted to begin with. But the desire for them did not last beyond three days. After that, all you wanted to do with them was pack them into the half-pound boxes provided empty as quickly as possible. Three weeks each time was the maximum I could stick during the summers of 1953 and 1954. 129

Boafo was one of the early candidates specially trained with the British Foreign Service and on attachment to Australia for the Ghana Foreign Service. It was a delight to see 130

him and a fellow "student" in Australia, David Evans, meet in our house when David became High Commissioner in Ghana. Boafo later became Ambassador to Lebanon, Yugoslavia and the U.S.S.R. He was suddenly retired with a number of others by the Rawlings administration. I made extensive enquiries about the reason why he was retired. Although for others, former colleagues could assign some reason why this retirement should occur, no one was able to explain Boafo's premature retirement.

Edward Boohene joined us from Birmingham University to do his accountancy. Edward, known as "Lord Teddy of Warnborough Road" gave some of the most entertaining parties during our time. A spot of teaching at the School of Business Administration at Legon followed. But Edward was soon out on his own pursuing what he was obviously cut out for, doing business. His business activities have taken him all over the world and for the major part of the 80s, he was based in Zimbabwe, his wife, Esther, and President Robert Mugabe's wife, Sally, being twin sisters. 131

Reggie Bannerman, Alex "Chappie" Hutton Mills, Adzei Bekoe and Kofi Tetteh came up to Oxford the year after I graduated, though I stayed on at Oxford reading for my Bar final examination. Reggie and Chappie, I had known for a very long time. But it was with Kofi Tetteh that I formed the firmest friendship. Both Reggie and Chappie were a bit younger than me. Reggie read law at St. Peter's Hall. Except for a period of time when he was based in London and Mauritius, he practised law in Accra after Oxford. I lost track of Chappie's progress at one time. When I found him again, he had some powerful political friends in Ghana. He was closely associated with the veteran politician, Joe Appiah, who was then a roving ambassador of some prominence, during Acheampong's regime. Chappie died in London in his forties. 132

Adzei with whom I had been neighbours in the same dormitory in Livingstone House at Achimota School took his first degree in the University College in Legon. Like two other brilliant chemists before him, Frank Torto and J.A.K (Fifi) Quartey, Adzei had taken a first. He came up to Balliol College, first to do a B.Sc. in crystallography which soon translated to a D.Phil in the subject under Dr. Dorothy Hodgkin. He went back to teach chemistry at the University of Ghana, succeeding Alex Kwapong as Vice-Chancellor. After that term of office, he joined UNESCO in Kenya and now is with the Canadian aid organization, CIDA, but still based in Nairobi. 133

Kofi Tetteh had come to Oxford from the United States where he had studied at Columbia and Northwestern Universities. He joined Boafo at Queen's, where he read law. After his call to the Bar, he joined me at the Attorney General's Department in Accra, where he found himself first in the fledgling civil division. But later he changed over to drafting where he stayed until he became Editor of the Ghana Law Reports. There, he made his greatest, though unsung, contribution to Ghanaian law. He managed to produce law reports of the highest quality from any point of view. But in 1978, he moved on under the aegis of the Commonwealth Fund for Technical Co-operation, to Botswana, there to take over the drafting of their laws. In late 1989, the 1987 edition of the Laws of Botswana over which he slaved for the previous two years was published. It was a monumental piece of work, which must have astounded all those who thought that Africans did not have the expertise for this kind of work. 134

But it was not only with students from the Gold Coast that one made friends at Oxford. The University provided the opportunity for friendships with people from all over the Commonwealth and Colonial territories, with people from all parts of the world. In this way, I am sure that the Universities of Britain at the time afforded opportunities for long-lasting friendships between people of different colour and creed. Friendships which continued in some cases for the rest of their lives. It gave the opportunity for understanding different cultures and communities which would otherwise have been denied the students. It is for this reason that I regret the restrictions due to the multiplication of fees for foreigners which was introduced in Britain by the Thatcher Government. I have already mentioned Ikwana-es-Safa. It catered for as broad an international membership as possible, so not too many members were accepted from one country. Bofo was another member from the Gold Coast. Apart from the Anandraman, the President, there were Adjmani and Venkateswaran from India, both of whom were following diplomacy courses and rose to important positions in their Foreign Service. Venkat, I believe, became the head of the service and Adjmani became one of their senior ambassadors. Through some old friends who had worked in the Attorney General's office in the early 1960s, the Nicholsons, Martin Foley of Balliol and Ireland found us in London after over thirty years most of which he had spent in Mexico. One recalls Scandinavians, Italians, French, Japanese and other nationalities with whom I came into contact through the club. 135

Of my African friends, I have already mentioned Adedapo Aderemi, the radical son of the Oni of Ife in Nigeria, with whom I came up from London; he to Lincoln while I went to the neighbouring College in the Turl. With Kofi Tetteh came Pius Okigbo of Nigeria from Northwestern University. I had first met him when I was a little boy at Achimota and he came from Nigeria as one of the intermediate students who were relocated from Yaba College in Nigeria to The Gold Coast during the Second World War. The next time I saw him was in late 1954 in St. Giles in Oxford. I had taken my law degree but I was staying on in Oxford to study for my Bar examinations. On that day, I was with some friends walking back from lunch when we met Kofi Tetteh, who had just come over from Northwestern University in the United States to read law, with a friend. Kofi started introducing his friend to my group but when it got to my turn to be introduced, the friend said, "Don't mind that foolish boy, I know him." He was intellectually brilliant, irreverent and had a puckish sense of humour. He often reduced me to fits of laughter by mimicking his old teacher who came with them from Yaba, Michael Okorodudu, who, incidentally, was my mother's first cousin. Pius's memory for recalling the most risqué of stories and telling them with a flourish was fantastic. I took to him at once and we remained friends until he died on 12 September, 2000. In my view, Pius is easily the best economist of our age that Africa has produced. 136

Pius came to do graduate work in Nuffield College. He also gave some tutorials in University College. That may now not be unusual. But in our day, it was and we were very proud of him. He was Nigeria's Ambassador to the EEC and negotiated the first agreement between Nigeria and the Community. He has been economic advisor of many Nigerian Governments, before and after the Nigerian Civil War. Coming from Aba in the East, he found himself on the Biafran side, advising Emeka Ojukwu, the Biafran leader, who was also at Oxford during this period. He and the distinguished jurist, Sir 137



Louis Mbanefo, came to the Aburi Conference in Ghana as Ojukwu's advisers, where Ojukwu and Gowon, the Federal Nigerian leader, tried to come to some accommodation, a result which was rejected when Gowon got back to Lagos. Upon the surrender of Biafra, he was arrested and kept in prison for some time. He tells of this period of privation with his usual sense of humour. But he was soon advising President Shehu Shagari of Nigeria, with whom he had worked when Shagari was Federal Minister of Finance. From his Government assignments, he withdrew to devote his time to his private consultancy.

C.O. (Tunde) Lawson, who later became Permanent Secretary at the Ministry of Health in Nigeria, was up at Exeter when I went up. The "twins" who later played such an important role in Government in Nigeria, Alison Ayida, as Permanent Secretary of the Federal Ministry of Finance, and Felix Asiodu, as Permanent Secretary of the Federal Ministry of Fuel and Power, were contemporaries at Queen's College who came up a year after me to read PPE. Emeka Ojukwu, soldier, politician and leader of Biafra was also a student at the time. David Garrick read law at Brasenose and, thereafter established a successful practice in Lagos in intellectual property law.

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Alex Boyo, who really considers himself a King's man from Cambridge, joined us at Oxford when he was doing his medical practical course at the Radcliffe Infirmary. A brilliant scholar from the Warri area of Nigeria, he thought of me more as a relative. He later established the pathology school in the University of Lagos Medical School. He took some comfort from the fact that a whole generation of pathologists in Nigeria were trained by him. Indeed, if he had not been more or less an invalid from age 46 onwards, his contribution to medicine would have been even greater. We were close at Oxford and remained family friends. He is the one friend who has stayed with us in all the seven different houses we lived in during my working life in Ghana and our flat in London. Until he fell ill, he was an easy guest to look after, taking a home as he found it and sharing whatever one had without demands for what was beyond one's means. In other ways his life-style was on the expansive side. He enjoyed repeating that he lived a champagne life on beer salary. He travelled widely and some times did the most crazy but nice things in the course of it, such as routing a journey from Nigeria to Chicago where he had a lecture to deliver three days from the start of the journey through Finland to see Stella's mother in her village. He would take Stella and myself to dinner at the Savoy Hotel to celebrate the delivery of his inaugural lecture as a Fellow of King's College, Cambridge, and the birthday of his wife when he was not earning the income to match it.

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Occasionally, we had visitations in Oxford from such august personalities like T.O. Elias, a brilliant law scholar, who later became Attorney General of the Federal Republic of Nigeria, then Judge and eventually President of the International Court of Justice at the Hague. We once stayed together during vacation at 3 Wellington Square. I remember one Nigerian student, a Yuroba like Elias, once thought he had got the undivided attention of the great man, for Elias was great even then, to expound his thoughts about Nigerian politics. This was at the time of the Action Group and the Yoruba society known as Egba Omo Oduduwa. Elias's interlocutor thought Elias himself professed the same tribal political allegiance as himself. So he held forth for about twenty minutes on the

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virtues of the tribal society. Elias listened to him without intervention for the whole period. After the other subsided, Elias just got up, said good morning to him and walked out of the breakfast room. The put down could not have been more effective.

Friends from the Caribbean included Eldon Warner of Trinidad, who read PPE at St. John's, Doddridge Alleyn, who was at Balliol, then for many years Permanent Secretary of Prime Minister Eric Williams of Trinidad, and who later became their Permanent Representative to the United Nations. A.R.N. (Ray) Robinsin surprised me when he became Minister of Finance in Eric Williams's government in Trinidad. He was such a quiet, even shy man. I do not think he had many friends amongst the West Indian community. But he dropped in occasionally for a quiet chat. I was even more surprised when he later became Prime Minister. When news came through on July 28 1990 that he and a number of Cabinet colleagues had been kidnapped and were being held hostage in the Parliament building by a Muslim sect operating in Trinidad, my concern went beyond the normal concern of someone who merely disapproved of hostage taking and violence. It was the concern of an old friend. So it was with relief that I heard some four days later that he had been released, even though the rebels had shot him in the foot for calling them murderers. 141

I also saw quite a bit of Stuart Hall, from Jamaica, later to play an important role in the Open University in England; Max Ifyll who worked both in Nigeria and Trinidad; Roy Dickson a member of Exeter College, who became President of the Oxford Union and later worked for Bookers in Guyana. Stuart gave me the best advice I got when he found me worried over the fact that I had not paid my bills with Blackwells, the great booksellers, and Blackwells had written a letter of demand for payment. "Don't worry", he said, "when I get such letters from Blackwells, all I do is to walk up to the bookstore and buy more books on credit." He thought Blackwells wrote such demand letters because they just wanted to be sure that the student debtor had not left Oxford without meeting his obligations. So, the best message to give them was to acknowledge one's continuing presence. I took his advice, and, whether it was coincidence or not, it worked. I did not see Stuart again after we had both gone down until about 1988 when he was a Professor of the Open university and we had a reunion with Dod Alleyn, then Trinidad's Ambassador to the United Nations, and David Garrick Garrick, then pretending to be a retired lawyer, in London. Max Ifyll later worked in Nigeria for quite some time and we met again in Ghana when he visited. Roy Dickson, we had an opportunity of seeing much earlier when he visited Ghana. 142

I also made a number of English friends. By far, the closest was Dick Wilson. He was a brilliant student who got a first class degree in jurisprudence. He then read for the B.C.L., before going to the University of California at Berkeley and there producing a seminal paper on products liability which was then a new subject in the law of tort. But after all that, he went into journalism, first joining the Financial Times, then later becoming the editor of the prestigious Far Eastern Economic Review, during which time he won the Magsaysay Prize, a prize established in memory of the President of the Philippines, for his writing. He then turned to specialising on China, on which he must have written at least a dozen books, and then Japan. 143

Dick was most helpful to us West African students. He was methodical in making notes 144

of the various subjects he took which he bound in volumes. Those notes were handed over to me when he finished. I handed them over to David Garrick of Nigeria when I finished. He, in turn, handed them over to Kofi Tetteh of Ghana. And so the notes travelled.

I met Dick in my first term at a West African Students' Association. He invited me to his home for Christmas. He informed his family at a very early stage that he was bringing me with him. I understood that it was all right; his family was used to that as he often at that time went on the European Continent on holiday with families on the basis that if a member of one of them was in England, his family would reciprocate with the accommodation and hospitality. But some two weeks before the holidays began, Dick came to tell me that there was a problem. His mother has suddenly realised that the friend he was bringing was black. She had decided then that it was not all right to bring me. She was worried about her seventeen year old daughter, Sally. Naturally, I must have felt disappointed and slighted. But it was not a decision which was going to squash my spirits. I told Dick that that was fair enough. To my surprise, he said it was not at all all right and that if his mother was not going to permit me to spend Christmas with them at home in Guildford, then he was not going home either. This attitude led to considerable tension in the family, with the mother phoning daily in distress to argue Dick from his decision. 145

Eventually, just before the beginning of the holidays, Dick came with the latest proposal from his mother. Dick should bring me but I was to stay at a nearby hotel at night and spend the day with them. Dick thought this insulting. But to end the crisis, I agreed to go with him on those terms. Our first few days were tense. Mrs. Wilson would never address me, even at the dinner table, directly. But gradually matters eased. I spent about two weeks with them. By the time I was returning to Oxford, we had got to the extent of her asking me about my girl friends. Later, whenever she visited Oxford, she asked specially for me. Sally's reaction to all these events was summed up in one statement. Dick, Sally and I went for a walk round the countryside. We took their dog with us. But all of a sudden we realised that the dog was no more with us. We found it in the kitchen when we got back. Dick started playfully, asking why it deserted us. Sally's remark was that perhaps the dog did not like black people. 146

Dick and I remained close friends and I hope will remain forever so. He visited us a couple of times in Ghana. When our son, Ralph came to England to study in 1980, Dick was his guardian. I asked him years later why a brilliant law student like him should abandon the law when everything seemed to be going for him. To my mind, such conduct by someone with every promise to do well at a profession, which I thought so well of, was unthinkable. But Dick simply answered that he never wanted to be a lawyer; he took the law degrees to please his father. 147

I even made one or two friends from South Africa, who in the Oxford of those days were white. I met the late Robin Farquarson through Dick. He was good fun. From what I have heard, he was also very bright. He would say teasing things like, inviting me to visit him in South Africa, where I should be able to spend my day in his company but I would have to retire to the boys' quarters for the night. He would have to buy three types of meat: meat for the family, dogs' meat and boys' meat. He thought it would 148

be the greatest shock to his mother if I were to be introduced as his friend. That he in fact had the opportunity to do in Oxford. I came out of the cinema at St. Giles one day when I saw him and an elderly lady across the road. He shouted to me to come over and there delivered his little surprise. The mother seemed to take it well. The South African students at Oxford at the time appeared very liberal. I once went to a lecture by their High Commissioner at Rhodes House, where I sometimes stayed during vacations, and thought that the really rough time during question time was given to the High Commissioner by the South African students. After the lecture, I asked Robin what happened to the liberal political views of all those who had given that critical examination to apartheid at the lecture when they returned to South Africa. How did they conduct themselves when they were back home? "Oh", Robin said dismissively, "they soon conform."

The closest friend I made in Oxford was of a young Finnish girl who had come to England first to see her friend wed and then had stayed to learn English, before proceeding to University in her own country. She was not sure what she wanted to do, so she needed the time to find herself anyway. We met on May 3, 1953. She was then twenty one. We did not get married until she had spent a year in England, gone back to Finland, and started her University course, while I, on the other hand, had finished mine and was on my way back to Africa in 1956. I interrupted that course by asking her to marry me. As I write this paragraph on May 3 1990, we had known each other for thirty seven years and been married for over thirty three.

With these friends, black, white and Asian, we discussed and argued about world affairs, marvelled at the Americans for rejecting Adlai Stevenson for Eisenhower and at American policy towards China; we debated the British underlying reasons and motives of British colonial policy, its Government's attitude towards the colonies in general, Africa in particular, and even more specifically, our respective countries. We from time to time heard such insulting or wounding statements from some of the highest academic intellects specialising on the continent, such as that Africa's contribution to the development of mankind was that it had against great odds managed to survive. Quietly, we resolved to rectify the causes of such statements. From that point of view, some of us admit, after nearly forty years, that we have fought a losing battle.

I recall discussions on Nkrumah coming out of jail to become leader of Government business in the Gold Coast and his win again in the wider election of 1954. What did it mean for democracy in the country? There was concern felt by some of my countrymen that Nkrumah's party was dominated by people without much education. Thinking of myself as more egalitarian than others, I viewed a lack of advanced formal education as not such a great disqualification as my friends seemed to think. I objected to the assumption that only the educated elite like ourselves ought to rule the country. I approved of their general populist views of Nkrumah's party, the Convention People's Party (CPP). I supported the championing by the party of the integration of British Togoland with Ghana. I thought they deserved a chance. By 1954, I had been in Britain by this time for about five years. Those who claimed to have more recent knowledge of the country thought that the CPP was a disaster for the country.

I lived in College in my first year. There was then a system whereby all students had to

live in for the first year. During the second year, they had an option whether to continue living in College or going out to live in digs. In their third year, they had to live out. I went out of College in my second year. I did not enjoy the regimentation which went with College life. The food was not inspiring. I thought I could do better on my own. So I joined Mr. Kynnersley's household of students in 48 Wellington Square. Kwame Boafo joined us there, although he was in the next property at St. John's Street. I met two American post-graduates, Don Cadell and George Carver at Kynnersley's. Both were rowers. But of the two Carver, had the distinction of coxing the Oxford boat in 1951 when Oxford sank during the first round and the race had to be re-rowed, Oxford going down by 12 lengths. But that was before I got to Oxford at all. I remember discussing American black rights with Don Cadell after the epoch-making case of Brown v. Board of Education in 1953. Don was sympathetic to the cause of black rights but he thought the decision was ahead of its time and foresaw a great deal of trouble. Don's fears did not take place. Even if they had, the value of the decision was so seminal that it would have been worth it.

Daya Sennanayake, a contemporary law student of Pembroke, originally from Sri Lanka but at the time based in Singapore where his father run a successful jewelry business, was also with us. Daya was charming and full of fun. His father wanted him to come back to manage the family jewelry business. He did not. Unlike Dick Wilson, he wanted so much to be a lawyer. But after his degree, he did not go on to read for the Bar which he had wanted to do, but was sent off to Belgium to read gemology. He did not do well in the jewelry business when he got back home. He was shunted off by his father into shipping. He liked that neither. He must have given the final offence to his father when he refused to marry the former beauty queen who had been selected to be his wife. When I saw him again in 1975, he was doing some business with a Canadian company interested in paper in Kuala Lumpur. I was passing through Singapore and had written to him. He came down from KL to see me and took me to the family jewelry shop which his brother had inherited to buy a jade ring for Stella. 153

Apart from the few incidents that I have written about, I do not recall having unpleasant racial experiences. This may have been due to the fact that I tried to avoid the possibility of situations which might give rise to them. If, for example, I knew or had heard that other blacks had been discriminated against in certain areas or places, I took those reports on their face value and avoided those places or persons myself. When I went into digs, whether on holidays or to live in during term time, I chose places where black friends of mine had been previously made welcome, such as the house of Mrs. White in St. John's Street, where Quayson Sackey and Dua Sekyi had stayed before, or Mr. Fisher's place in Wellington Square, where Quist-Arcton had stayed, or Mr. Kynnersley's where Dua-Sekyi had moved to when I left College for digs. I remember when I wanted to get a flat of my own in my fourth year at Oxford. I went out with Stella, who did not understand or believe all the stories she heard about racial prejudice. I told her how difficult it was for black people like me to get good accommodation in Britain. Memories of London, where we had fought battles for the establishment of more Colonial hostels in 1951 must have been fresh in my mind. I had seen an advertisement of a flat in Banbury Road, beyond Summertown, where a Mrs. Clyne had asked interested persons to call. Both Stella and I got into the telephone booth at St. Giles to try Mrs. 154

Clyne. I fully expected a rejection. Stella thought it was ridiculous. When Mrs. Clyne answered the telephone, I told her I was a student looking for a flat and had seen her advertisement, could I come to see the flat. By all means, she said. So I made what I thought was my telling point. "By the way, I am black." Back came the answer, "I know." I could never live that day down with Stella. Long after that she continued to laugh at my imaginations of prejudice. I took the flat.

My father died in 1953 while I was at Jesus College. It was the saddest experience I had at Oxford. He had been unwell for many years. He was diabetic and some complications had set in towards then end. The day he bade me goodbye in Accra, he said, quite un sentimentally, that he did not think that I would return to meet him. Sam and Jessie Annie, accompanying me to Takoradi to join the boat to Liverpool, were terribly upset by this statement and began to weep, asking him what he thought he was saying. But he made his little farewell speech matter-of-factly without a tear. Nor did I cry. We had had a lovely relationship. He was always very happy to see me. We spent long periods in each other's company, some times in the Tudu house just standing by the window watching the world pass by. But on long holidays, he soon began to wonder when I would get back to my studies at school. With the exception of the time that he talked to me for not pulling my weight at Achimota, he had seldom had occasion to lecture me. I knew I could not go back home for any funeral ceremony when he died. So I bore my grief with the support of the close friends that I had at Oxford. I remember Dick Wilson sending me a charming letter when I passed my Bar finals, regretting that my father was not around to enjoy that great day with me. 155

I stayed up at Oxford after I had taken my degree in the autumn of 1954. I had wanted to do a BCL. But the Gold Coast Government thought it was not necessary for the work I was to be employed to do. I was quite disappointed by this decision as I had support in the College to pursue the degree and I thought it would improve my legal understanding considerably. 156

After my return from the conference in Paris, I moved from Wellington Square into a flat in Banbury Road, beyond Summertown. Instead of Mr. Kynnersley whom one saw daily with his wife at breakfast and when they came to make up the rooms for the landlord, I had Mrs. Clyne for a landlady. She interfered little with one's life at the house. I thought I knew my way around Oxford well enough. The logistics of getting to the library everyday were easier than if I were in London and the facilities were as good as I could find in Lincoln's Inn. So I adopted an organised life working daily in the Codrington Library of All Souls College. The failure rate at in the final Bar exams was phenomenal, so it was an exam truly feared by those who took it, especially those of us who came from the British colonies. 157

I took the Bar final exams in May 1955. When the results were due, I was so worried that I asked Kwame Boafo to look them up in the Times and then phone to tell me how I had done. In order not to get up and fret while waiting for the call from Boafo, I read far into the night, a practice which was unusual to me, so that I would still be sleeping when Boafo rang. I deceived myself, because I was awake early. I lay there waiting for the telephone from Boafo. At 11 am when it had still not come, I summoned up courage and crept downstairs to find a paper. I saw my landlady's Telegraph in her 158

letter-box and snatched it. With increasing alarm and disappointment I read down the list of names of those who had passed with a third class. My name was not there. Just when I was about to fold the paper again to put it away with the sure feeling that I would have to take the exam again, my eye caught the small list of those who had obtained a second class [rather than a third class] and there was my name, fifth in the order of merit.

I was called to the English Bar by Lincon's Inn in June 1955. After that I started to find out about my return home. It appeared then that the Attorney-General's Chambers in Accra were not ready for my return. They said there were not enough seniors around the place to give me any training if I returned then. Some suggestion was put forward that I should start my career in the AG's Chambers of some Caribbean colony whose circumstances with regard to staffing were better than the Gold Coast. But no such Chambers could be found to take me. I went through a period of uncertainty not knowing when I would be returning. Some time in August, Dingle Foot, who had acquired a great reputation in the Gold Coast in 1948, representing the "Big Six" during the Watson Enquiry established by the British Government to investigate the causes of the disturbances of February that year, was asked to take me as a pupil. Dingle had become a Queen's Counsel at that time and was therefore unable to take pupils any more. He suggested to the government that I should become a pupil of Tom Kellock in his Chambers. I joined Dingle Foot's Chambers that Autumn. On the day that I started my pupillage, that is the 17th of October 1955, my appointment as an Assistant Crown Counsel in the service of the Gold Coast Government commenced. 159

But before all this was settled I had moved from Oxford to London. There, I stayed for a while in Kilburn, near where Roger Korsah and his wife with her Whittaker family lived. And I saw quite a bit of them. Adamu Atta had a room in the digs where I lived. During part of those holidays, his sister, Sefi, now Permanent Secretary of the Ministry of External Affairs of the Federal Republic of Nigeria, whom we continually regarded as a little girl from our Achimota days, came to stay and to cook for us. Later both Adamu and I moved to a flat in Neasden. But Adamu did not stay long. He was then reading veterinary science. After taking his exam for that year he went home for a visit to Nigeria and did not return to England for a long time after that. By the time he did return, I had left for West Africa. He then came to read law. When he did not return after his visit to Nigeria, Roger took his place in the flat. 160

As soon as I got my appointment, I got a letter from home asking me to write to thank various family members, including Mrs. Genevieve Easmon, for the help given in the education of my brothers, Sonny and Jack, and I assumed responsibility for their education. 161

Dingle's Chambers were mainly concerned with Privy Council practice. The Privy Council was still the final court of appeal for most Commonwealth and Colonial countries. Most of its judges were the Lords of Appeal in Ordinary who constituted the final court of appeal for the United Kingdom. But Judge L.M.da Silva of Ceylon (now Sri Lanka) was a regular member of the Board. And other judges of the Commonwealth also sat occasionally. Members of Dingle's Chambers were briefed to represent either the appellant, in criminal cases, usually the convicted person, or the respondent, who in such cases 162

would be the Queen or the State from which the appeal emanated. The Chambers were at 2 Paper Buildings. But the overflow, to which Tom Kellock and his pupil belonged was at Lamb Buildings. The Clerk of Chambers was Walter Butler, a wizened man of recognized skill; as well travelled as Dingle himself as he often went around to the various parts of the world where Dingle was briefed. The members of Chambers which I had most to do with, apart from Tom Kellock, were Biden Ashbrook, with whom we shared the same room, Phineas Quass, a small, clever, and tenacious Queen's Counsel who led Tom from time to time, their important case of the time being *Vine v. The Dock Labour Board* in the Court of Appeal. Then there was Ralph Milner, a brilliant advocate on appeal, who was somewhat radical in his views, who saw solicitors turn away from him during the period I was there because he had visited communist China. I recall an occasion when he was for the appellant before the Privy Council in a very bad murder case. Tom Kellock was for the respondent. I, of course was sitting behind Tom. We listened to Ralph spend about five minutes pointing out the bad features of his case. When he had said as much in that time as any opponent wishing to destroy his case would, he then launched into the legal technicalities on which he was relying as his grounds of appeal. It was a beautiful performance. As he went on, Tom raised his head to the ceiling and spoke in a whisper to me, "Austin, that is how it is done, that is how it is done..." It was a performance which left me with an indelible memory.

With Dingle Foot's long established connection with British colonial territories, a number of pupils passing through his Chambers came from these territories. His last pupil before becoming a QC was Shridath (Sonny) Ramphal from Guyana, who later became successively, Attorney General and Foreign Minister of his country and then went on to become the Secretary General of the Commonwealth for some fifteen years ending in 1990. Berthan Macaulay, former Attorney General of Sierra Leone had also been a pupil of the Chambers, as had Herbert Chitepo, the nationalist Southern Rhodesian (Zimbabwean) who in the days of the Rhodesian struggle became Director of Public Prosecutions of Tanzania and later a leading member of the independence struggle who was assassinated in Zambia. In my time, Basil Adedipe from the Attorney General's Chambers of Western Nigeria, subsequently to become Director of Public Prosecutions, was taken in by Chambers as a pupil of Biden Ashbrook. After me, Moleleki Mokama, Attorney General of Botswana, by 1990, probably the longest serving Attorney General in the Commonwealth, having held that post since 1967, was a pupil of Tom Kellock. And Livesey Luke, former Chief Justice of Sierra Leone, President of the Court of Appeal in The Gambia and, subsequently, Chief Justice of Botswana, was a pupil of Ralph Milner. Gyeke Dako, successively, Director of Public Prosecutions in Ghana, then in Gambia, and judge of the High Court in Botswana, also passed through the Chambers.

I remember many years later when I was passing through London and Tom invited me to dinner at his club, The Reform Club, when we were joined by Moleleki Mokama from Botswana; [xxx] [\* check missing name ] who was then working in Central Africa, and [xxx] [\* ? ] from Uganda. While having coffee and liqueurs, Lord Morris of Borthy Gest, who apparently lived at The Reform Club when he was in London, was invited by Tom to join us. One shared the pride in Tom when he introduced his former pupils now in different parts of Africa to Lord Morris.



Tom was a member of the Western Circuit and I went on Circuit once with him, when we stayed with his mother, Mrs. Nuttal, at her home in Somerset. The weekend saw me gardening, an unusual pastime for me. It was on the Western Circuit, at Dorchester, that I had my first opportunity of speaking in Court: the prosecution was over; the accused represented by Tom had been convicted and sentenced. Counsel for the prosecution, Raymond Stock, had disrobed when his attention was drawn to the fact that there were other charges, of a similar nature against the accused which had not been dealt with. It was agreed that the best way of disposing of the charges for the time being was to apply to the Court to let them lie on the file. Should Raymond Stock get back into his robes for this simple matter? Why should I not make the application? I was still in my robes. So I did. It was nothing; but it was an exciting moment. 165

My life as a pupil could not have been very different from most other pupils. Tom gave me the opportunity of studying his papers; doing the first draft of documents for his perusal, practically all of which found themselves in the waste paper basket; attending his conferences and discussing the work he had with him; going to court with him. But it was not all work. We had the occasional drink and we talked about life, politics, the colonial situation, mixed marriages, whatever. Tom has been a life-long liberal and, as such, had fought a parliamentary election, unsuccessfully, for the cause. Liberalism as a political force in England was already in decline. Dingle, from the great family of liberals of South West England, deserted the party while I was there and joined Labour. This was felt a great betrayal by admirers like Tom. 166

Although I saw all Tom's papers, there was one set which, I remember, he thought I should not see. This was the case of the Gold Coast Chamber of Mines in the Mines Enquiry held by Mr. Justice Sarkodee Adoo in 1956. He was not sure how his clients would take it. About August/September that year, he visited the Gold Coast for the enquiry. On his return, he told me that his clients would not have minded my seeing their papers. But by then, it was too late. I had more or less completed my pupillage and was getting ready to go back to the Gold Coast. 167

One other thing which happened that summer while he was away was that I got married to Stella, the Finnish girl I had met at Oxford. Stella went back to Finland in 1954 and, for some time, I thought we had no future together so that it was pointless entertaining any thoughts in that direction. But as I got nearer to going back home, despite the warnings and advice that I had received from home, I decided to ask her to marry me so that we could start life in the Gold Coast together. She agreed, and came back to London at the beginning of August. I was then sharing a flat with Roger Korsah in Neasden in North London. So Stella and I went straight away to the nearest Registry Office which was at Willesden to arrange for an early wedding. We saw the Registrar together and fixed a date. But he managed to see Stella alone and asked her whether she was being wise in getting married so soon after we had met. As her passport showed, Stella had not been in London for more than a week. And the Registrar thought that we had just met upon her arrival in England this time. 168

We got married on the 18th of August 1956. We had only a few friends there. Dick Wilson, who got to the Registry early and stood in front worrying because our time was coming up and we were nowhere to be seen. Frank (Kojo) and Iris (Naawaa) Torto, Roger, 169

Martha, Stella's friend for whose wedding to Robin Godliman, Stella had first come to England in 1953, Johnny Quashie Idun, J.H. Mensah, Kwame Boafo and Adjei Bekoe who had hitch hiked from Oxford that morning, and Eleanor and Dick Thomas, whom Stella knew better. Alex Boyo arrived from the European continent that afternoon and joined us. It was a simple wedding but we all enjoyed it immensely.

My closest relative in London at the time was my aunt, Mrs. Genevieve Easmon, who was there with her husband, Charles, at the time. I had asked them. But they were not there. Charlie Easmon came a few days later and spent a long and pleasant evening with us. We did not see my aunt until we got to the Gold Coast on the 27th of November. I later learnt that she had a habit of registering her disapproval in such conspicuous ways. 170

Tom Kellock was not at the wedding because he was then in the Gold Coast. But I had not told him anything about my intentions which must have been formed before he left. That must have been because I had concluded from some earlier conversation that he was not too sympathetic towards mixed marriages. I remember him giving as an example how difficult it was for a marriage between persons of two different religions, or even between, say a Catholic and a Protestant to succeed, and how much more difficult it would be for two people of different backgrounds and cultures to make a marriage work. I told him about my new status when the new legal year started that October and I visited Chambers. It was as if I had hit with a sledge-hammer. He was visibly upset. How could I have failed to tell him that I was getting married. He brushed my argument of his dislike for mixed marriages. He immediately got in touch with Dingle and organized a party for members of Chambers for Stella and myself at El Vino's on Fleet Street. Stella was bewildered by all this. 171

Apart from attending to Tom's business during my pupillage, I had had the opportunity of watching some of the best advocates then at the Bar perform in court. It was a delight to watch Sir Hartley Shawcross cross swords with the leader of the Electrical Trade Union. "Khaki" Roberts conducting a society libel case drew in crowds to the court. Godfrey Les Quesne, who must have been pretty young at the time always presented a formidable figure when appearing before the Privy Council; he never took a note of what his opponent was saying but was ready to answer all his points the instant the opponent finishes. It must have been quite disconcerting to do a case against him. 172

Late in my pupillage year, long after my appointment as an Assistant Crown Counsel from the Gold Coast Government had taken effect, I got a puzzling letter that the Attorney General of the Gold Coast, George Patterson, would be in England shortly and expected me to appear on a specified date at the Gold Coast Students' Liaison Office to be interviewed by him for appointment as Assistant Crown Counsel. I duly appeared and found on the other side of the table, Mr. Patterson and Mr. Mike Ribeiro (Uncle Mike), the Students' Liaison Officer, who incidentally had been in charge of the arrangements for my pupillage on the London end. Mr. Patterson started with some routine questions about my wanting to join his office. I answered them off-handedly knowing that I was already a member of his office and, in any case, not feeling put out if he were to decide that I was not fit for his office as I thought it would free me from the obligation of serving the Gold Coast Government under any bond for the scholarship I had been given 173

by it for training at Oxford and the English Bar. I wondered why Uncle Mike did not tell him that I was already employed by Government. Later it all came out and Patterson looked pretty sheepish. The only useful point made at that interview was that he asked me which branch of the law I liked to work in. My answer was, not the Criminal Law. To that, he said that he was afraid I would have to do quite a lot of that. In that he turned out to be right.

Stella's and my passage on the boat, "MV Accra", was booked for the 15th November. That was organized by the Gold Coast Government. Two weeks before departure date, I had an urgent telegram saying that my wife was not entitled to passage paid by the Government and that, unless I signed an undertaking promising to refund the passage money, Stella's passage would be cancelled. I did not understand why all expatriates employed from the United Kingdom by the Gold Coast Government came to be entitled to have the passages of their wives and children paid by Government but that I, employed by that same Government to remain in the UK for a year, could not have my wife's passage paid upon relocation to the Gold Coast after that year. But time was too short to argue that case with Accra, so I signed the undertaking. 174

We both left for Accra on the appointed day. Naawaa was on the same boat; Kojo had preceded her before to Accra. We also had the company of some interesting Roman Catholic white fathers. As usual then, the voyage took twelve days and we stopped in Freetown on our way. There, we were invited by the Akiwumis to lunch. 175

## 4. Crown Counsel in Accra

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As I left the Gold Coast some seven years before, so we entered the Gold Coast on November 27 1956 through Takoradi harbour. My sister, Beryl, was there to meet us. So were Fred and Sam Anie, both of whom were stationed in Takoradi at the time. We were also met by a welcome letter from my cousin, Fifi Quartey, containing the princely sum of ₵200 as a gift to start us off in the country. It was a fantastic and most pleasurable surprise for which we were extremely grateful. In the money of the day, it must have represented a small fortune. Fred knew his way around the harbour as he had been doing business there on behalf of his company, the United Company of Africa (UAC). He quickly got our things organized, and were soon on our way to Accra. The road to Accra did not continue on the coast straight through to Accra; we had to pass through Swedru and Nsawam. At Swedru, we stopped to see my uncle, Bruce-Lyle, whom the family and friends had all called Baby Lyle since childhood. He was then the Magistrate stationed there.

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It is a matter of regret to think that those relatives of mine would not extend the same welcome to me now as they did then. In Fifi's case, it is difficult to explain why. But some time in 1989 when I rang his house in Cambridge because I had arranged with his youngest brother, Kai, who was then visiting him, to ring and Fifi took the telephone, his first reaction when he heard who it was, "Oh, you want to speak to Kai". I replied that I wanted to talk to him too, but the conversation which followed was rather forced and stilted. In Baby Lyle's case, it is no doubt due to the fact that when in 1966 the Courts of Ghana were reorganized and he ceased to be a judge in the country, he and his close family attributed his misfortune to me, as I was then acting as the Attorney General. It led to the extraordinary situation that thereafter, we from time to time visited his mother's home, but she, Lady Julia McCarthy [\* changed form M'Carthy to be consistent with an earlier spelling ], who had always been Auntie Awura Adjua to me, a sister of my grandfather on my mother's side, would not talk to us. We enjoyed going to chat with her urbane and intellectual husband, Sir Leslie McCarthy [\* changed form M'Carthy to be consistent with an earlier spelling ], lawyer, historian, himself a former Crown Counsel and judge, who in his old age wanted someone to talk to about world affairs and history.

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We were met by a welcoming party of family members in the last house that my father built - "Mango House", so named because of the abundance of mangoes at the site when it was built. I had never lived there before. There was the customary prayers said by a priest, to give thanks for our safe return and to pray for our future. Stella and I stayed at the house for the next three days or so. But it was clear that, however much we loved my mother, brothers and sisters who lived there, we would be happier on our own. And we continued efforts, started before we arrived, to get into a Government bungalow.

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That was not easy. The increase in the number of indigenous civil servants, all asking for housing from the Government, had put a great deal of pressure on the limited number of bungalows and flats available. Sometimes one had to wait for a long time for a bungalow or flat to become vacant to move into. We were almost despairing of getting

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into anything early when we were offered a house just outside the Accra Racecourse. It was the oldest building on the Ridge. Built of wood on concrete pillars, half of it was in its hey-days, the Church for the expatriate community, and the other half was the home of the priest. I think we were offered the home of the priest, the other part being then occupied by another indigenous civil servant, Grey-Mills. Our luck in getting the accommodation was due to the fact that the building was due for demolition to make way for more Government office buildings to be put up. But as these plans often take time to materialise, those responsible thought that it could be used in the meantime for hard cases. The senior officers responsible for the allocation of accommodation were R.P. Baffour, whom I mentioned earlier as claiming to be the head of my family from Elmina, although I did not know of this claim at the time, and Michael Dei-Annang, the poet and public servant, who in Nkrumah's Republic became one of his closest advisers on African Affairs. I had approached neither for this favour, my application being pursued entirely by the Attorney General's Department. What I cannot say is whether the fact that both men knew me or of me made any difference. My mother would have preferred us staying with her longer, but she accepted our explanation without fuss. Before starting at the office, we moved to our new home. After taking the few days of grace granted to enable me to settle my personal affairs before starting work, I joined the office, which was then situated at left hand side of the main gate to the Ministries' compound built around the old white colonial Secretariat building, in Accra sometime in December 1956. I had already been a member of the Department for just over a year, that is since the 17th of October 1955. I arrived with quite a number of financial commitments, for the education of brothers, for support of my mother and for the payment of the fare for my wife, Stella, which I had undertaken to repay just before we left from England. As a result, I had very little left of my salary for Stella and myself. But looking back now, it was quite a handsome salary that I earned. I started on something like ₵840 per annum. But at that time, that amount could buy a decent small car. The first car that we bought, which we ordered just before leaving England through the agents in the Gold Coast, Edward Nasser, was a Borgward Isabella. I did not have to pay outright for it, as, like every senior civil servant, I was entitled to and took a loan repayable over some five years for it. But the point I make is that my annual salary at that time could have paid for the car. Years later, after many promotions to more exalted positions, I found that the salary I earned could not pay for a fraction of the cheapest cars on the market. Such was the erosion of the value of money as one progressed through the public services of my country.

The Attorney General's Department was then small indeed. Most of the personnel were members of the British Colonial Legal Service, liable to be transferred with or without promotion to other colonies. The Attorney General was George Patterson. Alfred Lonsdale was the Solicitor General but he had gone back to England prior to leaving the Department on health grounds. Acting in his position was A.H. (Fred) Simpson, who had only recently come to the Gold Coast as the Legal Draftsman, but had had to step into Lonsdale's shoes, soon after. He was promoted a judge of the High Court not long afterwards, leaving the country a few years after to go to Australia. But he was soon back in Africa; this time on the east coast, where he ended up as Chief Justice in Kenya in the 70s. Johnny Glover was next in line as Senior Crown Counsel. When he was pro-

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moted, it was to the Solomon Islands as Attorney General. As he said, he was moving to another part of the world where he would be in greater need of a speed boat than a car. But due to the acting position of Fred Simpson as Solicitor General, Johnny Glover was acting as the Legal Draftsman. Garvin Scott from Trinidad was the second Senior Crown Counsel. As the senior of the two Senior Crown Counsel at post, he was resident in Accra. Another Senior Crown Counsel was resident in Kumasi. He was in charge of Ashanti Province, which at that time consisted of what is now Ashanti and Brong Ahafo Regions, as well as the Northern Province, which was the rest of the Gold Coast north of Ashanti. F. Hilary Battcock held this position.

The most senior Gold Coast national in the office was Akilano (Lano) Akiwumi. He was a Crown Counsel. One other Crown Counsel was Edmund de Unger, a Hungarian thought to be a nobleman who had left Hungary and now held a law qualification from England. Then came the three Gold Coast nationals at the bottom of the table, all recruited in 1955, in order of seniority, Festus Amarteifio, Vincent Cyril Richard Arthur Charles Crabbe (called Charles Crabbe for short) and myself. We were all then Assistant Crown Counsel. We shared the same room which was fairly large in size. It was the classroom, which afforded us the opportunity to exchange views freely on any legal problem any one of us had. Sometimes we were joined by Lano who led the discussion. 182

Next door, was Lewis Rouse Jones, a somewhat eccentric character on loan from some British civil service department, acting as the consultant on the negotiations on the Volta River Project. Apart from Rouse Jones, other expatriates came to the Department on a temporary basis during the next five to six years. 183

I also came to meet two men in the administrative grade who had been friends of my father and who were kind to me. One was Mr. Djabanor, who was the senior administrative officer in the Attorney General's Department, and the other was Mr. Tawiah, who was clerk of the West African Court of Appeal. I saw Mr. Djabanor often in our house before I went to England. I was greeted on my return with the news that he was one of the witnesses to my father's will, but could not remember who the other witness was, the signature being undecipherable, although he remembered their signing the will together. He and my mother had wondered about the identity of the second witness from the time my father died for all these years. They thought that forgetting who he was affected the validity of the will and had kept the matter quiet. The will was shown to me, but I did not know the signature. My sister, Audrey, had been living with her husband, Ernest Kwabi Adisi, in Mango House together with my mother for some time before I got back. I did not know Kwabi before. Soon after my arrival, I saw Kwabi sign his name. It reminded me of the mysterious signature on the will, so I asked him whether he witnessed my father's will. Yes, he said. He remembered all the circumstances. I later asked Mr. Djabanor whether he remembered Kwabi Adisi signing the will with him as witnesses. Of course, he did. But what had been even more remarkable was the fact that my mother had for years worried about who this witness was, while all the time that witness had been staying in her house. She had never mentioned the subject to Kwabi. 184

I had little to do with Attorney General Patterson. He was engaged in discussions on the independence constitution of Ghana and was very often away to London. All I 185

remember him asking us to do was to make recommendations for the purchase of books for the office library, of which more later. My regular relations were with my colleagues in the lower rungs, rising to the state of Senior Crown Counsel. But I occasionally had official contact with those near the top. I wished I had met Alfred Lonsdale. He had been the Legal Draftsman and was acting as Solicitor General just before his departure to the UK on health grounds. He had a reputation for being brilliant and I thought I could have learnt something from him, even though he was supposed to have had a quick temper. Because of Lonsdale's ill-health, Fred Simpson, later to become puisne judge in Ghana and, still later, Chief Justice of Kenya, was catapulted from his position as Senior Crown Counsel to that of Legal Draftsman and, shortly afterwards, to Solicitor General as there was that vacancy. I saw a bit of him and we were friends. He taught me one thing at an early stage, to try and avoid quarrels on paper. As he said an angry exchange of words can easily be forgotten, but not a document. But he soon moved on to become a High Court judge. I thought Johnny Glover, a small wiry man, later to become Attorney General of the Solomon Islands, a very sharp lawyer. It was always useful to discuss a legal problem with him. One might find after a laborious statement of a problem that he might help dispose of it by asking one illuminating question. It was difficult to learn any law from Garvin Scott, simply because he never gave reasons for any opinion that he gave. When he was elevated to the Bench, his judgments suffered from the same deficiency. But he was a very good social companion.

The composition of the Attorney General's Department at this time could be set against the public services in general by the time of independence. The Judiciary had a Ghanaian Chief Justice, Justice K.A. Korsah, and a number of Ghanaian judges: as President of the West African Court of Appeal, there was Sir Henley Coussey. In the High Court were Justices Acolatse, Adumua-Bossman, Manyo Plange, Ollennu, Quashie-Idun, Sarkodee Adoo and Van Lare. Their number exceeded, by far, the number of expatriate judges, who at the time were Justices Benson, Lingley and Windsor Aubrey. In the Civil Service, most of the high positions were manned by Ghanaians. It will be recalled that during the colonial period, the first African District Commissioners selected were Dr. K. A. Busia and Mr. E. L. Adu. Later Major Anthony, who had attained the highest officer status in the Royal West African Frontier Force during the Second World War was also appointed a District Officer. Dr. Busia had by independence joined the academic fraternity at the University as a Professor and later became the leader of the Opposition in Parliament to Nkrumah. E. L. Adu was, at the time of independence in charge of Africanisation of the Public Services. Major Anthony joined the infant Diplomatic Service in the country and had several postings, including Ambassadorships and High Commissionerships abroad at a later stage. Some said, perhaps, with a tinge of malice that Nkrumah deliberately kept him abroad because Nkrumah feared his leadership qualities if he were to stay in the country. The head of the Civil Service, the Secretary to the Cabinet, was Mr. Chapman-Nyaho. He was succeeded not very long after by E. L. Adu. They were supported in-depth by Enoch Okoh, Michael Dei-Annang, Robert Baffour, Chinbuah, Appadu and others. The top echelons of the Civil Service was not wholly Africanised, but there was quite a number of Ghanaians in such positions. In the Attorney General's Department, however, all the Ghanaians were at the bottom of the ladder. This was consistent with what Sir Henley had told me on the day of my interview at the Colonial

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Office in London in 1951 that the Department had been the one place in respect of which Africanisation had been resisted by the British administration.

True to Attorney General Patterson's prediction when we first met in London, I started off with a work basket somewhat weighted in favour of criminal cases, especially on advice to the Police on dockets that they submitted. But work in the office was varied. Apart from advice and prosecution of criminal matters, there was a lot of advice of Ministries and departments on all kinds of governmental and civil matters. Members of the Department get to be known primarily as criminal lawyers as most of their public appearances in the courts are connected with criminal prosecutions. But their work load would include anything of a public law nature, such as questions involving the jurisdiction of courts, the powers of Ministers and Government departments and officials, workmen compensation, public acquisitions, contracts and torts generally. This was a time when following the legal procedure established under English law that the Crown could do no wrong, action against Government could not be brought without the fiat of the Attorney General. Any case in tort, therefore, had to come to the Department by way of a petition for authority to sue. The practice of the Department was to study the petition and supporting documents, request the Government department, office or official immediately affected to explain Government's position and, if there was merit in the petition, a recommendation for an appropriate *ex gratia* award was made to save the costs of proceedings. If the case had no merit whatsoever, the petition might be refused. In the few cases where the justice of the case could not be easily determined by us, the fiat was granted for the case to proceed in court. If one examined the law reports up to that time, therefore, one would hardly find cases of tort against Government. We did no conveyancing because the Lands Department had its own lawyers to deal with that; or with divorce except incidentally, for example, because the very nature of our "client" ruled a practice in divorce out of the question. It always, therefore, irritated me a bit when I heard of myself being described as a criminal lawyer.

Even before I had got that valuable advice to avoid quarrelling on paper, I ran into difficulties with the Police at an early stage. I was sent a docket on something like dangerous driving in which the Police were seeking confirmation to proceed against one person. The only problem was that this person had originally been the complainant in the case. The Diary of Action Taken, which always precedes the statements of witnesses in the Police docket and which is very revealing to read, showed that the person to be charged had, after the complaint, been treated as the complainant almost to the end of the enquiry. Then there was an entry in the diary to the effect that he was invited to see the investigating officer. The next entry was to the effect that he was to be charged with the offence of which he complained. There was no explanation either in the Diary or in the statements which followed for the sudden turn. I queried this, admittedly, in some strong language. But I thought that in the circumstances it was justified. A few days later I was called up by Garvin Scott. With him was Police Superintendent Carruthers, who wanted to know who had written such an opinion to the Police. I explained to Garvin why I had written the way I did. He had the courtesy to wait until the fuming Carruthers had left. Then he advised me to be more careful about my language on these matters. I must say that I later did several cases with Carruthers during which we enjoyed a friendly relationship and that was not due to the fact that I was always



watching my language.

My first court appearances were as a junior to de Unger in the West African Court of Appeal (WACA). I was happy to sit and watch one of the great African judges of our time, Justice Coussey, who had been so helpful to me six years before, preside over that court. WACA was at the time limping to its end. Apart from Coussey, there was one permanent member, Verity J.A., who had formerly been Chief Justice of Nigeria. The third member was ad hoc, appointed for the session. 189

I was supposed to be learning the ropes in appearances on appeals from de Unger. He did one thing which made me think that there was not much that I could learn from him. After all, why should I learn anything from de Unger arguing an appeal when I had watched some of the best practitioners of the art perform before the Privy Council? His conduct which led me to this conclusion arose in this way. A point had been raised by appellant's counsel. Counsel just mentioned it without developing it further. But later, the judges wanting to help him out pointed out that there was substance in that point and wanted him to show them the authority for the proposition he had made. He was not ready with any authority. To accommodate him, the judges adjourned for a short time. But they resumed without counsel finding the authority. [D]de Unger was called upon to answer the appellant's case and was asked by Coussey P. if he was aware of the authority wanted. He was not. I could understand that counsel on his feet could be flustered by questioning from the bench and, therefore unable to provide an authority when asked. Free from the pressures on counsel on his feet, I started looking for the authority and, indeed, found it in Archbold. I passed it on to de Unger, who looked at it and turned the book down at the page it was opened. I whispered to him that that was what the judges were after and asked if he was not going to show it to them. He ignored me. But Coussey observed our conversation and asked de Unger to show him the Archbold lying in front of him at the page opened. He was obliged to. That was the end of the appeal, which succeeded. I soon began to have cases of my own in court. These cases were not before the Court of Appeal at that stage, but small prosecutions, first before Magistrates' Courts. My first case outside Accra, was a prosecution in Mampong in Akwapim before Azzu Crabbe, then a Senior Magistrate. My opponent was Dua Sekyi who was then in private practice. I made several visits, taking Stella with me. On one occasion, we went with my cousin Joyce (Kay) Odamtten. On another occasion, it was with Naawaa Torto. Stella and Joyce were quite embarrassed during their visit together when they were chased out of court by a persistent wasp. 190

The Gold Coast then had the system of Assizes which took place every quarter in the Assize towns of Accra, Cape Coast, Takoradi, Kumasi and Ho. The opening of the Assizes was marked by great pomp and ceremony. Distinguished personalities were invited to watch. The Assize judge dressed in his flowing scarlet robes and full-bottomed wig inspected a guard of honour in the court grounds. Then the judge, lawyers and guests went into court where the roll of cases was called and any special application which needed to be made with respect to particular cases was made and disposed of. The jurors for the session were selected by drawing names out of a box; those who wanted to be excused made their applications for consideration by the judge. From those who were selected, the juries of seven members for the serious cases to be tried by the judge 191

and a jury; and three assessors for the other cases to be tried by the judge with the aid of assessors, were selected in each case. After these formal matters, the Assize judge would serve his guests refreshments. The real business of the court began the next day and continued more or less on a day to day basis until the roll was exhausted.

The first time I appeared in an Assize was in Accra, with Lano as my senior. We appeared then before Justice Benson. I had known Akilano ever since I could remember. His father, Augustus Molade Akiwumi, was called to the English Bar before my father. He had read law at Cambridge, where Lano also went and had practised in Accra. At one time during the colonial era when African Magistrates were sought by the British administration, the senior Akiwumi had been a Magistrate. He later became a member of the Ghana Court of Appeal and, thereafter, the Speaker of the House of Parliament. He and my father were friends, and he had the habit of coming round to greet such friends on every New Year's day, sometimes with one of his sons in tow. Lano was several years my senior at Achimota. The brother after him, Akilebu, who became an engineer and worked for many years with the Ghana Supply Commission, was also a year ahead of me at school. But the younger brother, Akilowu, who did medicine, was my classmate. Lano was a friendly, carefree person. This attitude was, without the fault of either of us, to lead later to some strain in our relationship. He was also a very good teacher. As his junior in a case, he would tell you which witnesses he would like you to take, so that you prepare to examine them. As you started examining your witnesses, he would be beside you ready to give any assistance needed. But suddenly you realised that he was no more there. He had just slipped out without your noticing and that you were all on your own. It was very good training.

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After that, I took the Criminal Assizes in Accra and a few times in Sekondi Takoradi. In Accra, apart from Justice Benson, I appeared at Assizes before my uncle, Justice Manyo Plange, known by everybody as "Uncle Jack". He was a formidable personality. Over six foot tall, he had a strong, deep voice, and was impeccably turned out every day, sporting a carnation in his button hole. He had been a policeman and Crown Prosecutor in his younger days. He was in the Police Force when he qualified as a barrister. But in confirmation of what Justice Coussey had said, he was kept out of the Attorney General's Department, then more often called the Law Office, for quite some time in the 1930s. Sir Leslie McCarthy, whose family hailed from Sierra Leone, was the African who had most recently served as a permanent officer in that Office. Before Sir Leslie, the only indigenous person who had been admitted into the office was Sir Emmanuel Quist who, in his old age, became the Speaker of the Legislative Assembly. There is the story about how Sir Emmanuel came to leave the service which well illustrates the conditions of the country at his time, and also gives an idea of the hazards run by a prosecutor. According to that story, he used to travel to Cape Coast to prosecute by bicycle, as motor vehicle transport had not come to the country. On one occasion, while he was in Cape Coast, he was informed that some people on the route to Accra, probably, people he had prosecuted before or whose relative or friend had suffered such fate, have been threatening to kill him on his way back. Sir Emmanuel finished his assignment in Cape Coast. But instead of cycling back to Accra, he cycled on to Sekondi, where he took the next boat to Accra and, on arrival, resigned.

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Anyway, Manyo Plange, after qualifying as a barrister, prosecuted at first as a Police Prosecutor. Even when the Law Office was short of Crown Counsel and he was invited to conduct criminal cases on behalf of the Office, he was obliged to go back to his Police duties after an assignment. This went on for some time until the Inspector General of Police of the day confronted the Attorney General and asked him to take a decision as to what he wanted to do with Manyo Plange; did the Attorney General want him or not? Faced with that stark choice, the Attorney General agreed to have Manyo Plange as a permanent Law Officer. He acquired the reputation of being the best prosecutor the country had ever known. As a cross-examiner, he probably had only one equal in his day, his cousin Albert (Agbado) Heward Mills, who was the great criminal defender. I only saw Uncle Jack prosecute once when I was a very young boy and the proceedings were then not very meaningful to me. But I came to meet Uncle Albert at the Bar and even had him as an opponent in a couple of cases that I did. He once held a watching brief for one of the commercial companies which was the complainant in the criminal case. So he sat behind me as I stood on my feet to examine and cross-examine witnesses and tried to suggest the questions which I should ask. I found this quite a nuisance. But the criminal cases were prepared and conducted with admirable care and skill. He was the leading defence counsel in a murder case which I prosecuted in Accra. The murder was committed in a village some way out of Accra. It was obvious from the way he cross-examined the prosecution witnesses that he had taken the trouble to visit the village and compared the witnesses' evidence on the depositions with the facts on the ground. In one other case which I did against him, I just sat and admired his skill in cross-examination as he slowly led my chief witness unsuspectingly step by step into a trap. He eventually came to a point when he put a question to the witness. I knew that if my witness answered yes, it was bad for my case; if he answered no, it was equally bad for the case. At that point I jumped up, extended my hand and said enthusiastically, "Congratulations, Uncle Albert!" He took this with his wry smile and sat down. If the standard of cross-examination of Uncle Jack was as high, then I am sure that a clash between the two would have been a real battle between giants. Uncle Jack was supposed to have done his cross-examination without a note, usually in a conversational manner with the witness. I tried this when I thought I was well-experienced enough. But I could never manage it in complicated cases.

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He was posted to Nigeria as Senior Crown Counsel just before I went to England. There he was elevated to the bench and, was some time thereafter posted back to Ghana. I think he, for quite some time, disputed his seniority on the bench with Justice Van Lare who was elevated in the Gold Coast about the same time. As a judge, he insisted that lawyers who appeared before him should be properly dressed. They had to be not only in their black jackets but also in a dark pair of trousers. He did not insist on a flower in the button hole but he only recognized those who had their jackets buttoned. If at any time a lawyer was addressing him and his jacket became unbuttoned, he ceased to take a note of the lawyer's submissions. As the judge's notes were the only record of the proceedings, lawyers soon stopped to protest at the judge apparently refusing to note down the submissions. He would quickly point out to the lawyer in his booming voice that he could not see him. This brought about a quick search for and correction of whatever lapse in appearance caused his disappearance from the judge's

view. I have seen him reduce a lady lawyer of some seniority to tears with a few sharp words because the lawyer was making too much noise with her high-heeled shoes in his court. He was known as the terror of the courts. He took his skills as a public prosecutor on to the bench. He wanted Crown Counsel to conduct their examinations and cross-examinations in the same orderly manner as he would have conducted them himself and, very often, took over the questioning of the witness if, in his opinion, Crown Counsel was not following such order. That was most irritating and disconcerting to Crown Counsel, who found himself helpless as the judge assumed Counsel's functions. I remember de Unger complaining to me once about the conduct of Manyo-Plange. de Unger said he had made up his mind that next time he appeared before Manyo-Plange, he was going to ask each of his witnesses his name, address and occupation and then invite the judge to take over the examination. de Unger did not know that Manyo-Plange was my uncle whom I often saw, so I suspected that he did not expect me to convey the message to my uncle and I did not.

To me he was very courteous and encouraging. I did not consider that he interfered with my conduct of cases very much. But that I took to be the indulgence of a fond uncle. His wife, Auntie Gladys, was a delightful woman with an exquisite sense of humour. They had no children. But they loved people around them. While a student in London, I was under unexpressed orders to join them for dinner as often as possible. If I missed two consecutive days, the next time I appeared, I was met by Auntie Gladys at the door with the question, "Why have we not seen you for so long?" Any explanation that I gave was answered by, "You go and tell that to your uncle. He is sitting in there. But I do not think he would be talking to you." True enough, when I went in, I found a heavy, expressionless face which only thawed as the evening wore on. I decided too late to take a recording of his recollections of his life. What I did was to get him to talk, taking his recollections wherever he wanted, with the hope that I would edit it all later. He started from his childhood, and had just got to the time when he was called to the Bar and returned to the Gold Coast when he died. The rich source of contemporary history which I had hoped to tap from him was lost. 196

I also took the Sekondi/Takoradi Assizes a few times. The judge then stationed there was Justice Charles Acolatse. I had known him as Uncle Charles and his wife, Auntie Mary, from my childhood, when he was a lawyer in private practice. He was one of the earlier African Magistrates, after Sir Samuel Okai Quashie Idun and Justice Van Lare, appointed to the bench. By the time I returned from England, they were all High Court judges. Uncle Charles would not have described himself as a profound lawyer. But his judgments were always simple and sound. He and Auntie Mary were always kind to Stella and myself, taking the responsibility of looking after us when we were in Sekondi/Takoradi. The judge's bungalow was then in Windy Ridge in Takoradi, where the prosecuting Crown Counsel for the Assizes was allocated a house during his stay. We often went for meals, drinks and games at the Acolatses after the Court sittings, which were held in the old courthouse in Sekondi. We continued seeing quite a lot of them when they were later moved back to Accra and after he had retired from the bench. Uncle Charles died in 1967. But Auntie Mary is today still one of our closest friends. 197

About the most memorable case which I dealt with at the Sekondi Assizes was the trial of Nana Sanwuabra Atta Agyemang, the Paramount Chief of Sefwi Ahyiaso, who together with some of his supporters were charged with murder of a man by beating him to death. The charge against the Chief was on the basis that he had ordered the beating and supervised it. He was convicted of manslaughter and given a long prison sentence. Years later, I was once driving from the Ministry of Justice to the Public Works Department on the Kinbu Road, when a man splendidly attired in kente stopped me. It was a determined effort on his part to get me to stop. I did. He jumped into my car and asked me to drive on. He had a commanding look about him. It was unusual of me, but I complied. After I had started the car, he asked me whether I remembered him. I confessed I did not. Majestically, he told me that he was Nana Sanwuabra Atta Agyeman. He had finished his prison sentence. I did not know whether I should stop the car immediately and let him out. I wondered whether he intended to do me some harm. I soon found that he did not. He was rather enquiring after my welfare. We continued a friendly conversation for a while until suddenly he asked me to stop the car and he got out. That was the last I saw of him. 198

He was not the only one who reminded me years later of how I had treated him when I was prosecuting him. I once met another man at a requiem mass in Accra. The Church was so full that I was standing outside and chatting to some others in the same position as myself. The conversation was joined in by someone I did not recognise, who asked me whether I remembered when I prosecuted him in the High Court in Accra some years ago. Of course, I realised that to people like him, their one tryst with the law would leave an indelible memory. For a prosecutor dealing with so many cases, one case may seem very much like another. I had to confess once more that I did not. He said, do you not remember when I was in the dock and I asked to go to the toilet and you agreed on condition that I was accompanied by a Police Officer? I did not but, as it was the precaution I would in any case have taken, I had to concede to the freshness of his memory. 199

Before my appearances at the Sekondi/Takoradi Assizes, I had taken my first High Court case outside Accra. It was before Justice Kofi Adumua Bossman. Friends called him "Ladi". When I heard it first, I thought it was a comment on his success with the ladies but I believe it was actually his name. In my opinion, he was the most erudite of our Ghanaian judges of his age. He had had a very successful practice at the Bar. With Justice Ollennu and Justice Akuffo Addo, he must have cornered the major legal work available when in practice. As judges, Ollennu was the most prolific writer both on and off the bench, Akuffo Addo expressed himself in the most beautiful language, but Adumua-Bossman wrote the most learned judgments. As a practising lawyer, he had the reputation of abandoning all points in favour of what he thought the most important and winning his cases on that. But his judgments did not justify that impression and, as his practice days were before I returned to the Gold Coast as a lawyer, I was unable to judge for myself. Of all the many messages of congratulations which I got some years later when I was made Director of Public Prosecutions, I recall his best which started with, "As the oldest friend of your father, I congratulate you..." 200

The case in Cape Coast before Justice Adumua-Bossman, which I mentioned earlier, 201

was a simple application for bail pending appeal brought by someone who had been convicted by the High Court, which I had been instructed to resist. These applications came on quite often and one soon knew the submission of the Crown by heart. Unless obviously wrong, the conviction was taken to be correct. Bail was in such circumstances granted rarely, the main case being where the sentence was so short that it would have been served by the time the appeal came on for hearing. The sentence in that case was one of those in which different views of its length vis-a-vis the possible date for the hearing of the appeal could be taken by different people. Justice Bossman disposed of the case on the ground that he personally did not like granting bail to a convicted prisoner thereby giving him false hopes of eventual release on appeal and then having him thrown back into jail again after the appeal had been heard and the conviction confirmed. He would rather make an order to expedite the hearing of the appeal, which he did.

I retain two recollections of that day. Not knowing how long it took to Cape Coast, and not wanting to be late, Stella and I started off from Accra when it was still dark. I was the butt of jokes from Stella for a long time after that as we arrived in Cape Coast so early that it was still quite dark and we had to spend hours waiting for the city to wake up and the courts to open. The other recollection, reinforced by a study of the rolls for Assizes in that jurisdiction, was that court work was so light that if the lawyers did not have any other work engagements to occupy them, they would be tempted to succumb to the indulgences of drink from very early in the day. The court that morning finished its business at about 11 am. We had several invitations from colleagues at the Bar to drinks immediately after. It might have appeared unfriendly but we declined them all. 202

I had further opportunities of appearing before Justice Bossman but they were in Accra. The first time was on the detention case of Kofi Dumoga and others in the High Court. The other times were when he was in the Supreme Court. 203

Most of the experiences which I have related took place during the period after the country had been translated from the Gold Coast colony to independent Ghana. Before our return, Nkrumah had won another election run earlier that year, which was bitterly fought over the question of whether Ghana should become a Federal State, as demanded by the federalist party, the National Liberation Movement (NLM) based in Ashanti, otherwise popularly known as "Maatemeho", literally meaning, I have separated or broken off myself, and the CPP of Nkrumah. His pre-independence election victories, starting from the first which he won in 1952 under the Constitution based on the recommendations of the Coussey Committee, after which he came out of prison to become the first Prime Minister in the British colonies in Africa South of the Sahara, until the 1956 elections, all took place in my absence. I got news of how these elections were conducted while I was at Oxford from friends who joined me there. Those friends were not supporters of the CPP and they said derogatory things about its performance and the causes of the political violence in the country which started about that time. I was quite impressed with the performance of the CPP and thought that perhaps the position taken by dissenting friends was biased. I had for some time thought that the problem with our intellectual leaders was that they thought they had a divine right to 204

succeed the British, so they did not do as much as Nkrumah's party to win the trust of the ordinary people. This feeling strengthened with time after my return. Independence followed only a few months after our arrival in Accra, that is on the 6th of March 1957. It was a memorable occasion. Prior to that there had been anxious moments when the demands of the NLM resulted in a last minute appointment of a constitutional expert, Sir Frederick Bourne, to look into the matter. The NLM boycotted Bourne. Independence was, however, granted after the British Colonial Secretary, Lennox Boyd, had visited the Gold Coast and had come to the conclusion that independence under a unitary government had the support of the majority of the people. All these manoeuvres created an atmosphere of tension, uncertainty and excitement. But eventually the great day arrived. I was not at the Old Polo Ground in front of the Parliament building when at midnight before the 6th of March, independence was proclaimed by Nkrumah from the podium, the British flag was lowered and the new Ghana flag raised. I thought it was wiser to avoid the crush of the crowd. Stella has always regretted this decision not to join the crowd in celebration. I have often seen the film of the proceedings and, although I regret depriving Stella of the opportunity, still feel I was right to have stayed at home.

After independence, the excitement in our Department began. To our responsibility, 205  
was added cases with a political dimension. The very first one was indirectly to have a marked influence on my life for the next few years. The Government decided to deport the leaders of the Moslem community in Kumasi, Alhaji Amadu Baba and Alhaji Othman Larden Lalemie, on the ground that they were not Ghanaians but Nigerian citizens. The reason for this must be the suspicion of Government that some of the disorders in Ashanti were caused by Moslem youths and that these leaders had been instigating their activities. When the deportation order came out, it was couched in the formula which soon after gained recognition as the formula which got rid of undesirable aliens whose deportation was ordered by Government without assigning any specific reasons. The order stated that their continued presence in Ghana was not conducive to the public good. But the Ghana Nationality Act which had, by this time, been passed by Parliament provided that no Ghanaian national could be deported. So they challenged the order on the ground that they were Ghanaian nationals. The affidavits in support of their case showed a ramification of family relationship and birth which they claimed made them such nationals. I was not involved in the case in any way. The Attorney General, George Patterson, advised on it. I believe his advice was that the matter was not free from doubt. This did not satisfy the Government. What was more, Government must have asked him to present the case in court. He probably had not expected such requests in cases where he did not agree with the proceedings in court. Geoffrey Bing, who had for a number of years been Nkrumah's constitutional adviser, without any official governmental designation, was asked to do the case. From then on, we all knew that Patterson was on his way out and was to be succeeded by Bing. In fact, the first time I was introduced to Mrs. (Teddy) Bing, her opening remark was, "Oh, you come from that useless office. You'll soon see what will happen to you."

I had met Bing before. That was at the home of our dear friend Jytte Cartright. Jytte was 206  
introduced to Stella and me by Lano and his wife Doreen. Jytte was Danish and sweet; she had followed her father to the Gold Coast, where he was manufacturing soap by

the Korle Lagoon. She married her father's partner, Hank Cartright, who was about her father's age. By the time we met her, Hank was not around. We never met him. The marriage could not have been successful. Jytte's home was a meeting place of all sorts of interesting people. It was there that I ran again into the old English lawyer, Harry Verney Alfred Franklin, known by all as "Mungo", an allusion to the explorer, Mungo Park. The last time we had met before this was at Hans Crescent in London, when he had told me about my father collapsing in court and he, Mungo, having to carry him out. We often met Mungo at Jytte's for tea and he later turned into our regular tea guest, remaining in that position until we left for England in 1982. Later, when Jytte had got her divorce from Hank, she married the Danish architect, Max Gerlach, who survived her. Later, when we had got to know Jytte well, she became more or less my personal banker, as indeed she was to some other of her friends. She told me that she had some money lying about, so if ever we needed anything we should ask her and pay back when we were able to. I occasionally used this facility. I am glad that I managed to pay her back all I asked of her. Although when she died, our children received gifts from her. I remember it was at Jytte's that Bing made the point about the incongruousness of our using post office boxes as our addresses in divorce petitions. As the English divorce practice, which we followed in the Gold Coast, required the petitioner should state where they had, as a married couple, cohabited since their marriage. Imagine, said Bing, someone going to open such a letter-box; he would have to shut it quickly in embarrassment because of what he sees inside. Bing was interested in Stella keeping up her Swedish, Finnish and German, he did not mention why at that stage. But he was some years later to send both Jytte and me on separate missions unknown to each other to Southern Africa. By then, he was my Attorney General. Looking back now, movement in the Department appears to have been quite staggering in rapidity. Bing came to head it in September 1957. Fred Simpson was soon confirmed as Solicitor General. But he did not last long in that office before he was made a High Court judge. Johnny Glover was promoted out of Ghana to the Solomon Islands. Garvin Scott became Solicitor General after Fred Simpson. Hilary Battcock was brought down to Accra as the senior of the Senior Crown Counsel. Akilano Akiwumi was promoted to Senior Crown Counsel and posted to Kumasi. Later, Festus Amarteifio was posted also to Kumasi as Akilano's junior.

But the Department was not the only organisation dealing with the administration of justice which had a rapid change of officers during this time. There was a steady stream of retirements from the bench after independence. Justice Lingley retired within two months of independence and was replaced by Justice H.C. Smith, and Justices Dennison and Benson retired within a few months from that. Ghana at that time decided to break away from the system of appeals to the West African Court of Appeal (WACA) which had existed during the colonial era, in terms of which the appeals from Nigeria, the Gold Coast, Sierra Leone and The Gambia went first to WACA before going, if need be, to the Privy Council. Ghana withdrew from WACA and established a Court of Appeal of its own. This left the curious situation that the deserted Court continued with its President being no less a person than the Ghanaian, Sir Henley Coussey. The new Court of Appeal had Sir Arku Korsah, the Chief Justice, as its head and Justice Van Lare was promoted from the High Court to join him. The third appointment to the Court

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was Justice Granville Sharp, who came from the Bar in England. The appointment of Van Lare led to the retirement of Justice Quashie-Idun, who was previously senior to him. Several vacancies were created by the retirements and necessitated further elevations. Justice Murphy from the Magistrate's bench filled one of them, and Fred Simpson from our Department filled another. When in 1958 Justice Windsor-Aubrey retired, he was succeeded by Garvin Scott from our Department. All the new appointees were expatriates. That appeared odd, having regard to the fact that Ghana had had a legal profession with a long history and that the last appointments of judges before independence, were Justices Adumua Bossman, Ollenu and Sarkodee-Adoo, all drawn from the Bar. But part of the problem was that during the war years, not many went from the Gold Coast to read for the Bar in England or Ireland, the two places where its lawyers qualified in and, therefore the newly independent country was suffering from a shortage of lawyers of the right age and experience from whom the judges could be drawn.

All this movement created an atmosphere of excitement and intrigue. For those of us not immediately involved, it was like watching a thriller unfold. 208

I managed to escape from Geoffrey Bing's notice for a few weeks. He had his preoccupations when he arrived. But it was not long before he asked me to be counsel for the Commission appointed to look into the affairs of the Akim Abuakwa State. From then on, I probably worked with him more closely than most officers in the Department. By any measure, he was one of the most fascinating men I ever met. He had the reputation of being the sinister legal adviser of Nkrumah. And indeed, he had the grin to match that reputation. Some time after I had got to know him, in a reminiscent mood, he told me of his experiences during the last Great War in which his face was shot up and he had massive facial surgery. Indeed, he had the habit of passing the tips of his fingers round the edges of his face as if testing whether it was still there. I concluded that his grin might not have been due to an inward evil spirit but to the results of the surgeon's efforts. He was disliked alike by the Ghanaian public and by his own countrymen from Britain. It was one of his countrymen who, in the early days when Ghana was still a monarchy under the British Queen, welcomed a fellow-countryman by saying: "Welcome to the Bingdom of Ghana." Apart from Nkrumah, he appeared not to have had a friend amongst the Ghanaians with whom he worked in the Cabinet. He gave the impression of fawning on politicians, which probably made them contemptuous of him. Except for the time after he was so ill that he was almost certified dead, he never, as far as I can remember, took leave. The explanation given for this was that he was afraid that, if he stayed away long enough, his job would be taken away from him. There were many times when rumour was strong that he was going to be removed. Somehow, a timely crisis always saved him. 209

From time to time, during Bing's tenure as Attorney General, Nkrumah appointed a Ghanaian as Minister of Justice. Some of my Ghanaian colleagues always welcomed such announcements which appeared to cut down Bing's influence. I retained a more open mind. Ako Adjei was one such Minister. Once in office, Ako Adjei thought of belittling Bing as he had to show Bing who was boss. They occupied two offices with the office of the Solicitor General between them. Ako Adjei enjoyed summoning Bing to 210

his ministerial office several times a day. Sometimes no sooner had Bing got back to his office than the Minister asked him to come back. This went on for some time, until one day in the famous one o'clock news it was announced that Ako Adjei had been moved. Ako Adjei came to the office that afternoon in a definite state of shock. Bing could not hide his relief from me. "Austin", he said, "the position was simply intolerable!"

As I said earlier, my first major contact with Bing was when he selected me to act as counsel for the Commission of Enquiry appointed to look into Akim Abuakwa affairs. The Commission of Enquiry consisted of a sole Commissioner, Judge Robert Jackson, who had recently acted as land boundaries Commissioner but had before been a High Court judge, I believe both in Ghana and Nigeria. Akim Abuakwa had a paramount chief at that time, Okyenhene Nana Ofori Atta II, who had been one of the leading chiefs against Nkrumah's CPP in southern Ghana before independence. Akim Abuakwa was the home of Dr. J.B. Danquah, the lawyer, writer and politician, a member of the Akim Abuakwa royal family, "who but for the accident of birth" as said by the Coussey Committee report, would himself have been Chief. For years, he was a leading light in the country's independence movement, a member of the United Gold Coast Convention (UGCC) of which Nkrumah became Secretary-General, but from which he broke off to form the CPP. He had been an implacable opponent of Nkrumah since then. The Okyenhene, who was a close relation of Dr. Danquah, had supported his cause.

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But Akim Abuakwa was also the home of Ministers in Nkrumah's Government like Aaron Ofori Atta, one of the sons of Nana Sir Ofori Atta I, the predecessor of the present Okyenhene, and of Kwaku Boateng. The Okyenhene was in the capital of the State at Kibi. But as Akim Abuakwa is a matrilineal community, Minister Ofori Atta, whose mother came from the Kukurantumi in the Adonten Division of the State, he saw himself as coming from that division. As did Kwaku Boateng, later to become the Minister of Interior. Before that, he was a Deputy Attorney General under Bing, which made people think that he was being groomed to take over the Attorney Generalship. From this Adonten Division, led by the Adontenhene, Nana Kwabena Kenna, the Chief who was next in importance in the State, the CPP drew its support. The people of the Adonten Division had accused the Okyenhene of all kinds of maladministration leading to losses of money and prestige of the State. Further, the Okyenhene was charged with being against the CPP and making life difficult for those who became members of that party. These were the matters that the Commission was to look into. Some of the charges raised went very far back in history. One then learnt that the Ghanaian would appear to support his Chief and to make all sorts of approving noises to his actions as long as the Chief appeared powerful. But once there is suspicion of the power having deserted him, then charges which he did not know existed before will be remembered and brought against him. The witnesses could be divided on straight party lines.

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The procedure in Commissions of Enquiry in Ghana by this time had been established by the adoption by the Commission of Enquiry established to enquire into the disclosures of Captain Benjamin Ahwaitey, which involved the politicians Amponsah and Apaloo, of the procedure in the Lynskey Tribunal in Britain. Bing himself acted as counsel in the Ahwaitey Commission. According to this procedure, the proceedings were not a prosecution but merely a fact finding body with no accused person(s). It was left to

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the Commission itself to decide which witnesses to call. Counsel for the Commission was responsible for the statements taken from the witnesses which counsel studied with the Commission and between them decided which witnesses would advance the enquiry of the Commission if called. There were a few differences from the precedent established by the Lynskey Tribunal: counsel for the Commission in Ghana would have to examine the witness in chief and then immediately turn to cross-examine and there was no statement to the effect that no prosecution would flow from the report of the Commission.

As counsel for the Commission, I had to take the statements of the witnesses. I was given the assistance of Police Officers and I travelled to various parts of Akim Abuakwa collecting statements from potential witnesses for examination by Judge Jackson and myself. I was accompanied by Stella on most of those trips, living in various resthouses for various periods. We enjoyed the opportunity that this gave us to know Akim Abuawa, visiting Kibi, Tafo, Bunso, Akwatia and other places. The proceedings of the Commission gave me a lesson in self-preservation when it was disclosed by several of the witnesses called that they carried both the CPP and the opposition party cards, producing the appropriate one as and when necessary. The Commission resulted in a finding of mal-administration against the Okyenhene. He was destooled and another Paramount Chief of Akim Abuakwa was installed. When he died, Ofori Atta II regained the Stool. 214

On my visit to the western part of the State, in the diamondiferous area of Akwatia, to take statements, I was accompanied by Kwodwo Boison. We paid our respects to the Divisional Chief who, as custom demands, gave us presents of money and whisky. I was embarrassed by this because I was aware of the Civil Service General Order to the effect that presents should not be accepted by officers in the course of the performance of their duties. There was an exception to this rule, which said that in situations and gifts from chiefs were specifically mentioned, where refusal of the gift would lead to embarrassment, the officer was to accept the gift but must surrender it immediately to his head of Department. We duly reported the gift of money and whisky to Bing on our return to Accra and handed them over. A few days later, Bing told me that he was having problems with the Civil Service authorities over taking the whisky into Government chest. The money was easily taken over; there were rules governing the acceptance of money. But there was no rule about taking a bottle of whisky into chest. Bing decided to keep it in the safe in his office until the appropriate officers decided what to do with it. Several months went by. He was on one of his difficult assignments, which meant that he worked throughout the day and finished off with a bottle of some hard liquor. About that time he met me on the verandah of the office one day and casually remarked, "Oh, do you know what happened to your bottle of whisky? I drank it." That was all right with me, as I had not drunk it. The Treasury must have been relieved of an embarrassing problem. 215

The next major assignment I had, not given to me directly by Bing, but of which he must have known about, was the prosecution of Mumuni Dimbie, the then Member of Parliament of Lawra-Nandom in the north-west of the Northern Region. He had also been a chairman(?) of the local authority in the area of Lawra. He was charged with theft of the moneys of the Council which, according to the evidence, he did by the 216

device of drawing money from time to time from the Council's safe leaving behind an I.O.U. saying that he owed that money to the authority. His defence, of course, was that he had no intention to steal as he intended to repay. But I thought it was an open and shut case. His intention to repay was irrelevant as long as he deprived the owner of his property without the owner's consent. The case had some political charge to it. I had, to some extent, got used to the concerns of a lawyer dealing with that type of case through doing the Akim Abuakwa enquiry. However, what it did for me was to introduce me to the north. It also brought me against Joe Reindorf, one of the best advocates of his generation, because Joe was the defence counsel.

The case was tried by George Djabonor, then the Magistrate resident in the Northern Region at Tamale. But it was first called with me in it as prosecuting counsel in Wa in the north-west. I travelled by air from Accra to Tamale and then joined the Chief of Police in the Region, Mr. T.A. Adjirakor, by car to Wa. It was a revealing introduction to that part of the country. Adjirakor turned out to be a delightful companion. We shared an old resthouse in Wa. My first night was quite eerie. Here was I in a part of the country which I did not know at all, to prosecute one of the leading personalities of the place. The night noises, including the lowing of cattle around the area, disturbed me, so I tried to shut my resthouse window, only to find that the window swung into the room without shutting. I felt unsafe in that situation. Adjirakor was happily asleep next door. Next day, I related my concerns for the safety of the accommodation to Adjirakor. His solution was to invite me to his room after work that day. There I found a young lady seated. Adjirakor said this was the companion he had found to keep me company in the night so that I did not worry about noises outside. I thanked him but declined the offer. 217

In Wa, we met an old friend, Smiley Chinery, who was the District Officer. In those days, the DO was still a very important pro-consul. He was responsible for all functions of government within his area. He probably did not have the same powers as he had exercised just before but he was, at one time, the local governor administering his area and he sat as magistrate over cases. To most of the inhabitants, therefore, this representative of Government in the far outpost was, in fact, Government. His judicial functions had, by and large, been taken away by the spread of the magisterial system, with cases being done by peripatetic magistrates. We three were invited to dinner by the Lebanese brothers, Hallaby. They were trading in the north. I there had the experience of what I later learnt were the characteristics of a Lebanese dinner: its usual lateness and the impossible number of courses served. 218

We were invited for seven o'clock. We got there on time. We were served with drinks and small chop from then until after nine. I had not expected this. I was hungry. I asked Adjirakor at this point whether we had not been invited to dinner. He signalled me to pay attention. He then rose from his seat and thanked the hosts for their kind invitation and told them that we now wished to take our leave back to our resthouse. This caused consternation among our hosts. But we had not had the dinner they had invited us to. We should wait a little while longer and dinner would be served. When it was served, I ate the first three courses in the expectation that that was the whole meal. To my surprise, these three were followed by six more. It was unbelievable. When 219

back in Accra I told Stella about this fantastic dinner, she accused me point blank of over-exaggeration. She got to accept it many years later after she had heard my story repeated several times over.

The Mumuni Dimbie case was not heard in Wa. George Djabanor, the Magistrate, adjourned it for later hearing at Tamale. I think that trial was the first time I met Joe Reindorf as an opponent. It is always a delight to meet a superb intellect. But to me, the case against the accused was beyond question and he was convicted, sentenced to a term of imprisonment, and lost his Parliamentary seat. The case went on appeal to the Court of Appeal later. I did not then handle it. But the conviction was upheld. 220

It was during the course of the Mumuni Dimbie case that Bing called me one day and asked me to proceed to Kumasi to take over the station. Akilano, the Senior Crown Counsel in charge was being transferred to Cape Coast. His junior, Festus Amarteifio, would be recalled to Accra. When did I have to go, I asked him. "As soon as is convenient to you", was his reply. I was not too keen to leave Accra, so I thought that I would finish the Mumuni Dimbie case before moving. Two weeks after we had had the chat about my posting to Kumasi, I ran into Bing on the veranda of the office. He asked me what I was doing in Accra and I explained why I had not yet moved to Kumasi. In any event, he had said that I could leave at my own convenience. He pointed out that that meant that I should leave as soon as possible. My expectations [\* "expatiations" suggested ] as to time had to be drastically revised. Several old men talked to me about how to comport myself in Kumasi. Among these was Sir Arku Korsah who gave me a lecture on it. It boiled down to my trying to live a quiet life with Stella and not getting involved with professional colleagues who might embarrass my position as prosecutor. It came out in the course of these lectures that the objection to Akilano continuing in charge of Kumasi was that he was too friendly with the lawyers, like Joe Appiah, who represented the opposition. Both Akilano and Joe Appiah had English wives, so both families were likely to seek each other's company often. My wife, although not English, was white and it might have been suspected that I would seek similar company. Perhaps I should have told this to Akilano. I did not because I did not see what good it would do. Akilano was on his way to Cape Coast already and I was going to take over Kumasi anyway. 221

By the time we left for Kumasi, we had moved from our wooden bungalow we shared with the Grey-Millses near the racecourse. We were notified one day that the proposed demolition of the building was about to take place. We, therefore, sought the help of the Department, and were found a small chalet near the huge residences of the judges on 2nd Circular Road. We had some wonderful times in the racecourse bungalow. It was during our stay there that we were made members of the Accra Turf Club, which was right next door to the bungalow. We were proposed by Mr. Solomon Odamtten (Uncle Solo), the husband of my Aunt Marion, who had for a very long time been one of the senior managers of UAC; a politician and, at the time in question, the Chairman of the Turf Club. I had, from my school days, always been fond of horse racing, which I followed very closely. To be made a member of the Turf Club was, therefore, a great privilege. It meant that we could attend the races every racing day, which was usually on Saturdays and on holidays. The position of the Chairman and Stewards of the Club, who supervised the affairs of the Club generally and the racing, was honorary. But they 222

concluded their duties on each race day by having a drink on the roof-top of the Club building. To this Uncle Solo invited us. The drink served was usually champagne. In our condition of relative poverty, we found this delightful and ironic, as after the party we often walked to our bungalow to our simple meal of kenkey, sardine and pepper, which Stella loved. Although we were told that the demolition of the bungalow was to commence almost immediately, it took some time after our departure before work started. Had we been stout-hearted, we could have stayed on for several more months without disturbance by the work.

The chalet we moved to was one of a number of two-roomed chalets, consisting of a bedroom and a sitting-cum-dining room with a stoep in front, that had been built in lovely stone-work near the Star Hotel as accommodation for the expatriate secretaries that the colonial administration used and had expected to increase in number over the years. For our purposes, the chalet was quite adequate. I remember that when our Nigerian friend, Alex Boyo, who stayed with us in all the houses that we occupied in Ghana, came visiting us while we were there, he had to stop by Legon to borrow a camp bed from Kojo and Iris Torto which he parked somewhere near the dinner table for the night. We had warned him that he might find the chalet so small that his feet might have to hang out of the window when he slept. As usual, he enjoyed his stay. Our nights, especially on Saturdays, were enlivened by music from the Star Hotel. But our neighbours, including Justices Van Lare and Granville Sharp of the Court of Appeal, were so important that one might well have felt intimidated by their nearness. 223

It was about the time we left for Kumasi that the Preventive Detention Act, 1958 was enacted. It basically authorised Government to detain citizens of Ghana "if satisfied" that they were acting in a manner prejudicial to the State. There was some talk that Nkrumah had been advised by Nehru when both attended one of the Commonwealth Conferences for the heads of governments that this was an effective way of dealing with the security problems faced by newly independent States. The first order made under the Act was not to be until I was well installed in Kumasi. 224

To me personally, Geoffrey Bing was a mixture of influences. He got me involved in some difficult assignments, at least one of them having nothing to do with law. He knew of my desire to take Stella visiting home in Finland and he exploited this desire mercilessly. Whenever he had some difficult or unpleasant work to be done, he told me of the assignment at the same time as plans he had for me to go abroad on some Government business which would enable me to take Stella, then we would break off at a convenient point to visit Finland. First, it was to send me to work in the Attorney General's Office in a State like Oregon, which he said was about the same size as Ghana, for a year, then on the way back we could go to Finland. Later, I was to go round to various countries promoting Ghana's view on the Law of the Sea. Then, when the South West African case was brought before the International Court of Justice, I was to work in the New York office of Curtis, Mallet-Prevost, Colt & Mosle, with Ernest Gross who was the leading lawyer representing the applicants. None of these materialised. When the bait wore thin, he would nevertheless say that he would try and arrange some trip for me but add that, if it did not work out, it would not be for want of trying on his part. I do not know whether he ever did anything about my going to Oregon or on the Law of the 225

Sea jaunt. But I know that he tried with Ernie Gross, because Gross visited Ghana. The three of us discussed my coming to work with him on the South West African case. As he said, everything was fine by him. He had a place for me in his office. The problem then was that some other matter came up which required me remaining in Ghana and I lost my chance to go to New York. However, Stella quickly saw through him in this game and lost any enthusiasm for these carrots which never materialised sooner than I.

But in other ways, I had reason to be grateful to him. He gave me a self-confidence which I may not otherwise have acquired. He told me that he was not really a lawyer but a politician. Perhaps that was why he found me useful because, from time to time, he would ask me to research and give him a legal opinion on a subject. Later, he would greet me with his terrible grin and say that the opinion was good so he sent it to the President, meaning Nkrumah. "Of course", he would add, "I signed it myself." It really lifted my confidence whenever that occurred. It also taught me what turned out later to be a most useful skill, the art of writing in the person of someone else. Bing promoted my interest without my asking for it. When Kwodwo Boison who joined the Department after me, made a case for advancing his seniority as he was called to the Bar before me, that is, he was called in May 1955 while I was called in July 1955, so that the resulting effect would have been to make him my senior in office, he saw to it without my asking that my seniority was preserved by cutting my probation period by six months. Once I had been confirmed as a Crown Counsel, he made me act in the next senior rank, as Senior Crown Counsel, a position I kept until I was confirmed in the equivalent post of Senior State Attorney on Ghana becoming a Republic. When he invited George Djabanor, by years my senior at the Bar, who was then on the Magisterial bench, to join the Department as a Senior State Attorney, and I understand that George wanted a clear undertaking that he was coming in as my senior, Bing thought that in that case, he need not come.

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Through these and other causes by which he promoted my interests I think I lost the friendship of colleagues. I often wondered whether they thought I spoke derogatively about them while I was in the company of Bing that was why I was so quickly promoted. I did visit his residence often. But not once did I go without invitation and there was no occasion when we discussed my colleagues. He regarded me as his protégé which he stated in his book, "Reap the Whirlwind", and rued my signing his deportation order and taking his house.

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## **5. Posting to Kumasi and Return**

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I was still handling the Mumuni Dimbie case when we left Accra for Kumasi. After Festus Amarteifio had moved out of the residence of the Senior Crown Counsel at No. 2 Champac Avenue, we moved into it. We liked the businesslike structure of the A42 type Government bungalow so much that it was afterwards our dream to build a similar house for ourselves. 229

We met my father's old friend, Julius Sarkodee Adoo, as judge in Kumasi. It was his policy not to accept any invitations. But although he was then the senior puisne judge, he was preoccupied with another enquiry. This time into the Ashanti Stool affairs. It was something similar to the preview we had with the Akim Abuakwa enquiry. But as the Asantehene was so important an institution to the whole of Ashanti, the Government must have decided to be more circumspect about the scope of the enquiry and it did not touch the Asantehene in person. I did not have anything to do with that enquiry. Kodwo Boison was sent from Accra to be junior counsel. Azu Crabbe, who had then joined the Department as Senior Crown Counsel, was one of the counsel. But Bing himself led for the Commission. As usual, he worked very long hours and, as usual, he wanted his subordinates to be around when he was working, not so much because he had as much work for them to do, but because he wanted somebody around on whom to bounce off ideas when they occurred to him. Azu did not get on well with Bing, and Azu thought we were entitled, in our own country, to support if we revolted against him. I did not want to get involved in this test of African solidarity and kept out. There was a lovely incident once when both Kodwo Boison and the Secretary to the Commission, the administrative agent, Patterson, had met in my office to air their complaints about how demanding Bing was when one was working under him. Bing would not even allow his subordinate time after the ordinary working hours to enable him to go shopping. To escape, Patterson had once put forward an excuse about needing to go to the toilet. As the office facilities were now closed, this meant he had to go home. He was recalling this incident with Boison, "Do you remember the day when I asked him permission to go to the toilet?" When all of a sudden Patterson's voice came to a dead halt because in came Bing with his long, slow steps, hunched shoulders and that mischievous look on his face, asking, "And what happened when you asked him to go to the toilet?" After a moment, Patterson started again, fumbling for words on a new subject. After a hard day's work, he would, from all accounts finish off a bottle of alcohol. We opened a bottle of Remy Martin cognac for him once. It was before we got to know him well. He finished it at a sitting. But he also noticed that Stella did not look too pleased with his achievement. He replaced the Remy Martin next day. Friends who heard about this replacement thought it was an unusual event. 230

Sarkodee Adoo's finding was against the advisers of the Asantehene, which led to Government taking measures to protect the Ashanti Stool. Whether this was acceptable to the Ashanti people or not was another matter. 231

I was in charge of the ordinary run of work in the Kumasi branch of the Attorney General's Department. The judges I had to deal with were Justice H.C. Smith, whom I had already met in Accra as a Senior Magistrate before his appointment to the High Court 232



bench, and Justice R.H. Murphy. Both of them were most courteous men and I enjoyed appearing before them. Justice Murphy was the judge whom I appeared most often before. He always paid me the compliment of mentioning in his judgement how ably I had argued. I did not want to take a bad point before them. As a result, I often ran into social problems with the Magistrates whose judgments I had to support on appeal before the High Court if I thought them unsound. It was not long before I started hearing questions being asked by some Magistrates about who I thought I was. If they, in their wisdom, had given a judgement, what business had I to appear before the High Court to say that I was not supporting the judgment? That did not stop me from saying so whenever I thought the judgment of the lower court was insupportable. One thing my year in Chambers in England had taught me was that the prosecutor or Counsel for the State should be as fair as possible. There was no reason why I should say that I was supporting a judgment which I knew was palpably wrong just to please a colleague.

Some of the Magistrates did do naughty things. I once watched aghast when one, a Senior Magistrate at that, dealt with his list of cases for the day. He asked all who wished to plead guilty to the charges they faced to come before and dealt with them leniently. He made it known to the others that he was going to be very hard on them and proceeded to do so. There was one occasion when an illiterate farmer who had been convicted of possession of counterfeit currency without lawful excuse. Reading the facts of the case against him, I thought the conviction was suspicious. He was supposed to have found the counterfeit currency by the wayside near the bush. That may have been his story which the prosecution could not confirm. But his first action was to go to the bank in the nearest town and to ask the Manager whether the money that he had was good or not. The Manager looked at the currency; knew that it was counterfeit; asked the appellant to wait a moment outside while he checked on something; and quietly phoned the Police to come and collect the appellant. He did not know the ingredients of the crime. He was unrepresented. He was told by the interpreter that he had counterfeit currency in his possession without lawful excuse. To that he pleaded guilty. He was not made aware of the fact that the offence could be committed only with knowledge that the currency was counterfeit. I asked the Police about these matters before the Court sat. I then told the judge that it appeared to me that an important ingredient of the offence, that of the knowledge of the falsity of the currency, could not have been interpreted to the appellant before he pleaded. On the face of it, his conduct seemed inconsistent with knowledge that the currency was counterfeit. He would not have gone to the Bank Manager only to ask him whether the money was genuine. He was still unrepresented in the appellate Court. Justice Murphy asked him a few questions to determine what exactly was translated to him. The judge agreed with me that in the circumstances, the conviction was a nullity. So he told the appellant that he was going to send the case back to the trial magistrate in order that a proper trial may take place. The man started making an impassioned plea to the judge. He asked the judge to deal with him in any way that the judge wished but please never to send him back to that court. Of course, it became obvious what must have happened in that court. The only ground for sympathy one could have for the Magistrates was that they sometimes had very heavy lists.

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As Crown Counsel in charge of Kumasi, my fief extended over what is now Ashanti, Brong Ahafo and the whole of the northern regions of Ghana. I advised the senior Police Officers, especially the Criminal Investigation Department (CID), of those regions. In prosecutions before the Magistrates' Courts, Police Officers of experience appeared, unless the case was one of some complexity or importance, when I would be asked to conduct it. Some of these Police prosecutors were very good. One such was Ernest Ako, who eventually became the Inspector General of Police during Acheampong's regime in the 1970s. He was then stationed at Kumasi and I thought that he was capable of dealing effectively with most defence lawyers appearing in the courts. These Police prosecutors, whether in Accra or elsewhere, were always irked by the fact that they were always told that, not being qualified lawyers, they could not "quote law" in court. I did not know where this supposed prohibition originated from. But some lawyers used it to deny the Police to advance their cases on prosecution by quoting legal passages. I thought the denial was quite unfair. A legal qualification did not give the lawyer an exclusive right to look into the statutes and law books and, if the Police Officers were by law permitted to practice, I could not see how they could be expected to discharge this statutory function effectively without being able to explain or support their cases by observing a total ban on their ability to quote law. Whenever they asked me, I advised them to quote what law they could find and stand their ground in arguing the matter out before the Magistrates. 234

Crown Counsel in the regions conducted all the prosecutions and the civil cases on behalf of Government or its agencies in the High Court. He also argued all the criminal and civil appeals coming before that Court. The difficulty about representation of the Crown or State in Ashanti at the time was due to political activity. Ashanti being the home of the opposition to Nkrumah, political rallies over the Region always led to attacks from opponents. In this, both the CPP and the NLM parties were equally to blame. NLM rallies were attacked by demonstrators and stone throwing from the opposing camp and vice versa. I found that as long as one kept an even hand in the prosecution of cases, there was no complaint. The policy I followed was to charge and prosecute the persons identified by the Police as the attackers of a lawful political rally, whether they be CPP or NLM. Sometimes the charges were as serious as murder, where the attack, usually in the form of stone throwing, had led to the death of victims. As always, I displayed no personal animosity against persons whom I prosecuted. So, I soon found that prisoners passing by our bungalow often waved to us as if we were old friends. 235

I went on trek to Tamale for the Assizes in the north and to Sunyani for the Assizes in Brong-Ahafo. The first occasion I went up north for the Tamale Assizes must have been in 1958, when Ghana was just over a year old as an independent country. As usual, Stella came with me as she wanted to know more about Ghana than even I did at the time. I drove our Borgward car. I knew we were to stay at one of the resthouses in Tamale. We got there and I began helping the old man who was the caretaker of the resthouse with the luggage. After we had packed them into the resthouse, the old man turned to me and said, "Madam will sleep here. But you, where you go sleep?" He had taken me as the driver for whom he had no accommodation. I was quite taken aback by the enquiry and replied, pointing at the bed, "Why? I will sleep there." The old man was covered with embarrassment at the mistake he had made. He meekly said, 236

"Nowadays, if you don't take care, you go talk nonsense for some big man." We got on very well after that.

I got to know more about Ghana because Stella was with me than I would have otherwise done. At the week-end, she insisted on our travelling up further north to see Bolgatanga and Navorongo. My old school friend, D. S. Quacoopome, was the District Commissioner in Navorongo at the time. So we paid him and his wife, \_Emma\_,<sup>2</sup> a visit. We went further to Paga to see the famous crocodile have its chicken meal. From Paga we went to the northern border of Ghana to set foot on the soil of Upper Volta, now Burkina Faso. 237

I thought the people of the north were quite unspoilt. They then had a custom, if a young man's father was killed by another, that young man would measure his foot in the footprint of the father and keep measuring until his was the same size. Then it was his obligation to avenge his father by killing the person who had killed the father. On such occasions, when the young man was brought before a Court on a murder charge, he would admit to the killing. It was the practice of the High Court at the time, following the practice of the English Courts not to accept a plea of guilty, but ask the accused to plead not guilty for the case to be tried. Quite often, the accused would say that the Court was wasting time; that he killed the deceased because he was under a duty to avenge the father; he was guilty. The Court would nevertheless record a plea of not guilty and proceed to the trial. I remember telling my friend, Garvin Scott, about this when he was made a judge. Garvin simply said, if an accused pleaded guilty to a murder charge before him, he was not going to ask the accused to change his plea; he would just record it and proceed to sentence him. I do not know how long the practice of not accepting pleas of guilty in murder cases in the north continued after Scott J. had been taking the Assizes there. 238

It was not only in murder cases that the people of the north displayed this candour with Courts. They pleaded guilty quite often to cases which would otherwise be fought in the south. I thought that if you found an obviously guilty accused pleading not guilty and having all the damaging evidence aired at a trial in the north, it would often be an accused who had spent some time in the south. 239

The criminal case I enjoyed prosecuting most in Kumasi was the case of Falconer, a bookkeeper with one of the department stores, who was charged with having falsified the accounts of his employers and stolen the resulting proceeds. He had a neat way of doing his books showing a shortfall in takings which he banked in his personal bank account. The falsifications were very clever and, but for the banking of the proceeds, could have been easily explained away. But the symmetry of the falsification and the personal deposits was too orderly for a court to which the case was presented to avoid the conclusion that the offences charged had been proved. 240

I made one recognised enemy through the conduct of a case. But that was a civil case. We were very happy to find in Kumasi my old class-mate, Katsina Atta, Adamu's sister, who was now married to Dr. Claude Ennin. They were our closest friends in Kumasi and we often visited their home. There we met quite a number of people, among them, 241

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<sup>2</sup>Flora? check Uncle Roger points out that Emma was C.O. Quacoopome's wife

David and Jenny Beer, then with BP, David and Sheila Fenn, with Mobil, the de la Mares of Kingsway Stores, the wife being a Secretary to Claud, the Hutchfuls, the Daniels ... People, who in the hotbed of Ashanti politics had no political affiliations and were quite "safe" to consort with. At one of the Ennins' many parties, we met Nancy Tsiboe, already a well-known political figure in the country. Her husband, Mr. Tsiboe, was the publisher of the Ashanti Pioneer, a paper which was critical of the Government. Nancy Tsiboe, at one point, mentioned to me that we would be on opposing sides in the case which she was bringing against the Kumasi Municipal Council for damages for the destruction of her Happy Home school for girls the following Monday, that is within two days of the party. I had that case to deal with. I knew it had problems. It was one of those cases in which a municipal council had taken action to destroy a structure which was being erected without permission but spoiling its case by not giving any notice to the person in default of its intention to pull down the structure. When she mentioned the case at the Ennin party, she was in a laughing mood and it struck me that she might be thinking that I would be pulling my punches when I met her in Court.

The case was heard by Murphy J. and the plaintiff gave her evidence of how this building which she was putting up for the education of the girls was pulled down, without just cause, by the Municipal Council. The case she sought to prove was one of victimisation as a political opponent of Government. The case which I was instructed to make on behalf of the Council was that the building had been pulled down because it was a dangerous structure. For this, I had done a lot preparatory work, including having the blockwork scientifically tested by a Professor of building engineering at the Kumasi College of Science and Technology, now the University of Science and Technology. To her surprise, I put her through a most rigorous cross-examination, to show that she was putting up a sandcrete [\* check spelling, altered, but occurs with this spelling elsewhere ] (cement) block building without the minimum amount of cement necessary. For this, I had got test results from the Professor to back my suggestions. By the time she left the witness box, she was in no mood to smile at me. I later got the Professor to demonstrate the strength of the sandcrete blocks she had used, by producing the machine tests of the strength of the blocks. I made him produce samples of the blocks. They could be easily crushed by hand, which one could not do with blocks which had the proper content of cement.

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The Municipal Council lost the case on the ground of lack of notice or warning before the destruction of the building. The damages awarded were appropriately reduced. The case of victimisation did not come through as clearly as the plaintiff had expected. But after that she would not speak to me for years.

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But the case which I did of constitutional and political significance while in Kumasi was the case of Nana Diko Pim, the Omanhene of Ejisu, against the Minister of Local Government. It arose from the Statute Law (Amendment) (No. 2) Act 1957. One of the measures taken by the Nkrumah Government to break or curb the power of the Chiefs who had stood against the CPP was the destoolment and replacement of a large number of these Chiefs. Invariably, this led to disputes between the people on who was the real Chief. That meant that stool property was often withheld by the Chief who had been destooled or his supporters. To ensure that on the destoolment by Government,

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the stool property was handed over intact to the person appointed to replace him, the Act gave the Minister power to designate a person to take charge of the property in the interim period between a destoolment and the new enstoolment. This Act did not go through the procedure laid down by the Constitution for bills affecting the traditional functions and privileges of a Chief. The Constitution required such bills, upon introduction in Parliament, to be referred to the Houses of Chiefs. But, whether or not the reason for not following that procedure, was the fact that those Houses had not been constituted, the bill did not follow this procedure. The validity of the Act was promptly challenged by the traditional office holders in Ejisu in Ashanti where an order had been made by the Minister, upon the due announcement in the Gazette of the destoolment of their Chief, Nana Diko Pim, that the stool property be handed over. The office holders protested that under custom the designated person was not qualified or entitled to handle stool property. The case brought by the stool officers, under the title of *Ware v. Ofori-Atta and Others*, was heard by Justice Murphy in the High Court, Kumasi. Joe Reindorf appeared for the plaintiff and I appeared for the defending Minister of Local Government and the others sued. The non-existence of the Houses of Chiefs was not put forward in my presentation of the Government's case as the reason for the non-compliance with the particular provision of the Constitution. My submission that, in so far as the traditional functions of a Chief were affected by the Act, this was incidental, because the main purport of the Act was to ensure peace, order and good government of the people which the Parliament was empowered to promote. If no arrangement was made for the proper custody of the stool property which belonged to all the subjects of the stool, serious damage or loss might be caused to it and this might in turn lead to disturbances. This argument did not find favour with Justice Murphy, who declared the Act unconstitutional. After the restrictions of the Constitution had been removed in 1959, a validation Act, entitled the Stool Property (Recovery and Validation) Act 1959, was passed to legalise the acts done under the unconstitutional Act and to put an end to court actions brought under it. Advice on the enactment of this Act was not part of my duties. Kumasi had a number of very good lawyers at the time. I have mentioned Joe Reindorf. At the time, he was in partnership with his brother-in-law, Victor Owusu. Both were later to become Attorneys General of Ghana after I had left the Department. It was always a challenge and a pleasure to meet either of them in Court. Both were articulate and brilliant in their presentation of arguments. I knew I had to prepare my cases very well whenever I was to meet either of them, and often wondered which of them was the more dangerous opponent. I concluded that Victor was not only clever but cunning. He was often in Accra dealing with appeal cases and I lived in dread of him producing at the most crucial moment some new and unpublished judgment which had recently been given in his presence by the Court of Appeal in Accra, overruling an earlier published authority which one had to support an argument in Court. The state of the law reports at the time was appalling and it wholly undermined the doctrine of binding judicial precedent by which our law was determined.

Victor was heavily involved in NLM politics at the time, as was Joe Appiah, both of whom had been active CPP members and, in the case of Joe Appiah, the representative of Nkrumah, when they were in England. I did not see Joe Appiah often in Court. I think we were pitched against each other in only one of these "political crime" charges.

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On the few occasions that I saw him, I thought he was more of a political orator than a debater of fine legal points. David Effah and Tom Totoe, who were also in partnership, were serious legal opponents, whom I enjoyed meeting in Court. Kwaw-Swanzy, who later became my Attorney General, was at the time based in Kumasi. He was in partnership with Dr. Kwesi Kuranchi Taylor, one of the most brilliant academic lawyers that Ghana has produced this century. But Kwaw was mostly travelling out of Kumasi to do the chieftaincy disputes, then known as constitutional cases, which were most lucrative at the time, which he and Kuranchi Taylor specialised in, as the latter was known to be very sick. Commey Mills Odoi, who immediately preceded Kwaw as Attorney General, indeed the first Ghanaian to attain that position, was also in Kumasi at the time. He specialised in defending CPP clients accused of offences. We did not meet often in Court, though one saw him from time to time to get some indication of the inside political party news from Accra. Another lawyer with CPP political aspirations whom I used to meet in Court was Kweku Bonsu, who later became a junior Minister in the Nkrumah Government. The partnership of Effah and Totoe was highly regarded. Simon Sotomey had a good practice. Then there was my own cousin and Simon's mate at both Achimota and Newcastle University, Joseph Nee Lante Heward-Mills, who both in personal matters and in the court room was a fighter. My old Cadbury House prefect, Frank Mensah Bonsu, was, at first the Kumasi Municipal Council solicitor but later bought the well-known and respected expatriate practice of J. J. Peel and went into private practice. Him, we saw socially very often. We teased him mercilessly about his period of apprenticeship spent in Kensington Borough Council after qualification as a solicitor in England before his return to Kumasi. We had mentioned this fact when introducing him to our Canadian friend, Jean Steckle. Next time Jean met him, she greeted him breezily as Mr. Kensington. But he took all in good part. It was tragic that he died so young. All in all it was a Bar which commanded respect.

Jean herself, we met for the first time in Kumasi. A phone call from Ulric Cross in Accra informed us that there was this Canadian girl who knew nobody coming to Kumasi and he had given her our name. We spotted Jean in the town while shopping in the afternoon of her visit and she later turned up for tea. That began our long friendship which led to many kindnesses from her to both of us and later to our children. She was then a social worker coming to stay at Achinakrom, near Kumasi, where she was stationed with an Irish girl called Cara Schofield. We saw quite a lot of them then and even more of Jean after she had left Ghana and was stationed in Sierra Leone; Senegal, where we visited her with children; Rome with the FAO; and Canada, where we visited either as a family or individually over many years. 246

We also had our first visit from our friend from Oxford days, Dick Wilson. He wanted to know about Ghana and Nigeria. We were his Ghana contact, and Adedapo Aderemi, the son of the Oni of Ife, who was then a Senior Magistrate, was his contact in Nigeria. As we were not in Accra when he arrived, we arranged for him to stay with my cousin, Nee Quartey, then with Ghana Electricity. He later gave us a comparative account of the peoples of Ghana and Nigeria, in which the Ghanaians appeared as the quiet ones. Unfortunately, Dapo Aderemi, whom I got to like and admire for his sense of humour and leadership qualities while we were at Hans Crescent in London and at Oxford, died not very long after. At the time I was transferred to Kumasi, I was short of 247

confirmation in the Civil Service by four months. Having entered the service in October 1955, the normal probation period being 3 years, I was due for confirmation in October 1958. By Civil Service rules one could not act in a more senior position if one was not a confirmed officer. I was handicapped by this rule from acting in a more senior position. But another rule of the service added to this to stop me from immediately getting the appropriate remuneration for the duties I had to perform. The office was that of a Senior Crown Counsel. I was still an Assistant Crown Counsel and it was the rule that one could not act in, as opposed to performing the duties attached to, an office which is two grades above one's own. Therefore, even if I were confirmed, which I was not at the time, I could not act as Senior Crown Counsel. I did not trouble much about these disabling rules. We did need the money but my main interest was in holding this challenging assignment I had been given as best I could and I set about doing that. Hilary Batcock, [\* Battcock? Uncle Roger suggests possibly ] who knew the Kumasi office well, was now supervising my work from Accra. We had a good working relationship. I sent a weekly report of the number of cases I had dealt with, their result, the cases outstanding, the advice I had been called upon to give and so forth. Usually that was the end of the matter. Occasionally, when there had been a few lost cases following one another he would send me a note raising the matter and asking whether there was any special explanation for the losses or whether it was just the run of the cases. I do not remember an occasion when the losses were due to anything other than the run of the cases. As I often had commendation from the judges about my work and I got on well with the Police, I had no anxiety about some different report reaching Accra about my performance.

It was not long after October 1958 that I had word from Accra that I had been confirmed in my appointment and had been simultaneously promoted to a full Crown Counsel. With that shortly afterwards came a recommendation from Bing that I should be made to act as Senior Crown Counsel in charge of Kumasi and, when approval came for that, my acting days started from the date of my confirmation in the service. 248

To begin with, I was alone dealing with the general office. When the Commission of Enquiry dealing with the Asantemam Council ended, Kodwo Boison was asked to continue in the Kumasi office to assist me. It must have been somewhat upsetting for him because he was senior to me by way of call to the English Bar by some two months but he had been made my junior at the Department because he joined it after me. Unbeknown to me, he had been fighting for recognition to be given to his time of call to the Bar. This battle he eventually won. But I only knew about it when I had a letter from Accra that my probation period had been cut by six months so that instead of being Crown Counsel from October 1958, I had my appointment backdated to May 1958. Although Kodwo Boison's appointment had been backdated to give recognition to his date of call, I still remained his senior in the service and in charge of the Kumasi office. He was soon replaced by Dan Annan. 249

For a time, monthly meetings were held in Accra which brought the officers in the out-stations down to meet their colleagues and to discuss problems at headquarters. This was usually accompanied by some drinks in the Attorney General's residence. When these general monthly meetings stopped, I was occasionally invited down to Accra to 250

discuss matters with the Attorney General. This probably added to the deep suspicion of me that was developing among some of my Ghanaian colleagues. I soon learnt that if I wanted to know how colleagues felt about me, it was not the attitude of these colleagues towards me when we met which mattered. It was the attitude of their wives. Colleagues might successfully simulate their real feelings towards me. Wives who had heard their husbands tell of the sneaky way in which I acted to their husband's disadvantage could hardly hide their feelings when they met me. The feeling that I was suspect came gradually to me. I could not explain it at first. Then it occurred to me that the suspicion was due to the fact that I appeared too friendly with Bing who in turn was openly promoting my interest. It may be that the thinking was also that my interest was being promoted because I was telling derogatory tales about them. This left me with mild surprise because in all my association with Bing, I never went to his house once without an invitation from him and whenever he chose to invite me, there were more interesting things to work on and to talk about than the defects of my colleagues. I was fascinated by his experiences as a politician and a soldier and he had a lot to tell when we were not working, including stories of times with Nkrumah, Padmore, Ras Makonnen and others in the days when they were involved with black emancipation in Britain.

Dan Annan and I got on very well, and I think we ran an efficient operation. We were both round about 30, he probably just over and I, just below. Our youth told against us sometimes when people met us first. There was, for example, the day that one of the Paramount Chiefs of Ashanti, the lady, Nana Juaben Serwah, the Omanhene of Juaben State and a strong CPP supporter, needed legal assistance from Government and had been directed to come to see us. She and her entourage were first taken to Dan Annan's office. In spite of Dan's impressive height, she immediately concluded that this was a young man. The advice she needed required the wisdom of a mature person. So she immediately told Dan that she really wanted the Government lawyer. Guessing what she really meant, Dan got up with a smile and said, "Come, I will take you to the Government lawyer". They walked into my office, with Dan still smiling saying to her "This is the Government lawyer". The lady took one look at me, turned in contempt to her entourage and uttered just one word, "Mmofra", meaning, "Children."

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~~Throughout the time that I was stationed in Kumasi, Geoffrey Bing was Attorney General and Hilary Battcock was the Senior Crown Counsel in Accra responsible for the overall supervision of the work of the regional offices. We had a system of sending regular monthly reports of the type of cases that one had dealt with and the result. The report would also contain a list of the important advice given so that Accra was aware of what was going on. No doubt the office also had reports from the judges and the Police about how we were getting on so that it had a full picture of our activities and our comportment. I soon found out that the reports we sent were carefully studied because I remember a query being sent to me after one of my earlier reports had shown that I had lost about three murder cases in a row. Battcock wrote to me asking for an explanation of the string of losses or was it just the run of bad cases. I explained that it was the latter. For a period we also had a system of meetings of all the lawyers of the office once a month at the residence of the Attorney General. For these meetings, those of us who were outside Accra came down. These meetings, I thought, were a~~

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good system of finding out what the problems of the office both in Accra and in the regions were. [\* flagged as repetition (asked to review earlier page) ]

Two matters of status were settled during our Kumasi days. I was called to the Ghana Bar in 1959 and Stella in that same year became one of the earliest Europeans to register as a Ghanaian national. In my case, I had been appointed to the Attorney General's Department without being called to the Ghanaian Bar. I was entitled to appear in Court on behalf of the Crown because members of the Department having, prior to my appointment, been mainly expatriate colonial civil servant lawyers, had always been entitled to appear in the Courts of the Gold Coast without being called to the local Bar. This practice had been continued after independence. I could, therefore, like previous members of the Department, practise without being called to the Gold Coast or Ghana Bar. I was not worried about seniority at the Bar; as I had no intention of leaving the Department in the foreseeable future so, I thought there was no need to go through the formality of a call to the local Bar. But Bing thought that the Department should develop the practice of having all its members as members of the Ghana Bar. He, therefore, raised the subject with me. I expressed no objection. So he arranged for the call. I was called in Accra in absentia. Apparently, he had been present because he later told me that he had said some nice things about me at the ceremony.

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Stella's change of nationality was at her own free will. I was not anxious that she should be Ghanaian. Indeed, I thought it was a very serious step for her to take. But her argument was that she did not want to be anything different from me and, in any case, having a different nationality was inconvenient. She had discussed the matter with her very good friend, Jytte Cartwright, who thought the step she was contemplating was unwise and she should consider it further. She told me this. I was inclined to agree with Jytte. But I could not press the point too hard. One of the inconveniences suffered by a wife with a foreign nationality was that her presence in Ghana was entirely dependent on the consent of the husband. Any time that the husband decided that he wanted to get rid of the wife, all he had to do was to inform the Ministry of Interior that he was withdrawing his consent to the wife's continued presence in Ghana and her residence permit would be cancelled. There had been occasions when husbands in mixed marriages had exercised this option. I do not think Stella had thought of this possibility. But as I was anxious that I would not be considered as leaving this option open to myself, I found it difficult to ask her to reconsider her decision. As a result of her decision, she found herself having to ask for a visa each time she visited Finland, and as for years we lived in Ghana or England where there was no consular facility for the grant of a Finnish visa on request, she found herself having to wait for weeks for permission to visit her own home or family.

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My friend from the last year that I stayed at Oxford, Kofi Tetteh, who had joined the Department, married Dorma. I was not able to attend the wedding but he had asked my advice on marriage to a non-Ghanaian wife. He later always said that the only support that he got for his decision was from his father, which must have come to him as a surprise and myself. He started off in the civil section of the Department but later went over to drafting, where he received his training both in the Department and in Ireland under Vincent Grogan. My cousin, Lebrecht Hesse, who had joined the Department just

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before him, also went into drafting and had some training in Ireland. Thus began a very rich seam of drafting talent which was developed in Ghana for the benefit not only of Ghana but of other Commonwealth countries in and outside Africa.

We were in Kumasi when we heard of the detention of R. R. Amponsah and Modesto Apaloo for plotting the assassination of the Prime Minister. An officer of the Military Forces, Major Awhaitey, was also detained. The Court Martial into Major Awhaitey's involvement was conducted by Johnny Abbensetts. That was followed by the Commission of Enquiry into the alleged plot, which was known as the T Junction Affair, as some of the alleged transactions leading to the arrest of the detainees were said to have occurred near the Labadi T Junction on the Burma Camp Road. One of the Commissioners appointed, Maurice Charles, was then a Senior Magistrate in Kumasi and our neighbour on Champac Avenue. Apart from the newspaper reports of the proceedings and the gossip, I missed all that. I also missed the Court proceedings brought by my old teacher at Achimota, Attoh Okine, and others who were detained as members of the "Zenith Seven" who had conspired to poison the water supply of Accra. Indeed, I missed practically all the preventive detention proceedings in the High Court in 1958 and 1959 while I was in Kumasi.

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Towards the end of 1959, I received instruction that I should come back to Accra. There was a need to send either Johnny Abbensetts or myself to Harvard to specialise in commercial law. Whichever of us was sent, it was necessary for me to leave Kumasi. The prospect of specialisation in commercial legal work for the Department was too good to be true. But I had a feeling that eventually it would be Johnny Abbensetts who would be sent. After all, he had had some commercial practice as a private practitioner before he was enticed to join the Office, where his work so far, except for excursions into the enquiry field, had been in the commercial section. Besides, Bing liked him. I had no reason to believe that Bing would prefer me to him. As I suspected, when I came to Accra, it was Johnny who was sent to the United States.

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\_ I returned, as instructed, to Accra in November 1959. \_ [\* see paragraph below ] By then Azu Crabbe, who was elevated to the High Court bench on 9 September 1959 had left the Office. I recall the difficulties which he had with Bing in Kumasi and thought it might be for the good of all. I was now mostly involved in appellate court work, doing all the criminal appeals and the habeas corpus cases before the Court of Appeal. But I also did some general advisory work. I soon had a report from Garvin Scott, then the Solicitor General, that some members of the Court of Appeal, I believe he mentioned Justices Van Lare and Granville Sharp, were complaining about being sent a junior Crown Counsel to appear before them. I was quite annoyed by this complaint because I had seen lawyers in private practice who were junior to me from the point of their call to the English Bar appear before the Court without complaint. Garvin said he had explained to the judges that the Department was short of staff and I was the officer they thought could handle the cases. The matter must have been raised with Bing because he later told me that he had had a discussion with the members of the Court about me and they were all impressed with my performance. I stayed on with my schedule of appearances before the Court of Appeal. At no time did the Court show to me in Court any dissatisfaction with my work.

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\_ I returned, as instructed, to Accra in November 1959. \_ [\* decide how to merge with paragraph that starts with same sentence above ] By a stroke of fortune we got a bungalow on 10th Road. It was one of those solid colonial style buildings on stilts. In the office, I was now mostly involved in appellate court work. I was given the responsibility of doing all the criminal appeals before the Court of Appeal and also some general advisory work. Work on the Republican Constitution soon began. Francis Bennion was doing the basic draft of the Constitution itself and some of the Constitutional Acts. Vincent Grogan was helping on this. One of the major contracts that I was involved in was the drafting and negotiation of the agreement between Ghana and Agip Minerali of Italy on the establishment of the Tema Oil Refinery. As was often the case with work given to me by Bing, I was summoned to his office and he told me that we had to start these negotiations almost immediately. He explained that the question of the establishment of the refinery had been raised some time ago but somehow it had been put on ice when the Italians went away and were not heard from any more. Now all of a sudden, they were in the country asking for negotiations and Nkrumah had asked that our Department should deal with them. Our negotiating team consisted of Geoffrey Bing, Patrick Atiyah and myself. It was my first involvement in the negotiation of a large contract and I found the experience exciting. None of us on the Government side had any experience of drawing up oil refinery contracts. And this was the same situation when Johnny Abbensetts was dealing with the contract to purchase the first VC10s. In all these things, expertise is acquired by experience in the type of contract, which led Bing to observe that in all these matters all of us approached our task from the standpoint of Assistant State Attorneys. The result was that we always waited for the other side to present to us a draft contract which we would examine to see whether the provisions were acceptable. But that was not the best way of deriving the greatest benefit for our side. We should have been at times in the position to present our own draft to the other side, or at least to bring to the negotiations, memoranda of particular provisions which we would like to see in the draft. When one had a draft from the opposing side to look at, most of the work is devoted to correcting the draft for excesses or omissions. It is not very original work. It struck me that this was akin to playing a match, whether football or other sport, on your home ground with your home supporters cheering, as opposed to playing an away match. I remember that our concern at the time that the VC10s were being bought was more a question of the wisdom in our purchasing that particular plane at that time. It was brand new. We thought that the usual thing for a new plane was for the national or some airline of the country developing the plane to buy and try it for some time before outsiders came in with their orders. But here, it seemed as if Ghana was in the vanguard of those ordering this plane which the British were developing. I was not in the position to say whether this concern, which some members of the Department, including Johnny Abbensetts, shared, was ever passed on to the authorising officers for the purchase of the plane. What I know is that it did not stop the purchase of the plane.

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I was summoned to Geoffrey Bing's presence on Wednesday before the Easter holidays in 1960. "Austin, what are you doing for Easter?" he asked. For once I had a programme arranged. Stella and Jean Steckle had organised a holiday at the Keta resthouse. After showing some reluctance, I had at last consented to join in. Innocently, I began to

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explain these plans to Geoffrey. He listened patiently to my expectations of spending time in Keta for a while, then said, "You are not, you know." I stopped in my tracks and asked why I could not keep those plans. He asked me whether I had heard of the Sharpeville and Langa massacres in South Africa. Of course, I had heard. So he continued, you are going to South Africa. "When?" I asked. "As soon as possible," was the answer.

It was the morning of the Wednesday before Good Friday. Passages to South Africa apparently were heavily booked. He had been trying to put me onto one of the flights through the airlines in Ghana without success. So now, he got on to the telephone to South African Airways in London, and asked them whether there was a place on their plane from London to Johannesburg before Good Friday. They were fully booked. Geoffrey asked them whether they could not put somebody off the flight for an important official of the Ghanaian Government who needed to travel as a matter of urgency to South Africa. South African Airways did. Their flight was from London, through Kano to Johannesburg and I was expected to join it in Kano. 261

Geoffrey told me that I would be travelling with an official from the Ministry of Foreign Affairs with diplomatic status, so I would have protection from him. He did not disclose who. Then he asked me whether I had yellow fever inoculation. The last time I travelled was in 1956, back to Accra, and all that was required of me was a small pox vaccination, which I had but I had never had a yellow fever inoculation. So he immediately rang the Medical Officer of Health and told me that I needed a yellow fever inoculation urgently as I had to travel the next day. To get over the problem that a fresh inoculation required a ten day period before travel, Bing told the MOH that this was a re-inoculation as I had been inoculated previously in London at the hospital for Tropical Diseases but had lost my certificate. The MOH asked me to appear in the afternoon, which I did and was duly inoculated and given a certificate showing that it was a re-inoculation. 262

What was my mission to South Africa? According to Bing, since Sharpeville and Langa, the Ghana Government had been trying to get some answers from the British High Commissioner to South Africa on the position of refugees without success. The Ghana Government wanted to find out how many wanted to leave the country and the best means which could be adopted in getting them out. South Africa at that time was a member of the Commonwealth. The Ghana Government wanted to make contact with the High Commissioner and to have some answers to these questions. But immediately, there were three refugees known to be on the run from the South African Government. They were Oliver Tambo, who later became the President of the African National Congress; Dr. Dadoo, the South African Indian leader, and; Ronald Segal, the young white journalist. I should try and make contact with them and see how best to help them out. 263

For an official reason for the visit, I was to have discussions with Dr. Gideon Roos, Director General of South African Broadcasting on the proposed copyright law which Ghana was then considering enacting. At that time, the experts advising the Ghana Government were Dr. Roos and the head of European Broadcasting based in Switzerland. My visit to South Africa would give a good opportunity for discussions with Dr. Roos on the proposed legislation. Geoffrey asked me whether I knew anything about copyright law. 264

I confessed I did not. He directed me to the library to take out what book there was on the subject and mug up enough about it to be able to make intelligent conversation with Dr. Roos on it.

In the afternoon, I had a conference with the Director of Broadcasting in Ghana, James Miller, who according to his obituary in the London Times much later, had been an intelligence officer in the British services, and Francis Bennion, then the legislative drafting expert on technical assistance duty from the United Kingdom Parliamentary Counsel's Office. I remember a small point on which Bennion showed his obduracy. The head of European Broadcasting, who was an accepted international authority on the subject, had defined broadcasting as the transmission of signals without the aid of wires. Bennion would not accept that. How could broadcasting be so defined when radios depended on internal wiring from some mains for their operation? After a great deal of argument between him and Miller on the subject, the matter was dropped for the meantime. The rest of the conference was devoted to Bennion demonstrating that the draft bill proposed by the two international advisors was far too complicated and that what Ghana needed was a simple Act on copyright. In the end, the Act which was passed was the Act that Bennion wanted. But that did not help me from having to study the bill proposed by the experts before my visit to southern Africa.

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I had to break the news to Stella. She had indeed worked very hard to get me to agree to come with them to Keta. So this was rather sad for her. What was more, she was then suffering from some food poisoning which she must have developed from a dinner [\* word added ] dance we had attended over the weekend. While Bing was unfolding my Easter holiday plans to me that morning, she had gone to see Dr. Anum Barnor for treatment.

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That evening, I met Geoffrey Bing and the South African former Senator, who was now teaching law in Ghana, Leslie Rubin, for my briefing. I noticed immediately that my Foreign Office colleague who was to afford me some protection during the trip was not present. I asked about him. Geoffrey was dismissive of the attitude of the Foreign Office; the designated officer was not able to travel next day and so I would have to go alone. It was years later that I learnt that my travelling companion should have been my old housemaster at Achimota, but at the time a member of the Foreign Service, S.P.O. Kumi, who never travelled by air. We discussed my mission at greater length and I received my final instructions for the time being. I was to find out from Bechuanaland where one could land a plane which could take out a number of refugees at a time. I was later to visit Southern Rhodesia to find out how money for the assistance of refugees from South Africa could be transmitted. My contact in Johannesburg was Advocate Unterhalter who would meet me at the Airport. My contact in Salisbury, Rhodesia was Advocate Lawrence. I was to record my activities in Ga. I was to take the Ghana Airways flight to Lagos early next morning. My connection from Lagos to Kano where I was to join the South African Airways plane was at 4 pm. But under no circumstances was I to leave Lagos Airport for town between the time of my arrival there and my departure to Kano. There was the famous Carter Bridge at which I might otherwise be caught up for hours. Leslie assured me that I was quite safe; the South African security services were quite inefficient and were unlikely to discover that I was out to assist wanted persons

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escape from the country.

I started reading Copinger and Skone James on Copyright as soon as I could. It was too large a book to master at such a short notice but I made the effort to cover what I could in the time available. I duly started off by Ghana Airways next morning, having been seen off by Stella and Bing. On the plane was my old Sierra Leonian friend from my Oxford days, Eldred Jones, now a recognised academic on the English language in West Africa, who was on his way to Nigeria to do some external examination. I had not seen him since we finished our Oxford final examinations in 1954 and was happy for the opportunity to catch up with what he had been doing for the past six years. But shortly after the plane started, we had an experience which marred the journey: one of the two engines of the plane caught fire. Eldred was sitting where he could see the engine. I knew of the fire but I was sitting opposite him where I could not see the fire develop. One could, however, judge the state of the fire by watching Eldred's face. It was quite a study. Eventually, we got to Lagos and landed with a bump on the runway, not moving further after we landed. We were then towed to the place where we disembarked.

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I had made up my mind to use the time during my expected long wait at Lagos Airport for my study of copyright law. To my surprise, there soon appeared my old school friend, Vishnu Wassiamal, then serving in our Lagos High Commission. He brought me money. He also had fresh instructions for me. The three persons I was after had managed to escape from South Africa and were now in Bechuanaland. I should, therefore, change plans and proceed straight to that country, find them and offer them assistance to Ghana. My other business in South Africa could be taken up later. The capital of Bechuanaland was Mafeking, which was in South Africa. The British High Commissioner, who was also the Governor of Bechuanaland, was, according to my information, stationed there. But in the circumstances, the suggestion was that I should go to Francistown which was the provincial capital of northern Bechuanaland to see what I could do from there. That meant not stopping at all in Johannesburg, but merely changing planes to continue to Bechuanaland- I was not sure how, but I thought I would find out when I got to Johannesburg. Vishnu stayed with me until I left for Kano. He was great company but that meant I made no progress with my copyright law.

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Kano Airport was picturesque, welcoming and sending off planes with trumpeting by the Hausa-clad figure on horseback. The South African Airways plane duly arrived, and I joined it. I must confess to being surprised that the air hostesses were so helpful and nice. They wanted to know eventual destination and I told them Francistown in Bechuanaland. They thought the best way was for me to go from Johannesburg to Bulawayo and from there to make my way overland. They thought that there was a plane I could connect with for Bulawayo within a short while after arrival in Johannesburg. The only problem was that we were running late and might miss it. If I liked, they would ask the Captain to radio that plane to wait for me. I agreed and they did so. As a result when I arrived at Johannesburg Airport, I merely walked the tarmac from one plane to the other.

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Upon reaching Bulawayo, I hired a taxi to run me to Francistown. I recall that the road was not frightfully good. For most of the part it consisted of two thin parallel strips of tarmac about the width of the vehicle tyres, in the middle of the laterite road. The

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vehicles run on these strips until they met an oncoming vehicle, when one of them gave way to the other. The border post at Plumtree was simple, consisting of a hut with one immigration officer and one customs man. When I produced my Ghanaian passport to the immigration officer, he looked and mused aloud, "And what may a Ghanaian lawyer be doing in these parts at this time?" I said I was on business. He then said that the people I was after had already left Bechuanaland. I hope my face was sufficiently blank when I told him that I did not know what he was talking about. However, I knew that my main objective had been removed beyond my control. Nevertheless, I decided to continue to find out what I could do further in Bechuanaland. After all, I had to deliver the message that the Ghana Government genuinely wanted some answers from the British High Commissioner/Governor about the general refugee position. There was also the question of a landing for an aircraft which could evacuate a number of such refugees at a time and, finally, there might be individuals other than the big three now in Bechuanaland who might need assistance to travel further. My mission had not been totally frustrated by the departure of the big three from Bechuanaland.

I had come to Bechuanaland under an illusion. I had thought that apartheid was practised in South Africa; that Bechuanaland, which was under British rule, promoted liberal ideals and, therefore, the discrimination which one expected to find in South Africa would not exist there. I was in for a rude shock. 272

My Bulawayo taxi driver knew his way around Francistown and, upon our arrival there he drove to the first of the two hotels. Outside was a commissionaire resplendent in his Indian attire. I told him that I needed a room at the hotel. He said there was no room but I could try at the other hotel. We drove there. No such commissionaire met us outside. The only place where I could detect activity was the bar. It was full of clients drinking, all white. The place had been abuzz with the usual pub conversation which you find anywhere. But as I entered there was dead silence. You could cut the atmosphere with a knife. All eyes were on me as I approached the white girl behind the bar. I asked her for a room at the hotel. She quickly said that she would call the manager and disappeared. When the manager came in, he asked where I came from. I said from Ghana. He then said that explained it, "we have no place here for people like you." He directed me to the Anglican hostel where the migrant labour to and from South Africa stayed in dormitories. They might, he said, have some place for me. 273

I went to see the Northern Provincial Commissioner. He received me quite civilly. I told him about the problem the Ghanaian Government was having communicating with the British High Commissioner on the South African refugees. He took note of that. I told him that the Ghana Government would need some landing strip in Bechuanaland large enough to take an aircraft sent in to evacuate batches of refugees at a time. He talked about possibilities and then advised that I should see the local Police Chief. We talked about the three whom I was after and he did confirm that they had left Bechuanaland. They had been admitted on the strict understanding that they were not going to use the country as a political base. He said Ronald Segal had breached this understanding by publishing a long article of a political nature. So he was obliged to ask them to leave. Then I mentioned my predicament about accommodation. He expressed sympathy but confessed that there was nothing he could do about it. He looked quite uncomfortable 274

about it. Then I suddenly suggested that I may have to hire the taxi for the period while I was there and sleep in it. He jumped at this suggestion like a shot. Yes, if I did that, he would arrange for one of the hotels to provide me with food. On that note, we parted for the time being. I went to see the local Police Chief. He was a pleasant enough man. As a Police Officer who had done a lot of prosecutions and had worked closely with the police, we had quite a lot to chat about. But we also talked about my interest in a landing strip. He suggested the one at Palapye which he said was good enough to take a fairly decent sized aircraft. We were in the middle of our discussions when I had a message that the Provincial Commissioner wanted to see me. When I got back to his residence, I met him and his wife in their car on their way out. He told me that he had given further consideration to my accommodation problem. There was a government bungalow some two doors away from his residence which was being renovated. If it was all right with me, I could stay there while I was in Francistown. He said prisoners were brought in in the mornings to work on the grounds but he hoped I would not mind that. Then the wife spoke. She was a Scotswoman. After introducing herself, she said that I could have all my meals with them. Even when they were not in, she had instructed the cook to serve me my meals at their residence. Then she said that I could, if I wanted to, speak to Seretse Khama, who was then in Serowe. I could not believe my luck. I accepted the kind invitation. Of course, I knew from where it had come. With that they drove out. I went to my new home, where I stayed for a few days.

I took up the invitation to speak to Seretse Khama. He said he was not too well then. I brought him greetings from Kwame Nkrumah. I regretted not being able on this occasion to visit him in Serowe. I did obtain some maps of the northern part of Bechuanaland and of the Palapye landing. I also made use of the kind invitation to eat at the Commissioner's residence. I found out from Reverend Ravenscroft of the Anglican Church about the situation of the refugees in the country. I was able to help one lesser known white refugee identified to me by the Church with some money. I later saw this refugee in Ghana. I left Rev. Ravenscroft with some money with which he could help others in the same plight. He wrote to me for specific instructions on whom to help. On 27 October 1960, I wrote to him, "Dear Rev. Ravenscroft, Thank you very much for your letters. I am sorry not to have replied to them for so long but I have been away from Ghana for several months. I should be most grateful if you would hold on to the money until you hear further from me. I have seen our friend here."

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After some four days' stay, I thought I had covered what needed to be done in Francistown and returned by the same taxi to Bulawayo. I paid him off when we arrived at Bulawayo. He had been my companion for the number of days that I had spent in Francistown.

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At the Plumtree border post, I asked the officials whether there was some hotel where I could stay. Confidently, they said that I could stay at the Victoria Hotel. I duly made my way there and, to my surprise, I was admitted without fuss. It turned out that that was the first day on which blacks had been allowed to stay at that or any other hotel in Rhodesia. The reason for this dispensation was the Monckton Commission, established by the British Government to look into the problems of the Federation of Rhodesia. The

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Federation consisted of Northern and Southern Rhodesia, now Zambia and Zimbabwe, and Nyasaland, now Malawi. The members of the Commission included blacks and, of course, they had to have somewhere to stay. I remember seeing them at dinner.

Almost as soon as I had got to the hotel, I received a telephone call from one of the local papers. Would I care to give them an interview? I declined. But they sounded quite anxious to talk to me. So I eventually agreed, quite stupidly as it turned out to be, to their suggestion to talk to me off the record. Two reporters duly appeared at the hotel. I asked them how they knew of my presence at the hotel. They were puzzled, presumably at the naivete of the question and, said briefly, that the police told them. We had our chat "off the record". It contained nothing which was startling. But to my embarrassment, next morning, I had been reported verbatim and at length in the front page of the paper. When I got to Advocate Lawrence in Salisbury, he knew quite a lot about my views. I told him how embarrassed I was by the publication. He treated it quite lightly and said it would serve as a lesson to me on the ways of newspapermen. 278

Lawrence was sad that I had decided to take the plane leaving for Europe through Nigeria that evening. He had booked me into a hotel in Salisbury and, now that there was the possibility of getting blacks into such places, he was disappointed that we were not going to avail ourselves of the opportunity. Among other things, we discussed the possibility of sending money through Southern Rhodesia for helping the South African refugees. He thought there would be no problem in that regard. 279

After our interview, I was driven round the town. I met Walter Kamba, subsequently to become the Vice-Chancellor of the University of Zimbabwe, in his office in the law firm of Scanleon and Holderness. I also ran into Terence Ranger, the liberal teacher, there. He also guessed that I was in the region because of the South African refugees. I politely ignored his questions. 280

When I got back to Accra, I was greeted like a hero by Bing. There were already South African blacks in Ghana who were interested in my report and especially, in the maps that I had brought. Bing told me of the message of alarm he had received from Advocate Unterhalter, who had apparently come to Johannesburg Airport to meet me. He had sent word that he did not know what had happened to me but he had seen me get off the South Africa Airways plane and being marched straight on the tarmac to another plane. Of course, Bing understood immediately what had happened. Some twenty five years later when, as a judge of the Botswana Court of Appeal, I met Advocate Unterhalter for the first time and reminded him of the incident, he was able to recall that day quite clearly. 281

Bing was surprised that I had money from my trip to return to him. Apart from what I had used in hiring the taxi from Bulawayo to Francistown and back, for helping the lone white refugee in Francistown, and for my hotel in Bulawayo, I had practically spent no money. He simply could not believe it that I had spent so little. He asked me to deposit what I had returned in the Bing No. 2 Account at one of the banks. But he made a strong appeal to the Permanent Secretary for Finance for giving me a generous per diem for the period that I had been away. 282

My happiness on returning home did not last long. Bing after congratulating me warmly, 283

added, "But you know, you are going back again." I asked why. He said I forgot that I also had a mission to discuss copyright law with Gideon Roos, who was still expecting me in Johannesburg. I asked when I was supposed to go back. He said the following week. I tried to argue how pointless the mission was because nobody would believe that my real objective was to discuss copyright law. I told him of the inspired guesses of the immigration officer in Plumtree and Terence Ranger. The stories did not change his mind. I was quite worried that however inefficient Leslie Rubin thought the South African security was, I ran a real risk of finding myself in a South African jail. I solicited the aid of Vincent Grogan, the Irish law revision expert whom Bing had brought to Ghana to draft and revise our laws. Bing was quite adamant. In his annoyance, he asked me what I thought he had been promoting me for.

Some of the South Africans in Ghana, on hearing that I would be visiting their country, wanted to send messages through me to friends and family. I did not welcome this and Bing soon put a stop to it. 284

When the time came, I was driven to the Airport by Kofi Tetteh. Stella was with us. Bing was not at the Airport when I arrived. My route this time was by Pan American Airways starting from Accra in the evening through Leopoldville (now Kinshasa in Zaire) to Johannesburg. The official at the Pan American looked at my passport and said I could not travel by the flight as I had no visa for South Africa. I had just turned back to leave the Airport when I saw Bing walking in. He apologised for being late; then I told him that Pan American refused to carry me on the flight. He asked me to return to the desk with him. "What is this that I hear that you refuse to carry a senior official of the Ghana Government on your flight?" he asked the hapless official. The man explained that I had no visa for South Africa. "So what!" he exclaimed, "Do I need a visa for South Africa?" The Pan Am official said no. "Then why should he need a visa?" Patiently, the man tried to explain that he did not make the laws; what he knew was that Pan Am would be liable to a fine of \$10,000 if it carried me to Johannesburg without a visa. Bing asked me to get along to the tiny VIP lounge then in use at Accra Airport and leave him to settle this matter. So Stella, Kofi and I went in. He joined us shortly after that, and ordered a bottle of champagne. We were drinking when an obviously more senior official of Pan American approached him, and said, "Mr. Bing, may I have a word with you?" "Yes," said Bing, "but if it is a question of taking a senior officer of the Ghanaian Government off your plane, then I refuse to discuss the matter. I will discuss it only with the Pan American representative in Ghana. At the moment, I know that he is at a party at the American Ambassador's. If Pan Am insisted on putting me off the plane, Government would have to reconsider PanAm's landing rights in Accra." 285

Bing turned round to me and said that I should have no worry. Nothing was going to happen to me in Johannesburg. Only that day, Nkrumah had received a message from the South African Prime Minister asking whether Nkrumah would agree to South Africa remaining in the Commonwealth when it turned into a Republic. As long as they had not replied, the South African Government dare not touch me. In any case, if it did, Nkrumah and he Bing would be in London at a Commonwealth meeting the following week and would be in the position to exert maximum pressure on my behalf. As I contemplated the prospect of languishing in a South African jail while Geoffrey 286

Bing negotiated my release over a glass of cognac, the flight was announced and Bing asked me to walk on to the plane and leave matters to him. I was on the plane when it took off.

We stopped at Leopoldville at 4 in the morning. All passengers were asked to leave the plane; transit passengers were offered coffee at the terminal building. I went and sat by myself. But I was soon joined by two fellow-passengers; one an Indian and the other a black man. The Indian started by saying, "So you are going to Johannesburg." I said yes. "And you have no visa." I reared defensively, "how do you know?" He said, "We were at Accra Airport." At that point, I admitted that I had no visa. He then generously explained that at Johannesburg Airport, all arriving passengers first went underground. If your papers were not all right, you never came up after that. From Leopoldville to Johannesburg I was fighting thoughts of how I was going to emerge from that underground reception at Johannesburg Airport. On the plane for that leg of the journey, the African amongst my early coffee companions joined me. He was the Basutoland politician, Mophalele, [\* spelling changed from Mphalele for consistency, check ] a great admirer of Nkrumah, whose sizable portrait he had facing him on the journey.

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As we got off the plane, there was quite a reception party waiting at the bottom of the stairs; with quite a number of photographers snapping photographs of me. Others were asking me whether Mophalele was my secretary. I was totally confused. Waiting for me at the bottom of the stairs was a hostess, who said enquiringly, "Mr. Amissah?" and when I answered to it, she said "this way please." Instead of the dungeon which I had expected, she led me to the VIP lounge. There I was welcomed to South Africa by their Deputy Director General of Broadcasting. We were photographed shaking hands. The photograph and news of my arrival were in the newspaper the next day. I was later told that that was the first time, perhaps since the Nationalists came to power, that a white man had been shown in the newspaper shaking hands with a black man. After the welcome, he drove me to my hotel, the Langham Hotel, which is now no more. I was given enough time to freshen up. My conferences with Gideon Roos were to start immediately afterwards.

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Gideon Roos and his Deputy turned up at my hotel in about an hour. I was then given my programme for my stay in South Africa. We were to work in the morning until lunch, which we would have by ourselves, then continue for a while longer after that. At about 4 pm. we would go to one of the studios of South African Broadcasting and watch a documentary film on life in the country. After that, we would work some more until about 7.30 pm. when we would have dinner again at my hotel with a few guests and wives. If there was time after that, we could work a bit more on what was remained to be done. The next day, he had organized a trip for me and himself to Kruger National Park for a week. I knew that the Pan Am flight was leaving next morning to Accra. I thanked Roos for his invitation to the Park but said that owing to urgent matters which I had to attend to back at home, I could not accept his invitation to make that trip. I would like to return to Accra the next day. I think he was relieved by this. How a busy man like him could afford to spend a whole week just chaperoning me in Kruger National Park, was beyond my understanding. Obviously, he had been told by the powers that

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be that I was his responsibility, and he had to keep me out of mischief.

We set about our programme with gusto. We worked systematically through the draft bill which he and his co-advisor from Switzerland had prepared. We discussed all problems and difficulties. I made notes. From time to time, my telephone would ring. It would be taken by Roos's Deputy. No I was too busy to come to the telephone and he would put it down. I could only guess who it was who wanted me. In the afternoon, we had the break when I was shown a propaganda film on how well the black community in South Africa was treated. Then we were back at work. The dinner went as was planned. It was held in a private room at the hotel. It was lightened by female company and by the hotel staff opening the door to the room occasionally to peep at the spectacle at the hotel. After dinner, Gideon Roos thought there was still some work that we had to cover. The other guests and ladies disappeared; we went back to my room and continued. By midnight I was visibly nodding from tiredness. Roos thought it was time that he left me. He bade me good-bye. I would be taken to the Airport next morning by his Deputy. 290

At the Airport next morning, whom did I see pass by, but Stella's and my good Danish friend, Jytte Cartwright. I lost my senses momentarily, and started after her, calling her by name. Whether she did not hear, or she did but preferred to ignore, me, I don't know. I soon recovered and came back to my host and explained to him that I thought I had seen someone I knew. It was foolish of me. Jytte knew Bing well. She might have been sent by Bing to South Africa just as I was. Jytte had the perfect reason for visiting South Africa; her father was buried there. I knew she was on the plane with me but I did not make any attempt to approach her until we were in Leopoldville. When I did she embraced me warmly and said, "Oh Austin, I have been so worried about you." We never discussed our respective visits to South Africa after that. 291

After my return to Accra, I continued a tenuous connection with South African refugees for some time. Oliver Tambo and his two colleagues duly arrived in Accra. I was amongst the crowd at the Airport to welcome them. They had travelled through Tanzania. Bing had a party for them, which Stella and I attended, and we had them in our house when they met some guests, like Charlie Easmon. Bing then devised the Commonwealth passports for the refugees with no passports. And we spent some time getting them to the various refugees we knew about who needed them. It was an interesting scheme. Bing's argument was that a passport was an authorization given by a government to a person with whom that government had a relationship, asking other governments through whose territory the holder passes to give him protection and assistance. As South Africans, like Ghanaians, were members of the same Commonwealth, any of the Commonwealth Governments was entitled to give a passport to the nationals of Commonwealth countries. There was great debate about the validity of these passports. Some countries, such as Italy accepted them. Others did not. Britain could never make up its mind whether the Commonwealth passport was valid or not. When I left Ghana for Finland in June for our first visit to Stella's home after our marriage, the argument was still raging in the British papers. By the time I returned to Ghana the following September, other issues like the Congo crisis had assumed centre stage. 292

It was about this time that Geoffrey Bing asked me to try my hand at legislative drafting. I was not keen on spending my time exclusively in the drafting section of the Department, and Bing noticing this tried to impress me with the importance of drafting to the country. His argument was in some such form as this: "What does it mean if you lose one criminal case? It is merely one case lost, however important it is. But what does it mean when you draft a bad piece of legislation? It affects the whole country." I agreed to give drafting a try. On reporting to Francis Bennion, I realised that the matter had been discussed between himself and Bing but I did not know at whose instance. Bennion gave me some statutory instrument to try my hand on. I did it. Upon presentation, he appeared quite pleased with my effort. The next thing I knew, I had a visit from Fred Boyes, the New Zealand draftsman who was helping with the drafting in the section. He virtually tried to persuade me not to continue with the drafting section, giving me the impression that it would merely create tensions and rivalry between myself and Charlie Crabbe. I realised that I had trod once more on the toes of a colleague. Perhaps, I should have protested more strongly about my joining the drafting section. But my attitude had been that I was prepared to do any type of work which my superiors wanted me to do in the Department, if I was capable of doing it. After all, that had been the reason why I accepted the criminal work in Department although I had told the then Attorney General at my interview that criminal law was the subject I least wanted to pursue in my career. In the end, I thought, I would be obliged to do the work, whether I liked it or not. But I was not long in drafting before my scheduled leave abroad came up. By the time I came back from leave, demands for my services in the office had changed. But my venture in drafting were to have their consequences later on. After my escapade in to Southern Africa, I needed the leave which we took to Finland in 1960. Luckily, a ruling by the Ghana Government made it possible. We got married at the time when local senior civil servants in the Gold Coast were permitted to take leave abroad with fares paid for by the Government once every five years. I had assumed that the privilege would continue after independence. I, therefore, reckoned that Stella and I would be taking such paid leave within the period 1955 to 1960. When Ghana became independent in 1957, that privilege was the first to be cancelled. I became resigned to the fact that I would never be able to afford to pay for the two of us to visit Finland. What with my commitment for my brother's education and support for my mother, I could never make enough money to put any aside for leave purposes.

\_ Geoffrey Bing knew of my desire to take Stella visiting home and he exploited this desire mercilessly. Whenever he had some unpleasant work to be done he told me of the assignment at the same time as plans he had for me to go abroad on some Government business which would enable me to take Stella, then we would break off at a convenient point to visit Finland. First it was to send me to work in the Attorney General's Office in a State like Oregon, which he said was about the same size as Ghana, for a year, then on the way back we could go to Finland. Then later, I was to go round to various countries promoting Ghana's view on the Law of the Sea. Then there was the time when he was organising the conference of the "World without the Bomb", when it was a question of sending me round various countries to sell the idea of the conference. Then when the South West African case was brought before the International Court of Justice, I was to work in the New York office of Curtis, Mallet-Prevost, Colt & Mosle,

with Ernest Gross who was leading the lawyers on behalf of applicants. None of these materialised. When the bait wore thin, he would nevertheless say that he would try and arrange some trip for me but add that if it did not work out it would not be for want of trying on his part. Stella became disenchanted with his promises after the failure of the first suggested trip, and never gave any credence or hope to any of his further suggestions thereafter. I do not know whether he ever did anything about my going to Oregon or on the Law of the Sea or World without a Bomb jaunt. But I know that he tried with Ernie Gross, because Gross visited Ghana. The three of us discussed my coming to work with him on the South West African case. As he said, everything was fine by him. He had a place for me in his office. The problem then was that some other matter came up which required me to remain in Ghana, and I lost my chance to go to New York. Nothing came of this either. As he came to excuse himself, if the things he promised did not take place, it was not for want of him trying. \_ [\* decide how to use, repetition ]

In 1959, the Ghana Government made a ruling about officials who had accumulated leave over the years. Each senior civil servant was entitled to three months leave after every eighteen months. At their leave time, some were unable or did not wish to take this leave, so they accumulated it against some day when they would be able to. Government then ruled that in very exceptional cases, and with the express permission of the head of department, no civil servant was to accumulate leave any more. Those with already accumulated leave, had one of three options to elect. They could take all their leave immediately or defer all their leave until they were about to retire from the service or they could commute their leave for cash. I already had nine months leave accumulated. I could not take all of it right away, nor was it practical for me to defer it until I was about to retire. I had at least twenty five years ahead of me before I would be eligible for retirement. I could commute the leave for cash. That was what I did. By mid-1960, I had a fresh period of three months. With the commuted money, we paid our fares to Finland.

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After my return from Southern Africa, I kept praying that no crisis would happen before our departure and, although trouble was brewing in the Congo, the time fortunately passed without any incident which would require my being asked to stay on. We left Accra on June 6. By now Stella had taken on Ghanaian citizenship. She was entitled to do so by registration, and she decided to do so. \_ Her very good friend, Jytte Cartright, the Danish lady who had been in Ghana for a number of years advised her against it. Jytte asked her to give the most serious thought to this change as the loss of one's original nationality was a grave matter. As Ghana did not recognise dual nationality, upon her becoming a citizen. But she was determined that her nationality affairs should be governed by the same laws as governed mine. I myself was not too happy about the prospective change. But it was not a point which I thought I could press too hard without making myself suspect of some ulterior motive. \_ [\* repetition ] The problem for me was that several Ghanaians had married alien wives who had retained their nationalities of origin. \_ That meant that they needed a residence permit to stay in Ghana, and that permit was granted only if their Ghanaian husband verified that the spouse was indeed married and living in Ghana with those spouses. It meant also that any time that a husband wanted to terminate the stay of his wife, whether for good or

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ill, all he needed to do was to withdraw his consent for the wife's stay and the Ministry of Interior would withdraw her residence permit. \_ [\* repetition ] It occurred to me that it might look as if I wanted Stella to retain her foreign nationality in order to have that option to break with her when I wanted to. I never discussed my view of this with her in detail until years later when she was trying to get back her Finnish nationality and she found she could only do so if she went to live in Finland for two years before this would be granted. We were living in Europe and we both found her having to obtain a visa each time she wanted to visit her family, especially her aged mother and invalid sister, Nora. The Finnish Embassy in London was not authorised to grant even tourist visas, everything having to be referred to Helsinki, where it took a minimum of three weeks and, often, prodding enquiries by more docile members of the family and finally angry visits from her cousin who was a journalist to secure the necessary visa before our planned and paid for departure to the country of her birth. This I found most frustrating. But she took the fact that I suffered from the same disabilities as herself and, on that account, her plight was tolerable. Even when her mother died and she needed to go home urgently because she was without a valid visa at the time, she had some difficulty. We had to console ourselves that we were being given special treatment when there came the time when we were given two yearly renewable visas to visit. It was not only going to Finland which would have been easy for her during our stay in Europe but also moving round the whole of Europe would have been easier and she would not have been regarded with the same suspicion as all Ghanaians were regarded from the 1980s onwards. But then all this was some twenty years ahead.

For our visit to Finland in 1960, as there was no one who could give us a visa in Ac- 297  
cra, we made our application for them when we stopped in Rome on our way and, as the approval could not get to the Finnish Embassy there in time, we were advised to find out from their Embassy in Copenhagen, which was our next stop, whether we had the approval and could get the visas. Fortunately, we got them in Copenhagen. Our Rome visit itself, which we got to on June 7, was not a great success. Stella was full of the romance of this ancient capital and wanted to walk around and see the sights. Although we did some walking, we did not do Rome as most tourists would do, because, apart from obtaining our Finnish visas, I was not so keen on walking round Rome. I was more interested in the pedestrian desire of buying newspapers to read in our pensione. I confess this now with shame, but that is how I felt at the time. I have since learnt about myself that I am not very interested in sights. I am more interested in people and, even then, in people I can look up to. So we spent a couple of uneventful days in Rome before moving on to Copenhagen. My recollection of Copenhagen, some thirty years afterwards is that it was the place where I nearly had a serious accident. I had, in the life of a Crown Counsel in Ghana driving around in my own car, lost the art of getting off moving public transport vehicles, and when so that I stepped off a moving tram with the wrong foot, I immediately found myself sprawled on the street. I looked up to see Stella laughing, obviously at the comic situation combined with relief that I was not hurt. Stella had some family friends, Povl and Pirkko Muller, with whom we stayed. We crossed to Sweden by the ferry. This was at a time when Denmark was free with the sale of alcohol but such sale in Sweden was restricted. As a result many came over from Sweden on the ferry just to get drunk in Denmark and buy their alcohol

allowance to take back home. At the harbour, I saw a very big drunken Swede staggering threateningly towards me. I was feeling quite uncomfortable at this approach; suddenly a number of his companions noticing his move started to restrain him, with him parrying them off. Just when I thought that I would not be able to avoid an ugly incident, he got to me and shot out his hand in greeting. The tension broke. There was some drunken singing and shouting on the ferry. We met a veterinary surgeon on board who was surprised that our destination in Finland should be Kimito; "But that is very rural", he said.

In Sweden, we got on a train and went across the country from Malmo to Stockholm. We stopped in Skovde on the way as Stella's childhood friend Sara-Lena Wiiala, now married to Rune Soderberg, was with the Volvo plant there. We got to Stockholm on June 11 and stayed with Inger Knaust, Stella's eldest sister, who had been married some time to a Swede, and had stayed on with her daughter after she divorced her husband. We spent a night at Inger's in Stockholm before joining her and Ingela at her summer cottage in Smaldalaro, a few miles from Stockholm. A night in Smaldalaro and we were all back in Stockholm, where we spent a few days. I remember once going out with all of them and then the sisters wanted to continue to some shops and I was not so keen. I had got newspapers to read; Ingela was tired. So it was decided that she should take me home. Ingela was nine years old then. We walked hand in hand, with her carrying the flat key round her neck. Afterwards I wondered what would have happened if I had been stopped by a policeman and asked where I was taking the young girl. I would not have been able to explain myself in Swedish, and even if he understood English, he probably would, at that time when there were not many black faces around in Scandinavia, have greeted my explanation that I was the husband of the little girl's aunt with disbelief. I doubted whether Ingela's explanation of who I was would have been readily accepted. Ingela went with us on a boat trip under the bridges of Stockholm. Altogether, we spent our time in a relaxed manner with me trying to cook the few dishes that I knew. 298

We left Stockholm on the night of June 15 on the ferry boat to Abo (Turku) in Finland, getting there early next morning. It was Stella's birthday. On the boat, we met a friendly Finn who asked us where we were going to in Finland. We said, to Kimito. He was almost struck with disbelief, "But that is very rural!" was his observation. Why any person should come all the way from Africa to stay at such a quiet place beat his imagination. Having lived all my years in large townships, I myself wondered whether I would be able to cope with the countryside for the length of time that we intended to stay. The Finland I met was a country with wide open spaces. One could travel long distances without coming to any human settlements at all. I remember on one of our earlier journeys from Kimito to Helsinki by bus, when we covered kilometer after kilometer without seeing any villages or towns at all and I turned to Stella and enquired in surprise, "But where are the people?", which only evoked laughter from Stella and lasted for a long time as a standing joke. Finland was still paying for the reparations exacted by Russia after the Winter War in 1939 and its continuation later. After Sweden, Finland looked like a poorer relation; a number of the major roads were still without tarred surfaces. The houses looked smaller and shabbier. Porkkala was still occupied by the Russians. It is amazing to recall that and compare with Finland in the 1980s 299



and 1990s when it had one of the strongest economies in Europe and a very strong currency.

Ingela was with us on the boat from Stockholm to Turku and we were met by a delegation consisting of Stella's brother, Rainer, the only brother and second in line after Inger; his wife, Teddy, and; her mother, Mama (E)Milia, Stella's godmother, Thyrah (Tutte), and cousin Alphonse and daughter, Ulla. We were driven the 60 kilometers to Kimito by Rainer and Teddy. There I met Stella's father, Papa Ejnar, who had not been too keen on our marriage, and her mother, Ester, who had been warmer about it. Papa Ejnar was not the formidable bear that I had expected him to be. He had little English and I had no Swedish which is the mother-tongue of a few Finns, about 8 per cent of the population then, of which the Mattsson family formed a part. So we could not really carry on any conversation. But we made the right friendly noises to each other. Stella's mother was wonderful, and we got on very well from the day we met until she died in 1986. We also met Stella's invalid sister, Nora, who was a treasure. She was confined to her wheel-chair by this time, and I thought she was very brave. She was suffering from an ailment which had left her paralysed in her legs and had made her right hand unusable. She was not a natural left-hander but she had learnt to cope with it and often wrote letters with it. In the community from which I come in Ghana, a disabled person like her would have been the object of sniggers and undesirable inquisitiveness. But there was nothing like that in Finland. Everyone loved Nora, and tried to help her enjoy life. In return she was kindness itself. She was very knowledgeable as she read a lot, was keen in observation and people tended to tell her things. If there was anything which any member of the family wanted to know, especially some incident which he or she had forgotten, the invariable solution was, "Ask Nora" and invariably she had the right answer to give. The only member of the family I had not met by now was sister Nina, whose position was between Rainer and Nora, and who lived with her husband Bjarne and their children in Helsinki. But this was soon corrected when we duly paid a visit to Helsinki, where we were met at the coach station by Nina, who was not difficult to identify from the crowd then waiting to meet the passengers. I fitted into the family quite easily and we spent a lovely holiday, doing little but eating and visiting relatives and friends.

I was introduced to the mysteries of the great Finnish institution, the sauna, by Stella's uncle on the mother's side, Arle Roos. I did not think I was going to participate in this ritual of sitting naked in a dry heated room with temperatures of 80 to 100 degrees Centigrade and sometimes more, at all. "Morbror" Arle was a kind and sensitive man whom I immediately took to when we met at his summer cottage by the Lake Hiidenvesi. He must either have had warning or, as a psychologist, had himself sensed the fact that I had some aversion to going into the sauna. We spent some time discussing about Finland and the world. Then all of a sudden he said to me, "I am going into the sauna; you need not come. You can stay behind and perhaps read." So I quietly followed him of my own free will into the sauna. He did not look surprised or say anything about my first visit to the sauna. We just went on with our discussions. Then after a while, he just said, "Now I am going into the water. You may just want to have a shower." I meekly followed him into the lake. I learnt to enjoy the sauna very much and was forever grateful to him for the introduction.

We also took the opportunity of seeing a gynecologist in Helsinki to find out whether we could have some indication of our having a child. We had by now been married for nearly four years and our not having a child was not for want of trying. Stella's sister, Nina, who was a nurse working at the clinic of Stockmann, the famous Helsinki department store, arranged for us to see Dr. Carl Johan Johansson, who went by the nickname "Sperma Johansson". Dr. Johansson's first request was that he should examine me. I was surprised. Stella had consulted doctor friends in Ghana, some of whom had recommended drugs which she should take. None of them had suggested that he should see and examine me to find out whether the disability lay with me. I had several sessions with him. It was only after clearing me that he turned his attention to Stella, examined her and gave his prescription. The whole exercise was an education to me. We in Ghana assume, when a couple has been trying without success to have a child, that the fault is with the woman. Such was the belief that in my case, Auntie Awura Adjua had suggested to my mother after we had been without a child for some time that if Stella did not have a child soon, they had to find a new wife for me. She was only stopped from further thought of this course by my mother telling her that if anyone were to make that suggestion to me, I would stop talking to him or her. 302

Stella and I were in Finland when Ghana became a Republic. I heard of the new judges appointed and I was particularly pleased to hear that Fred Apaloo was among them. Akilano Akiwumi became a High Court judge, which I thought was well deserved. I also heard that I had been promoted a Senior State Attorney. The Congo crisis developed in intensity during this time. I heard of Johnny Abbensetts being sent to the Congo, and I thought to myself, if I had been in Ghana, it might have been me. I heard of a mission in which Richard Quarshie was involved which had resulted in their aircraft falling into the Congo River. 303

We returned to Ghana some three months later. 304

## 6. The Attorney General's Office in the Republic until Nkrumah's Departure - The Bing - Mills-Odoi Era

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We had thought that we were coming back to the bungalow on 10th Road which we left. We had been assured before we proceeded on leave that we would have it. But on our return, we found it occupied by a new entrant to the Civil Service which the Republic had brought from the private sector. Harry Nelson, had before been in the oil distribution business. But he had now been made a Principal Secretary, which was the title given to the former Permanent Secretaries under the colonial regime, to make it clear to them that there was nothing permanent about their appointment. He and his family were occupying the bungalow, he said, until appropriate accommodation was found for them. How long would it take? It was a question of days, then weeks and eventually it turned into months. Meanwhile, we stayed at one of the Resthouses in the area just south of the Ridge Hospital. But the uncertainty was becoming too distracting. So I asked for some other accommodation to be found for us. We moved into No. 46 Osu Residential Area, one of the two storey houses which Government had behind the present State House. Job 600, as it came to be called, had then not been built. We did not know then, but we got to know that these houses lie in the fault line of the earthquake zone in Accra. That intelligence was gained in macabre circumstances. We were once at a party at which one of the Government geologists was present. He was telling Stella of one area in Accra, where in an earthquake, a large number of Civil Servants would be wiped out, especially as the double storey housing there had no steel reinforcement. On Stella asking which area was, she learnt that it was the area in which we lived. There was an earthquake while we were there. It occurred when our son, Ralph, was a baby. Happily, we survived.

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The Ministry of Justice and Attorney General's Office was still by the old Secretariat building but we were soon to move to the present site by the old American Embassy building. My return in September, 1960 almost coincided with the arrival in the Office of Justice George Commey Mills-Odoi, who had been appointed a judge of the High Court on 1 January 1960, as the Solicitor General; Akilano Akiwumi, Charles Crabbe, Eardley Glasgow and myself were Senior State Attorneys. Festus Amarteifio joined the Judge Advocate General's Department. Obviously, the move of Mills Odoi was in preparation of him taking over the Attorney-Generalship when Bing eventually left. Mills Odoi was not the first Ghanaian appointed to understudy Bing. Kweku Boateng had occupied the position of Deputy Attorney General before. Most of us dreaded the day when he would take over from Bing, because, although a number of the Ghanaian officers did not like Bing, the general impression was that Kweku Boateng's appointment would not be an improvement. Bing's fortunes, according to the ongoing rumours, fluctuated from the highs when he was most in need in his position, and the lows when his antagonists among the Ghanaian political establishment gained in ascendancy. When a Minister of Justice was appointed it was now Aaron Ofori Atta, no more Ako Adjei whom Bing found it difficult to work with. At the first opportunity, the new Solicitor General, in an obvious reference to the fact that I had been asked before I went on leave to join the drafting section, told me of the expatriate senior officers' design to show up Ghanaians as incompetent to man the posts by shifting them around at short intervals, and then

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declaring that they were not capable of performing their allocated assignments. He advised that I should be careful of such moves.

I was met on our return from Finland by a mixture of work. The new Supreme Court had been created under the Republican Constitution as the final appellate Court. Appeals to the Judicial Committee of the Privy Council were abolished, although a limited time was allowed for appeals pending before the Committee to be disposed of. The hierarchy of the Superior Courts was the Supreme Court and the High Court. The new Courts Act had also given a right of appeal to cases decided by the High Court generally, thus removing the monetary limitation placed by the previous legislation on the right of appeal from the High Court to the Supreme Court. The appeals on the habeas corpus and prerogative writs cases which had been disallowed on my submission to the Court of Appeal were no more authority for appeals to the Supreme Court. Under the new dispensation, Attoh Okine and his co-petitioners appealed once more to the Supreme Court. But they were met by the point that the provision granting a right of appeal was not retrospective. But Baffuor Osei Akoto, whose habeas corpus case had been disposed of by the High Court not so long before the Republican Constitution, had his chance to appeal in the hall-mark case which disposed of the law argued in the High Court on these cases.

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In my book on *The Contribution of the Courts to Government: A West African View*, I stated the position. My exposition of the circumstances and arguments made in the Akoto appeal in that book is derived largely from [the words at pages 170 et. seq. of that book].

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The appellate court's pronouncement in the Akoto Case was made in August 1961. The first application for habeas corpus arising from a detention order had been disposed of in January 1959. That the Court of Appeal was not heard all this time on the question of detention was not due to the usual delays in appeals. The Court had itself decided that it had no right to speak on the matter. Without guidance from the Court, each High Court judge had been free to go his own way on the subject. But in several cases brought, the judges were consistent in denying habeas corpus on the ground that an order of the executive made under the Act was not reviewable. Justice Adumua-Bossman in the Dumoga Case went even further to hold that habeas corpus was not a remedy available in Ghana, there being no local legislation on it and the British Act of 1891, which had hitherto been thought to apply to Ghana, being inapplicable. In spite of the silence of the appellate court, that was the only issue on which the judges had not spoken with one voice. An appeal had, indeed, been brought in the Okine Case in April 1960. A preliminary point was raised by me as counsel for the Government that the Court of Appeal had no jurisdiction to entertain an appeal from a ruling in a habeas corpus application. Ever since appeals were thought of for the country, an effort had been made to ensure that only cases of some substance went before the appellate court. One device for achieving this purpose was the attachment of a monetary value to the type of case that could go on appeal. The Court of Appeal Ordinance 1957 which reproduced verbatim the formula which was used in the West African Court of Appeal Ordinance of 1935 provided that an appeal lay from the Divisional Court to the Court of Appeal: "from all final judgments and decisions given in respect of a claim exceeding

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the sum of one hundred pounds or determining directly or indirectly a claim or question respecting money, goods or other property or any civil right or other matter above the amount or value of one hundred pounds.”

For the first time, the question was raised about its terms covering an appeal in a habeas corpus case. Though that involved a civil right, that right was not calculable in terms of money and yet the jurisdiction of the court had been limited even on civil rights questions in such terms. The Court accepted this strict interpretation of the section and ruled itself without jurisdiction. 311

The right of appeal in habeas corpus cases was thereafter given with the changes that accompanied the adoption of the Republican Constitution in July 1960. By then, the Court of Appeal had declined jurisdiction in two more cases. 312

Together with the promulgation of the Republican Constitution, a new Courts Act was passed which included, in the jurisdiction of the Supreme Court, the hearing of appeals from the decision of the High Court in any criminal or civil matter and “the hearing of appeals from any decision of the High Court in any other matter whatsoever...” It was under this provision that the Akoto Case came before the Supreme Court. But by this time, the Constitution had raised an even more fundamental question: that of the constitutional validity of the Preventive Detention Act itself. The Constitution obliged the new President to make a Declaration of Fundamental Principles on accepting office. Among the principles which the President was required to adhere to were the following: “That freedom and justice should be honoured and maintained. That no person should suffer discrimination on the ground of sex, race, tribe, religion or political belief. That subject to such restrictions as may be necessary for preserving public order, morality or health, no person should be deprived of the freedom of religion or speech, of the right to move and assemble without hindrance or of the right of access to the courts of law.” 313

There was no formal Bill of Rights or express provision in the Constitution on the Fundamental Rights and Freedoms of the citizen. The argument advanced on behalf of the detainees in this connection was that the Preventive Detention Act had become unconstitutional with the promulgation of this Constitution because the Act conflicted with the terms of the Declaration, especially those which required that freedom and justice should be honoured and maintained and that no person should suffer discrimination on the grounds of sex, race, tribe religion or political belief. The detentions, according to the argument, were ordered only because of the political beliefs of the detainees and deprived them of their freedom of movement and their right of access to the courts of law. These arguments were presented by leading Counsel for the detainees, Dr. J. B. Danquah. There was a strong rumour that the brief for the arguments had been prepared by an American lawyer then teaching constitutional law in Ghana, Dr. Pauli Murray, who together with former Senator Leslie Rubin, of South Africa, wrote and published in 1961, *The Constitution and Government of Ghana*. The argument in court so heavily relied on the American constitutional approach that it lent some credence to the rumour. Indeed, he argued that with a written Constitution, the courts of Ghana ought to depart from viewing constitutional matters in the manner of the English courts where there was no constitution. Ghana now had a written Constitution 314

and its courts should look at constitutional interpretation in the way that countries with written constitutions do.

The State was represented by the Attorney-General, Geoffrey Bing, for whom I acted as junior. Bing's argument was that subject to the specific limitations placed by the Constitution, Parliament was supreme and could make any law that it wished. An example of such specific limitations was the inability of Parliament to alter any of the entrenched articles unless there had been a referendum in which the proposed amendment had been approved by the people. But there was no provision in the Constitution to the effect that the power of Parliament was limited by the President's Declaration of Fundamental Principles. Further, he drew attention to the fact that the Principles always used the expression "should" instead of the normal mandatory legislative "shall". There were certain Principles which could not be enforced by a judicial decision, for example, the Principle "That every citizen of Ghana should receive a fair share of the produce yielded by the development of the country." How, he asked rhetorically, was this to be enforced by the courts? Finally he likened the obligation imposed on the President by the Fundamental Principles to the British Coronation Oath which was taken "not to enable the courts to hold back an Act of Parliament which violated it as illegal but to provide a moral and political yardstick by which the conduct of the Crown could be judged. The sanction, if the oath was violated, was the extra-legal one that the monarch might lose his throne as a result."

The argument raged for days. In the event, the judgment was a disappointment; it simply accepted the arguments of the Attorney-General without going in detail into some of the most complex issues raised. For example, there was the argument that even if the expression "should" instead of "shall" is used, how does that rationalise with the fact that the President had a power of veto of Bills passed by the National Assembly?

Apart from appeal cases, I was involved in odd assignments which landed on the Department. I thought that I had escaped being sent to the Congo by Geoffrey Bing during the Congo crisis in 1960 by being away in Finland. But I did not escape the fall-out from the Congo crisis altogether. My connection with it was in Ghana after our soldiers who had been serving there had mutinied in Tskikapa [ Tshikapa suggested, check ] and had almost killed their commander, Brigadier (he subsequently became an Admiral of the Ghana Navy) David Animle Hansen. Of course, I had heard the news of the mutiny but I did not know that I was to have any involvement in it until I was, as usual, summoned by Bing. He told me that I should go to Burma Camp and see General Alexander, who was in command of the Ghana Armed Forces, who needed my assistance. The General, when I saw him, was seething with anger. He had the reputation of being the youngest officer appointed to the rank of General in the British Army and that did not make him popular with a number of people. In this regard, I must confess that I had some sympathy for him as I suffered from the same syndrome. The cause of his anger was not difficult to fathom and this was soon confirmed by the British officers under his command whom I saw soon after; the mutiny of his troops had at last blotted his copy-book. He told me that there had been the mutiny in Tsikapa; [ Tshikapa, (Uncle Roger thinks) ] that this was a most disgraceful thing to happen in an army; and he wanted

a quick court-martial to deal with the case so that the ring-leaders involved could be shot. That, he said, would restore discipline among the troops. I was impressed that he had decided the result of the contemplated court martial already. I asked him of the evidence which indicated who was involved in the mutiny. That was why he needed me, I should find the evidence from those soldiers who had been involved and organise a court martial for their trial and sentence.

I got out of the General's office thinking of how to approach this problem. I decided that I should use the same method of evidence gathering which I had used in the Akim-Abuakwa enquiry in this case. I summoned the officers who were at Tsikapa with the troops as soon after the interview with General Alexander as possible that morning. They had by now been repatriated to Ghana. The second in command to Brigadier Hansen, later Admiral Hansen of the Ghana Navy, [ repetition earlier ] was Major Murphy(?), a British army officer serving with the Ghana forces. There were other British officers, one of whom was a Welshman, Captain Watkin-Williams. There were some Ghanaian officers under them. I asked them whether any preliminary investigation had been done into the causes and cause of the mutiny. None had been made. I asked them to each write out for me his movements, or lack thereof, on the day leading to the mutiny and what he did during the course of the mutiny until it was over. They asked when their efforts at essay-writing should be submitted. I knew of the General's desire to have a quick court-martial, I had been shocked at the fact that no preliminary enquiry had been made by anybody since the events in the Congo and the repatriation of the soldiers to Ghana. I told them that I wanted the statements the very first thing in the morning when I came back. There was consternation among the officers. They had not thought of devoting the afternoon to any serious work. Some of them, especially the expatriate officers had promised to take their wives to the beach that afternoon. I gathered then that in the afternoons, the officers did no work but occupied themselves as they wished. I was unrelenting; I asked those with commitments to their wives to apologise to them and to explain that there was an emergency and I wanted the statements by the morning. They knew I had the backing of the General and they demurred. I left them looking quite unhappy.

Back in the A.G.'s office, I sought assistance for taking the statements of the ordinary ranks and I got some Police Officers assigned to me. The next day, I was impressed that the statements of the army officers were ready. I started with my assistants taking the statements of the soldiers and piecing together the evidence of officers and other ranks. The story which emerged was that the soldiers had been stationed in Tsikapa - in the K\*\*\* [ Kasu suggested by Uncle Roger ] Province of the Congo, where there was not much for them to do. They were trained men who understood when they left Ghana that they were going to fight in the Congo. But here they were, there was no battle to fight; they were at this post with practically nothing to do; they had money which some of them used in purchasing hemp; because they had money, the local women gathered round their camp and were smuggled into the camp, with some of them staying overnight. There was some evidence that venereal disease was on the increase. Brigadier Hansen who was in command of the troops there, was a great disciplinarian who wanted to keep his soldiers on the alert at all times. He wanted to stop the smuggling of the women into the camp and to reduce, if not stamp out, the

incidence of venereal disease. In the conditions in which the soldiers saw themselves, they did not appreciate the point of this discipline. With regard to the women who came into the camp, there were stories from the soldiers of the Brigadier walking into their tents in the middle of the night to find out which of them were with women and punishing them for it. Resentment gradually mounted against the Brigadier.

According to the soldiers, the straw which broke the camel's back was the instruction which they received that their unit back in Ghana was being transferred from Kumasi to Tamale. But the soldiers were not to be sent back to Ghana to do their own packing of their properties before the transfer. When they asked to be allowed to do so, they were told that their wives would do so for them. This had infuriated the soldiers. They complained that according to custom, their wives could not pack their belongings for them. Their complaints were ignored. To me who often had my things packed by my wife before I travelled, this complaint was very strange. But I respected the grievance of the soldiers, if this was what they felt, and recorded it faithfully. This was what apparently made the soldiers favour a plan that they rebel against the tyranny of their commander. 320

It emerged that the leader of the mutiny was a Nigerian by the name of Sam Oyategun who had joined the Ghana forces. He was a Sergeant and a big and commanding personality. We did not get much detail on the planning of the mutiny and the story of the course it took was also blurred. But on the night in question, the soldiers, led by Oyategun, decided to rebel against authority. It was clear that they were out to get Brigadier Hansen, because, when he appeared, a group of them attacked him and beat him up with the butts of their rifles until he lay motionless and they left him for dead. That the soldiers' anger against authority did not extend beyond their commanding officer was evidenced by the fact that in the attack on Brigadier Hansen, his second in command, Major Murphy(?) tried several times to intervene to get them to stop. Each time he entered into the fray, he was told to stay out and was picked up physically by Oyategun and thrown out of the midst of the melee. There was no other injury done to him. There had been drinking before this attack, which continued throughout the night. Most of the officers at the camp did not distinguish themselves that night. Several wrote in their own hand about how they tried to avoid confrontation with the soldiers, with some of them throwing off their uniforms which would give them away and hiding. 321

The drinking and rampaging among the soldiers continued after Hansen throughout the night. Lt. Col. J.Y. Asase, who was in another camp at the time the mutiny started, seemed to me the most distinguished officer who came to the camp, went around the various groups and collections of soldiers and managed to talk to and calm them down and that the overall commander in the Congo, General Joe Michel, was on his way to talk to the soldiers. It was an impressive performance. By the time Michel arrived, the soldiers had been gathered at the airport and whether because they were exhausted by the events of the evening, or they had become more sober and contrite I do not know, but they were reasonably quiet by the time Michel arrived. His performance was by all accounts brilliant. He upbraided the soldiers for behaviour which was disgraceful and unbecoming of their uniform as soldiers. The soldiers listened to him in silence. At 322



the end of this dressing down, he told them they were being sent home in dishonour. The soldiers took their verbal lashing meekly. There was no doubt about the position of leadership that he enjoyed with the soldiers. I was sure that he was destined to lead the armed forces of Ghana one day. But alas this was not to be so. He died some time after his return in the north after the aircraft he was travelling on caught fire on landing. Sergeant Oyategun and several of his colleagues who were identified as involved in the battering of their commanding officer, were after my investigations, tried by full court martial for the mutiny and the aggravated injury inflicted to Hansen. Most of them were already under arrest by this time. However, it was clear after the interval of time that, even if found guilty, General Alexander's desire for a few leaders to be shot as an example to the rest, was not likely to be realised. After conviction, Oyategun was given a fifteen year sentence and his companions got lesser sentences.

The happiest event for me occurred in 1961. Our son, Ralph, was born on the 12 of August. I have earlier related the difficulties we had had in having children. In Finland we had been patients of the famous gynecologist, Dr. Johan Johanssen. We continued with his prescription when we returned to Ghana in September 1960. We could not have been more delighted when Ralph was born. We had hoped that he would be born on 8 August, Stella's mother's birthday. But he was late. In the end he had to be induced. Our lives took a different turn. From then on, there was a very important third member. We described him as "Krunprinsen" which is the Swedish for the Crown Prince. Ralph's arrival did not affect the nature of my work. The odd assortment of cases which came my way eventually took me for the first time to Geneva in 1961. Like my visit to South Africa, my call to travel was sudden and unexpected. It happened a few weeks after Ralph was born. My mother lived with us which enabled us occasionally to go out in the evenings. Stella and I were getting ready for one such outing on a Friday night when I thought I saw on the street in front of our house, a blue Jaguar car like Bing's crawling slowly along. I said to Stella that there was a car like Bing's creeping on the road as if looking for a house, and that I hoped it was not Bing looking for me. To my relief, the car passed by. But the relief was only temporary. The car returned and drove slowly into our house. True enough, it was Geoffrey Bing. He had in tow the Commissioner of Labour, Nettey, who was carrying a hefty load of files. I told Stella that our dinner was over and went down to meet them.

~~I went down to meet them.~~ [repetition] Geoffrey greeted me breezily and told me that I had to go to Geneva. When was this, I asked. Tomorrow, he said. Your passage is already booked and all arrangements had been made. He spent a little time telling me what it was all about. Once more the Ministry of Foreign Affairs had messed up things. Bing had for some time been waging a battle with the Ministry to keep the Attorney-General's Office informed of matters which were likely to have legal implications and, generally, for the A.G.'s Office to act as the Ministry's legal advisers just as they acted in that same capacity for all the other Ministries. But the Ministry of Foreign Affairs had always played things close to its chest, only calling on the AG when, according to him, the Ministry needed to be rescued from situations which were almost beyond retrieval. This mission on which I was being sent was one such example. Ghana, he explained, had charged Portugal with forced labour practices before the International Labour Organization. The charge was laid by the Ministry of Foreign Affairs without

notice to the Attorney-General. The ILO then had appointed a high-powered Committee, consisting of M. Max Ruegger, a former President of the International Red Cross; M. Amand Ugon, a Uruguayan who had served on the International Court of Justice, and; Isaak Forster, a Chief Justice of Senegal, who was also later to serve on the ICJ, to hear the charge. The case was being heard at the very moment by the ILO Committee in Geneva. [ deletion suggested check ] The Ghana case was being conducted by the Ambassador to Switzerland, Major Seth Anthony, with support from his Ministry. Major Anthony had had a brilliant military career during the Second World War. He had fought in Burma, where he became a legend to his troops. He had risen to the highest rank that a citizen of the Gold Coast attained during the war. He later was one of the earliest administrative officers after Dr. Busia and Mr. A.L. Adu to the Gold Coast Civil Service. But he was not a lawyer. When Ghana, the State preferring the charges against Portugal, was called upon to call its witnesses, Ghana was not ready with any. Our position, apparently was that we had levelled the charge, after complaints had been made by a number of Angolan and Mozambican freedom fighters, had complained to the Ghana Government. They had faithfully promised to appear to bear witness if any tribunal was set up by the ILO to enquire into the matter. But by the time they were required for the enquiry, according to our Foreign Ministry, they had all disappeared, having been given scholarships to study in American academic institutions. That was why we had not been able to produce any witnesses. The Committee adopted the unusual practice of then calling upon Portugal to call its witnesses to refute the charge. Some witnesses had already been called; but Portugal was about to close its case either on the following Monday or Tuesday, because it had only about two more witnesses to call and the Committee had indicated that at the close of the case for Portugal, if Ghana's witnesses were not available, the hearing would be closed. In desperation, Ambassador Anthony had called for assistance from the Attorney General, that was why I had to go. Geoffrey then handed me a Presidential Authority empowering me to deal with the case as I saw fit and to call any witness from any part of the world and to incur any necessary expense to bring him before the Committee. It was signed by Tawiah Adamafo, then Minister for Presidential Affairs. My ticket for Geneva would be given to me by Nettey. Then he left the two of us so that Nettey would brief me in greater detail about the case, and I could study the files, quite heavy which Nettey had with him. Nettey left me with the files and necessary papers.

It is relevant to recapitulate the African political scene at this time before proceeding further with the narrative. The major colonial powers in Africa since the Berlin Conferences in the 1880s were Britain, France and Germany. Germany lost its colonial territories after the First World War (1914-1918), with Tanganyika being put by the League of Nations under a mandate administered by the British; both Cameroon and Togoland being divided between the British and the French; and South-West Africa (now Namibia) being put under British mandate, but practically administered by South Africa. These mandates, especially, the one over South-West Africa, were to create their own problems at the time preceding each country's independence. But for the time being, they strengthened the colonial territories administered by the respective imperial powers. Belgium held Congo, which became Zaire sometime after independence and is now the Democratic Republic of the Congo. Portugal had taken its share of Africa in

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the domination of Angola, Mozambique and Guinea (now Guinea-Bissau). Each of the imperial powers can be criticised for its participation in the subjection of Africa to its rule and the various acts of human disrespect and degradation which its peoples were made to suffer. Each could be criticised for the economic and social deprivation and retardation which its policies directly or indirectly inflicted on the peoples they ruled. Some of the administrations, however, were more liberal and at times more enlightened than others. The Belgians have been condemned for establishing the most brutal and repressive regime in the Congo. The Portuguese did not fare much better. At the time Ghana made its charge, Portugal had been ruled for years by the dictator Antonio de Oliveira Salazar. It practised a system in its colonies whereby a few select Africans could become "assimilados" and be assimilated to Portuguese society. But the rest of the African population were kept in conditions of poverty and degradation. Ghana had become independent some three or four years before, practising a radical foreign policy insisting on the total freedom of the whole of Africa as an imperative. It will be recalled that at independence, Nkrumah declared that Ghana's independence was meaningless unless the whole of Africa was liberated. It was quite well known by Africanists before but, since independence, reports had been coming in regularly to the Ministry of Foreign Affairs and, especially the African Affairs Secretariat which as its name made clear specialised in Africa; was located at Nkrumah's office at Flagstaff House and was directly under his control, that Portugal had been using forced labour practices in its African colonies. It was as a result of these reports that Ghana brought the charges before the ILO against Portugal. The irritation of the Attorney-General's Office was not because it lacked sympathy with the charges that had been made but because it had been kept out of the proceedings until this late hour. On the following day, that is, on Saturday, after the instructions from Bing and the consultation with Nettey, I left for Geneva, with Adelaide Nana Wood, Legal Counsel in the Ministry of Foreign Affairs in Accra, to take up the case for Ghana. There we met the legendary Major Anthony, who briefed us on status of the case. Ghana was indeed in a difficult position. There was every likelihood that the Portuguese defence would be finished on Monday and Ghana would be called upon by the Committee to call its witnesses, of whom there was at that moment none. So we started going through the possible names from which we could draw some support. The Angolans and Mozambicans who had originally made the charges to the Ghana Government were not available. But there was the possibility if we could only get them of some Catholic priests who had served in both countries and who could confirm what the Angolans and Mozambicans had said. Where could they be found? There were one or two in Germany. There may be a few in Britain and, of course, there was the famous British author on Africa, Basil Davidson. We got on the phone and started phoning around to these people. We told them of Ghana's position before the ILO Committee: about the charges, how they came to be made, how the witnesses had disappeared, how the Committee in order to accommodate Ghana had taken the unusual course of calling upon Portugal to deny the charge and how Portugal was about to exhaust its witnesses on the Monday and Ghana called upon to substantiate the charge or to shut up. We told them that we still had no witnesses but we understood that they had served or had experience of the Portuguese African territories and would welcome them to come before the Committee to tell it what they knew. Their fares, hotel and other expenses would be covered. To our surprise and delight, a

number of them were prepared to get on the train or a plane the next day or early Monday morning to come to Geneva. Apart from the priests, we got, at their suggestion, a couple of Angolan/Mozambican students studying in Germany to agree to come to give evidence. I thought that the clergymen as witnesses were a very good find: they were non-African, independent of the ongoing battle between the Portuguese administration and the African freedom fighters from the Portuguese colonies and they were following a profession which normally suggested truthfulness.

From having no witnesses to produce, by Monday, we had about six or seven. I was in a robust frame of mind. At the sitting of the Committee, I announced that I was taking over the handling of Ghana's case, and introduced Nana Wood as my junior. The Portuguese indeed had about two more witnesses to call. But I had decided to cross-examine them at length, so that by the time they had finished, a substantial part of the Monday would be over. That would allow time for our witnesses to assemble and be ready, most of them on Tuesday, to give their evidence. I had practical experience in the difference between the Anglo-American and the European continental systems of eliciting evidence from witnesses. The procedure which had been followed so far was for the witness called by the Portuguese Government to give his evidence which was not much different from evidence-in-chief. Then he was questioned, usually in a polite manner on a few questions on which the members of the Committee wanted enlightenment. There was nothing like the full-blooded cross-examination with which lawyers of the Anglo-American tradition were familiar. There were areas in the evidence of the Portuguese officials which, to me, sounded incredible; for example, their apparent lack of knowledge, as senior officers of the colonial administration in the labour and prison services of practices which, from the files and the conversations of our witnesses, were common and notorious. The press-ganging of Africans who did not belong to the assimilated class to labour in farms, the beating of difficult and recalcitrant Africans with the "palmatorio": a heavy wooded instrument with a flat round end punched with holes to allow air to pass from the area of impact, and as a result inflicted more pain or otherwise. I had a palmatorio hidden under my desk and I was prepared to confront any Portuguese officer who claimed not to have seen or heard of it by producing and giving a demonstration of how I understood it was used for the witness to deny. My cross-examination was, therefore, lengthy and at some points, quite dramatic.

Far from accepting the implausible answers given by the Portuguese officials to the questions put to them by the members of the Commission, I rather probed the truthfulness of the answers given. The first witness called complained in an injured tone to the Chairman of the Commission that I was attacking his honesty and integrity. The Commission asked me to moderate my questions. I promised to try. After a while, the witness again complained. The Commission said I was ignoring their caution. I said the enquiry into the truthfulness of the witness's assertions was necessary to Ghana's case but if the Commission did not want me to question the witness, I would sit down and made to do so. The Commissioners looked embarrassed; they had not intended to stop me from questioning the witness as I thought fit. From then on, there was no further complaint and no reprimand from the Commissioners for my manner of cross-examination. In the course of it, I produced the palmatorio, which the witness had disclaimed knowledge of, from under my desk and asked him whether he had never

seen such an instrument before. I do not think anybody believed his denial. I went through the questioning of the remaining Portuguese witness, of whom I recall more than two were called, in the same manner without any complaint. By the end of their case, I was quite satisfied that I had laid sufficient ground for the evidence of the witnesses I was now ready to call. I did and their evidence went down quite well. The general feeling among the Ghanaian delegation at the conclusion of the evidence, was that Ghana had not been disgraced. The case was adjourned to a date to be notified for the writing of the Commission's report.

I recall we had a dinner with the witnesses who had come at such a short notice to rescue us from our predicament. Every one was in good spirits. I found Basil Davidson most congenial. He was most impressed with Major Anthony, especially of the fact that the Ambassador had, as a colonial, reached the same rank as he did in the Second World War.

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I was also invited to tea by the great Wilfred Jenks, who had written so much on International Law issues and was then the Deputy Director General of the Organisation. The Director General, who was absent from Geneva at the time was David Morse, the American who after retirement formed the distinguished international firm of Surrey & Morse. Jenks had written extensively on international law, with special reference to labour matters. Indeed, he had devoted most of his life to the building up of the ILO, and he must have felt at this time that his life's work was threatened with potential disintegration if Ghana's conduct, which I was actively assisting, were to be repeated by other countries. Our tea, therefore, was somewhat frosty, being permeated by this undercurrent of suspicion.

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Among friends in Geneva, was Gilbert Tetteh Addy, an old Achimotan who was then with the information section of the ILO. I believe because of his name "Tetteh" friends called him "Tee". He later returned to Ghana to work for Ghana Broadcasting but he did not last long and returned to Europe. He was very kind. He showed me round Geneva and entertained me well. On hearing of the birth of Ralph, he gave him a lovely toy which played a tune whenever it was set off. I brought it back to Ralph and we all enjoyed this toy. But one day it appeared not to respond to the usual prompting and I was taking it apart to find out what was wrong when one spring in it shot out. However much I looked around, I could not find this spring. And that was the sad end of a very nice thought. From Tetteh Addy, I learnt how upset the ILO establishment was over Ghana bringing the proceedings against Portugal. I saw him again when I was next in Geneva to take the "judgment" of the Committee. But when he left, much to my regret, I lost touch with him.

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We were summoned back to Geneva in the first half of 1962 to receive the Committee's report. The Committee had written a diplomatic document which went down heavily on Ghana on the few times that it found that Ghana had done anything wrong and was quite gentle in its criticisms of the Portuguese authorities. But overall, Ghana achieved its objective in so far as the Committee found that the practices of Portugal in its African colonial territories were not up to the standards of the ILO and gave Portugal a period of six months within which to report improvements. It was quite clear that, if it had not found Portugal at fault, it would have imposed that obligation on its government.

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I had a strange encounter on this second visit to Geneva with Ernie Gross, the American international lawyer, who would have been my mentor if Bing's plans of placing me in the firm of Curtis, Mallett Prevost, Colt & Mosle, to which he belonged over the Namibian case before the International Court of Justice had materialised. I suddenly ran into him in the corridors of the ILO. What was he doing there? He blamed me for the naughty precedent I had set in the case brought by Ghana against Portugal. Portugal had apparently tried to find some Ghanaian practice which could amount to forced labour practice to haul Ghana again before the ILO for, but had failed. So Portugal chose to go against Liberia on some charges of forced labour practices and Ernie Gross was there to defend Liberia. 332

Before I left for Geneva the second time, I had what turned out to be my last drive with Geoffrey Bing as Attorney-General. He asked me to give him a lift as he was at the time without his car. He was in a reflective mood. He told me that it was getting to the time when he felt he would cease to be Attorney-General and now he felt that it was a matter of weeks rather than months and, perhaps, of days rather than weeks. He had, he said, been very close to Nkrumah, ever since the latter's student days, and he had always been supportive of the President who often called on him for advice. But now he was the only white face which appeared at Cabinet meetings. At times when Nkrumah faced disagreement from his Ministers, he would turn round to him and ask whether he (Bing) did not agree with him (Nkrumah). He said that put him in an invidious unpopular position with the Cabinet members. It was clear that he wanted to bid me farewell as the end of his days as Attorney General had come. I was, therefore, not surprised when about a week later, on my way back from Geneva, after having received the report of the ILO Committee, I read in the papers in the departure lounge at Heathrow Airport in London, where I was transiting, that Geoffrey Bing had ceased to be Attorney-General of Ghana. As he had been loathed during his tenure of office by the British press, the mood of writing was one of gloating. 333

I knew I would meet a changed situation in the Office on my return. I had worked closely with Bing. I knew that his successor would use other lieutenants. But just as I had not invited Bing to use my services, I was not going to do anything about getting into the good books of his successor, unless he thought I could supply him with the assistance he needed. 334

Bing was a complex character. Many found him repulsive. Indeed, he was not altogether a pleasant man. Most of his Ghanaian political associates hated him. For quite some time he took no leave out of Ghana. This was attributed, by some, to his fear that he would lose his job once he left the country. Even Stella disliked him. But that was mainly because in my earlier years at the Office, he made several promises about jobs which would take me abroad long before my first emergency visit to Geneva: acquiring experience in the Attorney General's Department in a State like Oregon; working with Ernest Gross in New York on the Namibian question before the ICJ; working on the Law of the Sea project; visiting potentially interested States to drum up support for the World Without the Bomb conference, none of which materialised. By coincidence, these promises always came when he had some difficult assignment for me to do at home. But I regarded him with a mixture of admiration, amusement and reserve. He 335

had one of the fastest moving brains that I have ever come across. His solutions came almost as fast as the problems cropped up. There, I think, lay his value to Nkrumah who at the height of his powers, wanted to be able to pronounce on any world problem. Bing was there to advise him on the position to take, and how to express it. The advice, always plausible at the time that it was given, might turn out wrong some time later. But the point is that, at the time that it was needed, he did not hesitate or ask for time to think. He was not only fast with answers, he had a very fertile brain. He wrote well, with an elegant choice of phrase. He worked hard and was fast with results. Although he often managed to come across on social occasions as a bore, he was a delightful raconteur. I was always fascinated by his war time experiences. Knowing remarks were made about his Eastern ancestry and these seemed to derive some support from his looks. But I thought from the stories that he told of his war service that his face was shot up and had to be reconstructed by plastic surgery. That was supported by the fact that he had the habit of passing his fingers over his face as if to assure himself that it was still there.

I am sure I am not the only voice amongst the Ghanaian officers in the Department during his time who would say that he did more for the Department than any other Attorney General we knew. He fought for and had enacted the principle that promotions in the public service must be on merit. That was a principle which Ghanaians, who come from a culture which respects old age, fully accepted. Every recommendation for promotion which did not follow seniority had, during my period in Government service to be justified by the strongest possible reasons or it would fail to gain acceptance. It was refreshing to find a person who was not hide-bound by official procedures as the head of our Department. Finding a poor library, he built it up to a decent reference library which was found useful not only by the lawyers of the office but by the judges of the courts and the private practitioners allowed to use it. Never having been a colonial civil servant, he did not feel bound by the rules which inhibited colonial civil servants like Patterson. Where Patterson bought five books, Bing wanted to buy hundreds in a year. I remember the contrast in their approach. In 1956-57, Patterson asked all members of the Department to recommend books to be bought for the library. The library was then in a deplorable state; it did not have the most basic books which we needed. Being fresh from school, as it were, I wrote down quite a long list of books which I thought we needed. Others submitted lists as well. To my surprise, the Attorney General approved of the purchase of only five books, one of them being on "General Average", a subject which I am sure the office had not been troubled with during his tenure or, as far as I could gather, ever. Bing, on the other hand, encouraged us to put on our lists as many books as we could think of. Never mind if the Department did not have the vote for them. When I pointed out to him that we would be embarrassed by not being able to pay for the books from our vote, he merely said we should go ahead and order the books and see if Government would not find the money to pay for them. Government did find the money. 336

He managed to have the salaries of officers in the Department untied from the salaries of administrative officers and tied to the somewhat higher salaries of judicial officers. In his view, the officers in the establishment department who so strongly resisted such a move did not know anything about cost-accounting. They would rather see the salaries 337

of the lawyers in his Department at such unrealistic levels, having regard to what compensation lawyers otherwise get, with the result that recruitment to the Department became impossible, then make a plea with the authorities to recruit from abroad. But the money that they paid for the passages of officers recruited from abroad and for their families, the higher salaries that they were paid, the education allowances for their children and leave passages, was money which could be saved for the benefit of the State if the remuneration of Ghanaian officers of the Department were made satisfactory so that recruitment from abroad became unnecessary.

He created the drafting section of the Department which has trained so many draftsmen for so many countries in the developing Commonwealth countries. Today, the legal draftsmen of Botswana, Swaziland, Mauritius, Uganda, The Virgin Islands are all products of that section. He brought some interesting people to work in the Department. After independence, he brought out the United Kingdom First Parliamentary Counsel, Sir Granville Ram(?), [\* check ] to Ghana to advise on the setting up of a Parliamentary Counsel's office. There was a recommendation that this office should be set up as part of the Speaker's Office in Parliament. This, of course, did not please Bing, who would, in that case have lost control of the legal drafting which the Attorney General had been responsible for, even if this function was discharged by one legal draftsman, since the first decade of the century when he took it over from the Chief Justice. On that recommendation, he fought for and won a delay. But other recommendations of the First Parliamentary Counsel led to the assignment of Anthony Stainton, later himself to become First Parliamentary Counsel in England, and to receive a knighthood, to set up a Parliamentary drafting section in the Attorney General's Department and to train Ghanaians in the craft of drafting. With the establishment of that section, Charles Crabbe, who is now in charge of the training of legal draftsmen on behalf of the Commonwealth Secretariat, was assigned to it. Anthony Stainton was followed by Francis Bennion, also from the Parliamentary Draftsman's Office in England. Francis Bennion was largely responsible for the drafting of the 1960 Republican Constitution of Ghana. He wrote a book on it but shortly after publication, the coup of 1966 took place and the Constitution was suspended. It was never re-instated. He, in turn, was succeeded by Ian Evans, my former tutor at Oxford. But although Bing recruited Ian, by the time he arrived, Bing had been succeeded as Attorney General by George Commey Mills Odoi and Ian's functions were practically confined to the drafting of subsidiary legislation. Ian was the last of the line of these draftsmen.

Bing brought other interesting personalities to Ghana. Not all of these came to work for the Department. Among those who worked for the Department, were Patrick Atiyah, recently retired as Professor of English Law at Oxford University, an acknowledged authority on Contract Law in the English speaking world, and Vincent Grogan, for many years the Director of Statute Law Revision in the Republic of Ireland. Both were impressive additions to the Department. I believe Patrick was at that time finding it difficult to be accepted by the establishment in the older Universities in Britain. He had a manner which suggested that in his view, acknowledged personalities of the establishment needed their egos deflated. Others, who had not touched the brilliance of his degrees at Oxford were taken where he was turned down. I have seen him perform at a seminar of the Law Commission on strict liability in negligence when he managed to suggest



that some Law Lords present were talking nonsense. While he was in Ghana, he advised on contract questions; we, for example, worked together in the negotiation of the Tema Oil Refinery agreement with Bing. But surprisingly, his most substantial contribution was in the drafting of the 1961 Criminal and Criminal Procedure Codes, on which he did much work. Vincent helped out in the drafting of the Constitutional Acts, which accompanied the 1960 Constitution, and trained some of the Ghanaian draftsmen. Both Chinery Hesse and Kofi Tetteh worked with him and he arranged training programmes for them in Ireland. He made the use of the simple sentence, the sentence without convolutions, in drafting the style for our draftsmen to follow. Grogan recommended to Bing a young Irish lawyer, John Temple Lang. Temple Lang was with us in the Department for some six months, then left for a short period hoping to return to Ghana thereafter. But his stay with us also became a casualty of the change from Bing to Mills Odoi as Attorney General. Temple Lang is now a Director in the Directorate General on Competition, responsible for shipping, transport and other matters, at the EEC.

Bing also brought in people like John Hearne, the first Irish Foreign minister and first Ambassador to the United States, whose term of office in the U.S. was cut short when his son was involved in a fatal accident resulting from his driving for which the American authorities wanted to prosecute. John Hearne was at the time he came to Ghana quite old. He came to join the team of legal draftsmen but he really wanted to be somewhere he could be forgotten. Outside the law, Bing caused the appointment of Dr. Alan Nunn May, the atomic scientist who was convicted of passing atomic secrets to Russian agents, after he had served his sentence in Britain, to be the Professor of Physics at the University of Ghana. Bing's philosophy in promoting such appointments, was that a country like Ghana could only get expatriates of the highest calibre if it recruits persons who are not acceptable in their own countries. Other persons apply for jobs in developing countries if they are not good enough for their own countries. On the same basis, he brought out John Lang to head the University of Ghana law Faculty and the Ghana Law School, after Lang had been forced to resign his office as the second in rank amongst the Solicitors employed by the chemical giant, ICI. Lang's wife was accused of being a communist and the British Government threatened not to give further sensitive work to the company, if it continued to employ Lang. 340

Apart from the personnel already mentioned, his Department welcomed people of different nationalities like Fred Boyce of New Zealand and Namasivayam of Ceylon, popularly known as "Nam", Ernest Nicholson, who had before served in the Abingdon Council, were all drafting legislation, and Sidney Howell of Canada, who was advising on contract matters. Another Canadian came in on a short assignment to advise on the Armed Forces legislation, which was based on the Canadian legislation. Eardley Glasgow from the West Indies, who became Chief Justice of St. Lucia before his untimely death, transferred from the magisterial bench to the general section of the Department. Ulric Cross, the often decorated R.A.F. wartime flyer, who after leaving Ghana, was Director of Public Prosecutions in Tanzania and Judge in Trinidad and High Commissioner for Trinidad in London, also joined us. Ulric was so modest about his wartime flying achievements that not many people ever got to know about it in Ghana. Sidney Smith, an English lawyer who was employed to join the prosecution side, did not last long: he spent quite some time in the Accra Club, the bastion of white discrimination, from 341

where reports soon emerged that he had been criticising Government and Bing.

This large intake of foreign lawyers did not mean that the recruitment of Ghanaians was forgotten. But as there were not many senior Ghanaian lawyers with the skills required or if they had such skills, were willing to abandon private practice for the Department, the recruitment of Ghanaians was, necessarily of young lawyers who would be trained in the Department and stay on. As I have mentioned, after I had joined the Department, Kwodwo Ebu Boison came in. He joined the general group of lawyers like myself. So did Daniel F. Annan, who took his retirement some time ago from being a judge of the Court of Appeal and has for some years now been on the Provisional National Defence Council in Ghana (PNDC) which has governed the country for nearly a decade, often deputising for the Head of State, Jerry Rawlings. Lebrecht Chinery Hesse, my cousin, who went on to head the drafting section after Charles Crabbe, and after many years in that position went successively to Sierra Leone, Zambia and Uganda as technical assistance in the speciality, into drafting. Kofi Tetteh, who has for more than ten years now been the Legal draftsman in Botswana, also joined the drafting section after a short stint with the civil law under Sidney Howell. John Abbensetts was the one lawyer of some standing at the Bar who joined the Department from his practice at Sekondi/Takoradi. He came in as Senior Crown Counsel to strengthen the civil law section. J. Kobina Taylor, who succeeded me as Director of Public Prosecutions and has recently retired from the bench in Ghana as a Supreme Court Judge; Peter Ala Adjetey, former President of the Ghana Bar Association; K. Gyeke Dako, also a former Director of Public Prosecutions both in Ghana and The Gambia, and now a judge of the High Court in Botswana, and; Samuel Mensa Boison, who is in the Court of Appeal, all joined the general section.

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It was Bing's idea to have his Department represented in all the capitals of the Regions of Ghana. He came into office to find Kumasi and Cape Coast as the outside stations of the Department. He thought this was insufficient. The Police must have State lawyers at hand to give them advice both in their investigations and their prosecutions before the lower courts. Having been stationed in Kumasi not long before this suggestion was mooted, when with the assistance, to start with, of K. E. Boison but later of Dan Annan, we had run the whole of Ashanti, Brong Ahafo and the North, I doubted the wisdom of such expansion. I knew for example that the load of work from Tamale, representing the whole of the North was quite light, and asked Bing where the staff stationed in the North were going to find work to do. "Why" he answered, "We'll create work for them." I did not hear of a shortage of work after our officers had been posted in the Regions.

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The Ghana Law School also was Bing's brainchild. He had seen the services provided in the towns and villages by letter-writers; by common agreement these letter-writers were semi-literate. The letters they produced to meet their clients' instructions were often unintelligible. Bing thought in Ghana, such services would be much more improved if they were provided by trained lawyers. By trained lawyers, he did not envisage lawyers given a Rolls Royce type of education, as seemed to be the desire of most who wanted to follow the profession. A Morris Minor type of education should be adequate. He, therefore, thought that Ghana should produce so many lawyers that the work of the letter-writer in every town and village would be taken over by lawyers.

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The School should be the medium for the production of the required volume of lawyers. It was to be situated near the Courts and should have a more practical approach to the law than a law faculty in a University. Originally he thought it should be a school which would enrol about 300 lawyers every year. A bit concerned about the flooding of the profession by such large numbers annually, I asked him whether it was wise to increase the profession to that extent. These would be lawyers produced in the fashion once described by Robert Hayfron-Benjamin as the production of sausage lawyers; having lawyers like long strings of sausages which one cut on an annual basis depending on the number of sausages wanted. Bing's short answer to my question was to ask me who told me that that intake of 300 would survive the course every year. To get the school off on a proper footing, he invited a team of distinguished law teachers to come to Ghana to advise. Professor L. C. B. (Jim) Gower from the London School of Economics in Britain, Professor Arthur Sutherland of Harvard University, Professor Cowen from South Africa, who could not make it to Ghana, and Professor Fyzee from India formed this team.

At the opening ceremony of the Law School, Nkrumah called for the abandonment of the use of the wig which he described as "that ridiculous headgear", as part of the lawyer's court dress. That call did not receive a sympathetic response. Lawyers protested that they themselves should be the persons to decide what attire to wear for court. About that time discussions were held by the General Legal Council, the body controlling lawyers' affairs on whether or not to abandon the wig and gown. The story goes that the London robe-makers, Ede & Ravenscroft from whom successive generations of lawyers had bought their robes, guessing the strength of opposition to abolition, sent a man down to Accra ready to take orders in case the off-white wig and black gown were, for the sake of showing our independence from British traditions, changed to a different colour like grey. The Law School was welcomed by the public with a chorus of mild ridicule. Ghanaians who have always wanted the best form of traditional education established for their country, did not appreciate a school for lawyers who would not go through the University. The premises of the Law School were, indeed, near the Courts but they were also near the Makola market, being placed half-way between the two. Its students and products became known as "Makola lawyers". But in spite of this derogatory description, there were students keen to get a law qualification at the School and it went on for some years until the study of law in Ghana was made uniform and based at the University at Legon.

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Bing brought back Jim Gower as a Commissioner to look into the modernisation of Ghana's Company Law. Gower was then a radical Professor at the London School of Economics, with many ideas for improvement of the law in England on the subject, which he had embodied in his most readable textbook. He was able to incorporate quite a number of these ideas in the new Companies Code in Ghana which was, for many years, far advanced when compared to the law of England. That was not the only area where the Ghanaian law and practice took off in advance of the English. Many of the innovations of the Criminal Procedure Code, like the summary of evidence at the preliminary hearing in committal proceedings before trial in a higher court, were part of the law in Ghana before recognition in England.

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Although we, by and large profited from the technical expertise which was lent to us, it was not always easy to justify the conduct of some of these expatriates. Those who did not have anything else or anything as comfortable in their own countries or in other places to go back to wanted to establish themselves for as long as possible in Ghana. They were supposed to train the Ghanaian officers. They did not. Instead, they tried to make themselves indispensable. Some did not even want the Ghanaian officers they were working with to see what they were doing. When they went on leave, they locked their files in the safes and took away the keys on the basis that they were confidential files. By this conduct, they deepened the already existing resentment against them on the ground of their being foreign and increased the queries on the need for their presence, even more. Thus, they made the Ghanaians who disapproved of their conduct more determined to get rid of them as soon as the opportunity occurred. Lewis Rouse Jones and Sydney Howell were the worst offenders in this respect, and did a grave disservice to other colleagues who helped the young Ghanaian lawyers as much as they could. 347

When he ceased to be Attorney General, Bing joined the President's Office as some sort of Special Legal Adviser. So his influence with Nkrumah was not altogether terminated by his loss of office. 348

As soon as I returned to the AG's office in Accra after my second Geneva visit, I knew that my fortunes had changed with the departure of Bing. Commey Mills-Odoi was now Attorney-General. On his appointment, Johnny Abbensetts became Solicitor General. Somehow, I had even lost the room which I used as my office. I was asked to use the library. Suddenly, I found that I had no work to do. Whenever I went to see the Attorney-General and he was reading a confidential file, he hastily closed or covered it. I thought it a bit odd, as I had been used to confidential files ever since I was an Assistant Crown Counsel. But I soon reconciled myself to my fate. If I was to have no work to do, there was no better place that I could while away my time in than the library. I, therefore, occupied myself with general research work organised by myself. Outside his office, Mills-Odoi maintained an attitude of friendliness and bon homie towards me. I do not recall any legal topic of importance or interest which we discussed during the period when he was Attorney General. He talked to me about horse racing in which he had a very keen interest. Of course, I had followed the sport since I was a student at Achimota. So I was not totally at a loss in such discussions. 349

Salvation came to me from a surprising source: I found myself being asked from time to time by the Minister, Aaron Ofori Atta, to research particular problems for him. These requests of the Minister came directly to me and not through the Attorney General. There was, for example, a suggestion that the Bar be organised on the same footing as in the USSR, where all lawyers were employed by the State even when they represented individuals; what were the pros and cons of such a move. Fortunately, the office library had a number of texts, both from inside and outside the Soviet Union on legal practitioners and I was able to present a report to the Minister using, amongst other material, critical statements from Soviet lawyers and academics. That was the last I heard of the suggestion. But I had other requests from him for assistance. I began to enjoy myself very much the as legal research assistant to the Minister. Outside office 350

work, I had practically no contact with him.

Soon, there was a suggestion that the legal section of the Ministry be reorganised. Apart from the Solicitor General, a Director of Public Prosecutions, who would be in charge of all criminal prosecutions and responsible to the Attorney General directly, was to be appointed. Johnny Abbensetts continued in office as the Solicitor General. Kwasi Dua Sakyi, whom I had known at Oxford when he was at Ruskin College doing Public Administration while I was reading jurisprudence, became the new Director of Public Prosecutions. The drafting section was to become a division under the Chief Parliamentary Counsel or Legal Draftsman. Charlie Crabbe was appointed a Principal State Attorney to head this Division. Akilano Akiwumi, became a Principal State Attorney but was elevated to the High Court bench on 1 September 1962. I was also appointed a Principal State Attorney with the nebulous jurisdiction of research. I understand that my promotion to Principal State Attorney at this Stage was objected to by the Establishment Secretariat on the ground of my age. I was then about 31. But the Secretariat apparently relented when the Minister made it known to them that if I was not to be promoted the whole set of recommendations for promotion would be withdrawn. I now felt that I had a new unsolicited protector. By now, the Civil Service Act, 1960 (C.A.5), one of the Constitutional Acts which had been enacted at the same time as the Republican Constitution when Geoffrey Bing was in office, had been in force for over a year. Section 15(2) of that Act stated simply and clearly that, "Promotions shall be made according to merit." Yet it was still a common cause of grievance and complaint that someone who was supposed to be junior had been promoted out of turn.

In my research division, I continued to do odd jobs, mainly researching for the Minister. I had little responsibility for other members of staff. I saw little of the Attorney-General. Before the enactment of the Public Property (Protection) and Corrupt Practices (Prevention) Act, 1962 (Act 121) the Minister asked me to advise him on the adoption of provisions in the Russian Criminal Law on poor management and responsibility for theft of Governmental and Public Property. I opened my advice by saying, "Minister, there is no reason why provisions similar to the Russian Criminal Law provisions on 'Poor Management' and 'Responsibility for Theft of Governmental and Public Property' (attached hereto) should, if thought necessary, not be introduced into our law but, to fit them in, different treatment would be called for." I had no objection to the introduction of the concept of management of State property in a manner which leads to its dissipation or of protection of State property should not be introduced into our law. There was enough evidence of the necessity of such a law. But I was anxious that we should not start formulating laws which were not in consonance with the traditions which we had so far developed. I went on to discuss the provisions of our existing laws which were akin to though not covering, the whole of the area he was considering and to suggest the manner in which our Criminal and Criminal Procedure Codes could be amended to take care of his concerns. He did not choose the method I had advised but went for a completely new Act with a dramatic title. But it remained on the statute book more as a threat than anything else because I do not recall it being used during the Nkrumah regime. Later on, when I was Director of Public Prosecutions, I had the Act reconstructed with the assistance of Kofi Tetteh under the title of \*\*\*\*. [\* fix ] The major concern that I had with Minister Ofori Attah's Act was that it established, as the proce-

ture, an enquiry procedure which went into an allegation of corruption. Then upon an adverse finding by the enquiry, the person adversely affected was made liable to punishment. But this, I thought, was not enough protection for the person accused. The enquiry may have come to its conclusion without giving him an opportunity of cross-examining witnesses or of hearing him. It could have made its findings based solely on hearsay evidence. The Act made no fine distinctions in such matters, any finding of a commission or committee of enquiry was sufficient. In the restructured enactment that I had passed, the findings of the enquiry together with the evidence in support became prima facie evidence against the person affected in a criminal trial. The prosecution did not have to call witnesses all over again to make such a prima facie case. The accused at the criminal trial is then called upon to make his defence, which could consist of the submission followed by evidence that he was not heard at the enquiry or not allowed to cross-examine witnesses or not invited to call or make available witnesses to support his case or that the enquiry finding was based on nothing else but hearsay evidence or, indeed, any defence he wished to make. The finding of the criminal trial court would be based on the totality of the evidence, namely, the enquiry report and the material derived from the criminal trial. Questions like the burden of proof in criminal trials remained unaffected. But even this improved statute remained more as a threat than an operative instrument during the reign of Nkrumah. One of the many sins I am supposed to have committed in the Office during Geoffrey Bing's Attorney-Generalship was that, some time in 1961, Bing recruited Ian Evans, my tutor at Jesus College, Oxford, as a legal drafting advisor in succession to Francis Bennion. I had not discussed Ian prior to his recruitment by Bing. I had not been in touch with Ian since I left Oxford. I knew he had left Oxford the year I graduated but I did not know what had happened to him. But then, other people were not to know this. I got to know that Ian was coming to replace Bennion when Bing ran into me on the Office verandah one day and told me that he had succeeded in getting a replacement for Bennion. I knew he had had difficulty in finding a replacement for Bennion as the accommodation granted him by the First Parliamentary Counsel in seconding one of the members of his small staff had come to an end. Naturally, I asked who the new recruit was. He said one Evans who was working in the British Treasury Solicitor's Department. The Treasury Solicitor in Britain is the top Civil Service lawyer who advises Government on all legal matters other than criminal cases which were not dealt with by the Attorney General or Solicitor General and who instructs counsel to appear for Government in cases before the courts. His staff also draft most of the subsidiary legislation made under the Acts which had been drafted by the First Parliamentary Counsel's Office. Although Evans is a common Welsh name, even one of my ancestors bore that name, I had a momentary inspiration and asked him what was the first name of this Evans he had recruited. He tried to recall but soon confessed that he had forgotten. He remembered, however, that this Evans had a string of initials. So I asked him whether those initials were I.M.P? He said yes, how do you know. I told him that I. M. P. Evans was my tutor at Oxford. I was, indeed, delighted that I was to meet Ian again. But I knew he was going to have a difficult time as his position would be questioned on the ground that his recruitment was an additional acknowledgement of the inability of Ghanaians to discharge functions for which they were capable.

Ian came and he ran into this difficulty. He was slighted and sidelined, and when Bing ceased to be Attorney-General, he was ignored altogether. His assignment had nothing to do with me and I knew that, apart from maintaining our personal friendship, I could not help him. He was the first person to congratulate me when I was made the Director of Public Prosecutions. Of the circumstances, I will presently tell. I was his best-man at his wedding in Ghana before he left Ghana at the end of his secondment, which must have been devoid of intellectual stimulation, in November 1963. He wrote a poem which he read at his farewell party, the draft of which he gave to me to keep. It is not outstanding poetry but as it best illustrates his feelings at the end of his two years, portrays his conception of the times through which he lived and imparts some of the flavour of the Attorney-General's Office of the time, I would like to quote it: "Tomorrow I'm leaving Ghana And I'm very sorry to go Because those who come to Ghana Can't possibly hope to know Of the many smiles that await them And the endless succession of friends Who will always wave and greet them Whatever the current trends No more talk of State Attorneys Or promotion to 'Senior State' But orthodox Treasury doctrine My God, I just can't wait No more the sunny office With louvres held ajar The corridor peopled with shadows Some very familiar.

No more the easy friendship With A-Gs and D.P.Ps The minutes addressed by first names They never failed to please. The serious interest taken By messengers carrying files In the contents of their charges - And their quite bewildering smiles! The heated debates in Parliament With the draftsman looking on, Dumbfounded, and uttering quietly, Is this really what I have done? We never raise our voices And seldom admit our mistakes But you just try and draft them, My G you need what it takes.

We're beset by friendly critics (And those who don't love us so much) But the latter we find far easier - They seem to lack the drafting touch The English language is awkward With its grammar, syntax and all But the Irish have shown their mastery Why should you and I always fail? Are you and I bound to fail Yet perhaps we're improving slowly - I shall soon be put to the test By my awe-inspiring superiors And I am sure they know best. I'll write and tell you what happens But Whitakers never fails To give our vital statistics If nothing comes through the mails.

Well, this is a farewell to Ghana From a practising Anglophile Who knows when he lands in London There'll be less sunshine in his smile."

Ian left for England on 30 November 1963. He continued for some time with the Treasury Solicitor but later joined British Steel Corporation as its Legal Adviser and Secretary until his retirement. Politically, the country had been moving decidedly towards the east. There had been charges starting soon after independence that Ghana was moving towards the Soviet block. Ghana's role as a radical African country, finding itself often criticising the role of the west in international affairs and moves to detach itself from common approach adopted by the west were pointed at as evidence of Ghana's leftward lurch. I did not accept at the time that we were necessarily turning eastward. Even the change to Republicanism from the British monarchy as the Head of State was numbered as one of the supporting pieces of evidence. I had always maintained a sceptical attitude in such arguments because, as I saw it, the Gold Coast had been a part of the British colonial empire for such a long time that any move it could make as

an independent country was bound to be away from that status and bound to be interpreted by some as a move against the west. However, after Ghana became a Republic and, especially after a grenade was thrown at Nkrumah in 1961(?) [\* 1963? suggested ] at Kulungugu in the Upper region on his return by land from a visit to Upper Volta (now Burkina Faso), the feeling he must have entertained that the west was trying to get rid of him must have intensified and he increased the level of security protection he had from the east.

Events occurring after Kulungugu increased tension in the country. Tawia Adamafio, 358 who was then Minister for Presidential Affairs and the most powerful Minister in Nkrumah's government; Ako Adjei, the Minister for Foreign Affairs and the person who had first mentioned Nkrumah's name to colleagues of the United Gold Coast Convention leading to the invitation to Nkrumah to return to the Gold Coast as General Secretary of the UGCC, and; Coffie Crabbe, then the head of the CPP political machinery, were arrested and detained under the Preventive Detention Act as implicated in the plot to kill Nkrumah at Kulungugu. They were in the entourage of the President on his visit to Upper Volta. As Minister for Presidential Affairs, Tawia Adamafio, popularly known as TA, was the Minister responsible for the Civil Service. But I doubt whether many a tear was shed in the Service by his arrest. His rise in the Party hierarchy which had coincided with the demise or relegation of people who had started the CPP with Nkrumah like Komla Agbeli Gbedemah and Kojo Botsio, was watched by many with apprehension, if not fear. Before he achieved his pre-eminent position, the most interesting political speculation was to determine whether Ghedemah or Botsio was going to succeed Nkrumah. Some thought that Botsio was the more trusted of the two; others thought Gbedemah was the more competent. By the time of Kulungugu, all that was history. Botsio had fallen from grace having been accused of building an ostentatious house among other acts of transgression. Gbedemah had been driven into opposition and exile, distributing tracts railing against Nkrumah's iniquities. Tawia Adamafio was now the undisputed heir apparent. His effusive and almost sickly praise of the Preventive Detention Act, as the most effective instrument for the control of saboteurs, was remembered. For some time it had become a question of interest to determine what his future plans were. If one went about cutting down all around the leader, leaving the leader in splendid isolation, the easiest next step is to cut down the leader himself and take his place. So thought one of my colleagues in the Office. Nobody, however, associated him with any treasonable activity at the time.

There were also sporadic explosions of bombs round Accra which resulted in injuries to 359 members of the gatherings into which they were thrown. The Police were under great pressure to find out who the bomb throwers were. J. Owusu Sechere, the head of the Criminal Investigation Department with whom I often worked on criminal prosecutions, played an important part in this.

The Civil Service came under pressure to show its support for Nkrumah and the CPP 360 openly. All senior officers were invited to the Winneba Ideological College to hear the President and Party officials address them. We had been quickly taught and, as Nkrumah came in, we started singing: "If you follow him (repeated once again); Osgyefo; He will make you fishers of men (repeated twice); He will make you fishers of



men; If you follow him.”

After the speeches, we had lunch and parted company. This was followed by meetings in the Ministries to which officers of the rank of Principal Secretary and its equivalent, which included the Solicitor General, Director of Public Prosecutions and all Principal State Attorneys were summoned for discussions. We were summoned to one of these meetings in the early afternoon of 18(?) [\* date? ] July 1962. I walked across from our Office to the meeting with Dua Sakyi, the DPP, and sat by him. The meeting was delayed for some time because, as we learnt later, we were waiting for I. K. Impraim, the Deputy Secretary to the Cabinet. When he eventually arrived, he made straight for Dua Sakyi and myself, handed him a letter and another to me. It was totally unexpected. I opened mine gingerly to see what it was all about. It merely said that I had been promoted DPP as from the following day and added congratulations. I turned round to Dua Sakyi and asked him what his letter had said. There was a look of puzzlement on his face. He showed it to me. It was an exact copy of my letter except that instead of promotion as DPP, it said he had been appointed Principal State Attorney. Our positions had been switched. I was terribly embarrassed. Dua Sakyi was my friend. Since our Oxford days, we had regarded him as our elder. He was a mature student when he went up. I asked him what was the meaning of this and he said he did not know. But he looked very shaken. The ensuing meaning did not have any relevance to either of us. I left the meeting in a daze and as I approached the AG's Office, I was met by Ian Evans and he asked anxiously what was wrong as I looked disturbed. I confessed that I had just received a letter saying that I was promoted DPP as from the following day. He said, why, that is a cause for congratulations. For the first time, I saw that there was another side to the occurrence.

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Dua Sakyi must have gone through very agonising times. Aaron Ofori Attah was our Minister. They were quite close as they both came from Akim Abuakwa and it was through Aaron that he had joined the Office late in life in his senior position. But Dua Sakyi had no advance warning of the catastrophe and Aaron was not able to help him afterwards to reduce his agony by having him shifted somewhere else after the change. He eventually resigned from the service shortly after. I lost somebody [\* someone ] I considered a friend because he never really talked to me again. I need hardly say that I could not have had anything to do with his fall. I did not follow his career as DPP closely, so I did not know how he was discharging his duties. I was, on the other hand, enjoying myself in my division of research carrying on all sorts of odd assignments. He was the friend of the Minister whom I never visited socially. The switch in offices had come from the President's Office and there was no doubt that it was made at the instance of the President himself. But apart from public functions to which I was invited, I never met the President. I had no line to him. What could have happened? One explanation I later got was that the change was made upon a complaint levelled by Chief Justice Korsah. He was then close to Nkrumah. As the explanation went, he and his Supreme Court had been dissatisfied with Dua Sakyi for some time. On the morning of the eventful day, some conduct of Dua Sakyi had angered the Court so much that the Chief Justice got in touch with the President and laid his complaint. He thought Dua Sakyi ought to be removed. Thereafter, the President asked around his confidants about who could discharge the functions of DPP properly. My information was that I was suggested by

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Kwaw-Swanzy, then in private practice and quite close to Nkrumah. He was later to become my Attorney-General. Impraim was asked to write the letters, which he did while the meeting was waiting for him.

I received congratulations from many. But none of them was as touching as the congratulations which Justice Adumua-Bossman sent. It was most pleasing because I had always admired him as one of our most learned judges this century. He was also a friend of my father's and the father of my friends, Willie and John at Achimota. His letter dated the 11th of August 1962 was as follows: 363

My dear Amissah, 364

As the most intimate friend (Late Ofei Awere excepted) of your Dear Old Dad, it has given me the utmost gratification to watch the steady and assuring progress you have been making in your work; and I was infinitely happy when I read of your promotion to this highly responsible office of D.P.P. 365

I send along with this Note a bottle of champagne to congratulate you most heartily and to wish you further promotions in the not too distant future. 366

Sincerely yours, 367

A most affectionate Pal of your Dad, 368

(sgned) K. Adumua Bossman (J.S.C)" 369

Incidentally the Ofei Awere whom he mentioned was Lawyer Awere who was my godfather. He later became the Paramount Chief of Akwapem State under the Stool name of Nana Kwadade II(?). [\* name check? ] I remember that the last time I saw him was when we, in the primary class 4 and 5 at Achimota primary school based at Aburi, walked from Aburi to Dodowa to observe the proceedings of the Joint Provincial Council of Chiefs. I think he was presiding over the Council on that day. I was then about 12 years old and was quite proud to point him out as my godfather. He explained the proceedings of the Council to us after they closed. Then Johnny Quashie-Idun and I had a little time with him before our walk back to Aburi. Unfortunately, he died early and I did not have further opportunity of developing a relationship with him. In later years, his son, Daniel Awere, was a school friend and fellow horse racing enthusiast at Achimota. 370

My reply to Justice Adumua-Bossman, dated 20th August 1962 (I am ashamed looking at the letter some 34 years later that I had committed the unpardonable sin of describing a man I had known all my life, and whose sons were friends of mine at Achimota as "Aduama-Bossman". A secretarial error, but nonetheless unpardonable), was: 371

"My dear Mr. Justice Aduama-Bossman, 372

It has taken me so long to write to thank you because words capable of describing my feeling adequately have eluded me. I write now not because I have suddenly found words but for the fear that my continued silence might be construed as ungratefulness. 373

I was extremely moved by the sentiments expressed in your note. Thank you very much for it and the gift which accompanied it. I hope that the interest you have shown, and continue to show, in me will not be misplaced. I shall endeavour to discharge my new duties to the best of my ability always praying that my efforts would meet with your approval. 374

With all best wishes. 375

Yours sincerely, 376

(A.N.E. Amissah)" 377

Not very long after I had been appointed DPP, Mills Odoi was elevated back to the Supreme Court bench and Kwaw Swanzy succeeded him as Attorney General. I had, of course, known Kwaw Swanzy when he was a senior student at Achimota. He was in what we called "Inter", meaning that he had finished his School Certificate examinations and was doing the London Intermediate degree examination course. That was the course which was later replaced by the Sixth Form. But I got to know him even better when I spent the three months of the summer of 1951 at the flat of my cousin, Fifi Quartey, in 56 Eltisley Avenue, Cambridge, before I went up to Oxford. Fifi's flat was part of a building which had been divided into three flats: one was occupied by Chris Dadey, who later became an agricultural officer, rose to the position of Principal Secretary at the Ministry of Agriculture and then joined the FAO in Rome. He was a director on the board of UAC (Ghana) Limited in the latter 1970s while I was a director. I believe we were appointed to the board on the same day. The other flat belonged to Kwesi Kurankyi Taylor whom Kwaw Swanzy, with good reason, greatly admired. Kwaw, having finished his degree in history at Manchester University, where Kurankyi Taylor, won most of his academic honours, was being pestered by the Colonial Office to return home. He had other plans, as he wanted to do a post-graduate degree in Cambridge. I enjoyed watching him play his cat and mouse game with the Colonial Office. He had his way eventually and stayed on. Later on, I saw a bit of him while I was stationed in Kumasi and he was more or less carrying Kurankyi Taylor's practice as Kurankyi was terminally ill. I was very happy to see him appointed as Attorney General. 378

Even before I became DPP, I had started on a career which was to play a major part of my life later on. I became a part-time law lecturer, in both the Law Faculty of the University of Ghana and the Law School. The Law Faculty in the University of Ghana was established at a late stage, as law was considered by the colonial administration as an unnecessary and provocative profession. Soon thereafter, at the instigation of Geoffrey Bing, the Law School behind the Supreme Court building was established. I remember the opening of the Law School by Nkrumah. I have no doubt that his speech that day was written by Bing. He sat by me and as Nkrumah read that speech, I could see in him the anxiety of the composer who is hearing his work played for the first time. There was that look of relief when the difficult passages were executed effectively by the player. It was in that speech that Nkrumah called for the abolition of the wig and gown, describing the wig as that "ridiculous headgear" which had been foisted on us by our colonial masters. I understand that after that speech there was a meeting of the General Legal Council to consider the matter. Lawyers are very conservative and they 379

would normally not like to shed apparel which distinguished them from the ordinary man in the street. But in this instance some were incensed that the suggestion for abolition of the cherished apparel did not come from any of them but from an outsider. They refused to accede to Nkrumah's appeal. The story goes that as the meeting went on, there were agents of the famous wig and gown makers Ede and Ravenscroft of London pacing up and down the corridor, prepared, if Nkrumah's objection was to a blind copying of the English off-white wig and a black gown, to offer us a grey wig and gown as substitutes. That story may have been apocryphal. But anyway, when the Law School was established, Bing brought John Lang, who had up till that time been the Deputy Solicitor of ICI in England to hold the Chair of Professor at the Law Faculty in the University and Head of the Law School. ~~Lang had been relieved of his post because his wife was supposed to be a communist, and the British Government was threatening to withdraw valuable contracts from the conglomerate if Lang continued in his position.~~ [\* repetition, check on ] Lang was subsequently succeeded by Professor Harvey, the American. Harvey had chosen another American, Robert Seidman, to lecture in Criminal Law. But Bob Seidman was not in Ghana at the time, and I was asked to lecture in the meantime in Criminal Law at the University and in Criminal Procedure at the Law School. I started this, but when Bob Seidman came he took over the Criminal Law lectures and I continued with the Criminal Procedure. It was an experience which was to prove most rewarding. I enjoyed teaching. But throughout my teaching life, I could never relax over it. Each time, I had to read over my notes for the lecture before appearing at the lecture. It did not matter that I had been doing the same thing for years, and the procedure was the same; I could never feel confident about how the lecture was going to go otherwise.

## 7. The Attorney General's Office in the Republic until Nkrumah's Overthrow - The Kwaw Swanzy Era

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Kwaw Swanzy came to the Attorney Generalship straight from the Bar. He had no experience of managing a large office as the size of the Department had become by this time. Apart from Accra, we had branches of the Department in Kumasi, Cape Coast (also in charge of Sekondi-Takoradi), Sunyani and Tamale. With me in the prosecution section at that time were officers like Kodwo Boison, who became a High Court judge; Dan Annan, later to become a judge first of the Circuit Court, progressing through the High Court and eventually to take early retirement from the Court of Appeal, at the time the highest court of the land; J.N.K. Taylor, who succeeded me as DPP, and later became a judge of the High Court and retired eventually from the Supreme Court; Gyeke-Dako, who succeeded Taylor as DPP, went through some difficult phase when he was assigned to the Police as its adviser, then went to The Gambia where he also became the DPP, and eventually was raised to the bench as a High Court judge in Botswana; Samuel Mensa-Boison, who also became a High Court judge; Peter Adjete, who left the Department to go into private practice; Fred Sarkodie, who became a High Court judge and was one of the three judges murdered in 1982, Chief Sekyi, the son of the famous W. E. G. Sekyi, and a brilliant but unpredictable young man who died early; Aikins, now a Supreme Court judge, who got to that position after holding the positions of DPP, Attorney General over a long period during Rawlings' military regime; Mrs. Joyce Bamford Addo, also a DPP before being elevated to the Supreme Court; and a number of very competent young men who passed through the Department, like Kwesi Zwennis and Miguel Ribeiro. Under Johnny Abbensetts, as Solicitor General, were Chawe Doodoo who was, for over a decade, the General Legal Counsel of the African Caribbean and Pacific Group of Countries' Secretariat based in Brussels; Charles Tettey for as many years the Solicitor General and the current Solicitor General, Mrs. Grace Orleans. Lebrecht Chinery Hesse was by now the Chief Legal Draftsman, Charlie Crabbe having left by now to become a judge. With Lebrecht was Kofi Tetteh who later became the first Editor of the Ghana Law Reports and left in 1979 to draft the laws and to edit the law reports in Botswana, another Lebrecht Hesse, who became Legal Draftsman in The Gambia and is now carrying on the same duties in British Virgin Islands; Nikoi who, for many years, was the Legal Draftsman in Swaziland, Nii Aryee, who went to Zimbabwe, and another Tetteh. We had the human resources and we had the motivation. One could be forgiven for thinking, as I did, that one was building up a first class office. My friend, Kofi Tetteh, once came to tell me that he had been offered a job with the International Civil Aviation Organisation (ICAO) in Canada and asked me what I thought he should do. I told him to decline the offer. I could not bear the thought of the office I thought we were building to be destroyed by the key members abandoning ship. I did not think much of the difference in pay which the departing officer would enjoy. Money was not one of the important considerations which influenced my life then, as long as one made a decent living, which I thought we did in Government service.

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With Kwaw Swanzy's lack of knowledge of the detail of administration of the Attorney General's Department, he practically left the administration to me. I was not only responsible for the prosecution section, with quite a large staff in Accra and officers

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in Kumasi, Cape Coast, Sunyani and Tamale, but I was also responsible for a range of administrative matters. No promotion or move was recommended in any of the other sections without Kwaw consulting me. He had been a successful practitioner, and had built a comfortable home in the Airport area where he continued to live. He invited his officers to his home often for a drink. He himself enjoyed his drink at the time. He was later to become a teetotaler. But at that time he regularly came to the office after having taken a tot of alcohol. He said, as an advocate, it loosened the tongue. He was generous with his money. Peter Adjetey left the Department because he did not want to be transferred from Accra. I had asked him to go to Cape Coast and he had a number of reasons why he should not go. His wife was working in Accra; his child was at school in Accra and the move would disrupt his life; he could not afford to run two homes. But these were problems which a large number of Government officials faced and yet they went on transfer when required. The whole Government administration had been based on this system. I admired Peter very much as a valuable member of the Department but I thought that if he did not, and I asked someone else, the news would get around that there were some officers who were being protected by the DPP from transfers. I thought that was wrong and I insisted. The next thing I knew, Peter had appealed to the Attorney General on the matter. Upon being summoned by Kwaw I explained to him the administrative difficulty I would face if Peter's transfer was countermanded. Peter was called in and Kwaw undertook to cover his extra expenses which the transfer would cause him. Eventually, Peter did not accept this offer and, instead, resigned. I felt I had lost a good colleague. But I did not feel it right, in the circumstances, to approach the next officer and ask him to go to Cape Coast.

Kwaw also had a sense of humour. I remember the advice which he gave Ben Dorkenoo, when Ben had got his first job with the United Nations and he had applied for permission to leave Ghana to take up the appointment. It was during the time that any Ghanaian leaving Ghana needed to have an exit permit. Kwaku Boateng was then Minister of Interior and, as such, was responsible for the grant of these permits. Ben Dorkenoo had made his application but had got no approval for quite some time. He was getting anxious because the time for him to assume duties was fast approaching and, if he was not able to meet it, the offer of appointment would be withdrawn. He knew Kweku [ Kwaku (Uncle Roger asks) ] Boateng and had asked him about it. Kwaku Boateng denied seeing the application; the implication being that the application had got caught in the bureaucratic logjam. But an enquiry from the Principal Secretary had elicited the information that the application had been on the desk of the Minister for some time. Ben came to see Kwaw in the latter's house. What Ben really wanted was for Kwaw to either intercede with Kwaku Boateng or to let Nkrumah, whom Kwaw was supposed to be close to, know about the problem to get Kwaku Boateng to act. After Ben had finished telling his story, Kwaw came up with this surprising advice. He said the best advice he could give Ben was for him to hire a gang of thugs to waylay Kwaku Boateng and to beat him up severely because that is the only way that Nkrumah would recognise that people did not like Kwaku Boateng. However much one tried otherwise to convey the message to Nkrumah, he would not hear of it. Ben left in despair. He eventually managed to get to his post at the UN through Lome and stayed a UN Civil Servant for many years thereafter.

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I met quite a number of people, some of them of the intelligence fraternity, at Kwaw's house. It was there that I first met Eric Otu, then supposed to be co-ordinating security for Nkrumah. I also met the mysterious Major General Hassan from time to time at his house. These were all social occasions. Occasionally, Kwame Sarbah was present. Always, Kwaw was generous with his drinks. Sometimes my visit was for work but often not. I had an easy relationship with him. It was on one of the working sessions in 1963 that I acquired a reputation which Sarbah teased me about for years afterwards. It was about lunch-time but we were in the middle of a discussion which we could not break immediately. The earth began to rumble and the building began to shake. It was an earthquake. My first reaction was to reach for Kwaw's telephone to phone Stella at home to find out how she and Ralph were. I thought it was natural. I could never hear the end of this act, [\* fact? ] at least not from Kwame Sarbah. 384

My first appearance with Kwaw in court was in a relatively minor prosecution before E.A.L. Bannerman, then Senior Magistrate. The accused was charged with being in unlawful possession of diamonds. The exhibit of diamonds found was of some small dirty looking bits of ~~looking like~~ broken glass in an aspirin bottle. I do not now recall why the Attorney General or even the DPP should appear on such a case. But we did. And I there saw Kwaw display his histrionic talent as a cross-examiner and an advocate. It was very colourful. We secured a conviction. 385

The next time I appeared with him was in the second Treason Trial involving Tawia Adamafio, Ako Adjei and Coffie Crabbe. But before then there was the first Treason Trial involving Teiko Tagoe, Mama Tula and others, in which I led for the prosecution. That was the first case tried by the Special Criminal Division of the High Court. As I have pointed out in *The Contribution of the Courts to Government*, after the Akoto Case, no issue of constitutional significance came up before the ordinary courts during the first Republic. The Criminal Procedure (Amendment) Act, 1961 (Act 91) had established a Special Criminal Division of the High Court to deal with cases involving national security. The Special Division was not a continuing court but a court which was activated from time to time when the Attorney General decided to institute proceedings before it. This could be done by a fresh case being brought before it or by the Attorney-General stepping in on a case which had already started in the ordinary courts and asking for its transfer to the Special Criminal Division. Originally intended to deal with the type of cases which led to detention, it was not used until the first Treason Trial. The Court in that case was constituted by Chief Justice Korsah, Justices Van Lare and Sarkodee Adoo, the three most senior judges of the Supreme Court. The alleged treason was constituted by the accused persons' activities designed to overthrow the government of President Nkrumah. It was during the period after Kulungugu, where a bomb was thrown at the President, who was saved by the presence of mind of a security officer who forced him down on the ground when he became aware of something having been thrown. Ghana was, by now, going through a tense phase of public panic when explosives were being thrown into crowds at public gatherings. The Police were under great pressure to find those who were involved in these acts. Owusu-Sechere, the then Head of the Criminal Investigation Department (CID), was one of the senior officers involved in the investigation of this offence. Eventually, Teiko Tagoe was arrested by his men at one public gathering with a bomb hidden under his clothing. His statement led to the 386

identification of the most colourful personality among the accused, Mama Tula, a man with a commanding personality always dressed in the flowing robes of Northern Ghana, who had a sense of humour. He gave a long statement in which he said that the bombs had been given to him by Obetsebi-Lampitey, one of the famous Six detained with Nkrumah after the February 28, 1948 riots but who had since become an implacable opponent of Nkrumah and was at the time in exile from Ghana. Mama Tula had acted as the supplier of the bombs to the boys who had been selected for the purpose like Teiko Tagoe when the bombs were to be thrown. Mama Tula's hideout was found at a village called Bawaleshi, some distance off the Accra Legon Road. The evidence against the accused was overwhelming. They were convicted.

It was during the emergency that my friend, Dick Wilson, paid us a second visit to Ghana. I remember the day that he had to leave, as I looked out from our bedroom window early in the morning, I saw a long line of police officers walking very slowly, combing the area where we lived. People in cars were being stopped and searched. I wondered what delays we would encounter in getting him to the Airport. Fortunately, he managed to make his plane with only a car-boot check on the way. The Second Treason Trial arose out of the arrest and detention under the Preventive Detention Act of Tawia Adamafo, Ako Adjei and Coffie Crabbe following the Kulungugu incident. How the intelligence came that they were involved in the assassination attempt, I do not know. The Police were engaged for a long time in the investigation of the affair. Then I was later handed the docket on the case to study. I noticed that in that case the evidence against all of the party functionaries arrested was of a circumstantial nature. I thought the available evidence against Tawia Adamafo was stronger than that against Ako Adjei or Coffie Crabbe. There must have been the usual exchange between myself and the Police, asking them to investigate more into certain aspects which required further investigation their coming back with more evidence or the report that they could find nothing further. About this time, I was one day asked by Kwaw Swanzy to come to see him. Bing was with him. I was told that the President was under great pressure from his fellow Heads of State to either prosecute Tawia Adamafo, if there was any evidence against him, or to release him. The view that I expressed was that if Tawia Adamafo was to be prosecuted then the others who were arrested with him also should be prosecuted. The impression given to the world was that they were in this conspiracy together and there was no reason why one of them should be selected for a judicial trial, thus giving him a chance of acquittal while the others were left in preventive detention without trial. Later on, Bing was to write in his book, *Reap the Whirlwind* that I had advised that Tawia Adamafo should be prosecuted although he was of the view that the evidence against him was insufficient and had therefore advised against. I also learnt that when Tawia Adamafo died, that portion of Bing's book was read out by members of his family to show that it was not Bing's fault that he was prosecuted but mine. Anybody who knew of the relative powers of the Attorney General, Bing, and myself as the DPP in the time of Nkrumah, would find that statement incredible. How my views on a prosecution of that political and security importance could have overridden the combined views of Bing and the Attorney General, is a matter which amazes me. This was no ordinary criminal case; it was a case carrying the highest political overtones. I may, in the course of our discussions, have said that the case against Adamafo was stronger than that

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against the other two but that was in the context of a generally shaky circumstantial case. It was certainly not a case in which a lawyer of experience would, after reading the docket, confidently predict that conviction was assured. In any case, the DPP was at no time independent of the Attorney General. The DPP took his instructions from the Attorney General. If Bing, as the Special Legal Adviser to the President, as he was at that time, had told the Attorney General that the evidence was insufficient, assuming that the Attorney General himself knew nothing about the state of that evidence, would the Attorney General meekly state that, well this matter is in the hands of the DPP, so what he says, even in such a case, goes? Anyway, I have always believed that it is better to give an arrested person a trial and have the evidence against him tested by a court rather than to keep him for years in detention on some material which nobody knows about. Therefore, the slant to the story given by Bing to exonerate himself, though untrue, gives me no qualms of conscience.

Indeed, one thing I did which caused me great satisfaction while I was the DPP was to write a homily on the consequences of indiscriminate detentions without justifiable cause. When the Preventive Detention Act was first enacted, those detained were given some notice of the grounds on which they were detained. The grounds were quite general and wide, often alleging action against the security of the State over a lengthy period of time without giving specific dates or specific actions. The Act called for this notice to enable the detained person to make representations against his detention. But the need to follow a recognised procedure must have acted as a restraint on the freedom to issue these detention orders. But by the time I became DPP the practice of serving detainees with the grounds of their detention had fallen into disuse. By then, detention without trial had become a common thing which several Police Officers, taking advantage of the lack of enforcement of the requirement for the service of grounds, indulged in, whether because they ordered the detention at a time when they thought there was a case against the detainee, or because they were acting on the instructions of a third person who had a grudge to settle. I was aware that one officer in Ashanti had developed his own system of detention which involved a common printed form ordering the detention of a person, whose name was left blank and the signature of the officer and the date were also left blank. All he had to do was to insert the name and sign and date the document and there was a detention order on which the Police of the region acted. It was not really preventive detention under the Act but that was what preventive detention, with its indefinite term and lack of judicial scrutiny had led the public to accept. It seemed to me that, even if there was cause for the detention of the person, often after investigation when it was found that the original complaint which led to the detention had no substance, instead of releasing the detained person, which probably would, in their minds, amount to an admission of error, the Police found it easier to forget about him to languish in custody. I first asked the Criminal Investigation Department with which worked I closely to supply me with a list of all persons held in Police custody, the date they were arrested, the charges against them and the status of the investigation. The returns I received was [\* constituted? ] an embarrassing document. A large number of persons were held in custody, some over a long period of time, against whom the charge for their detention was "unspecified". That was the time when I wrote the homily. It dealt with the powers of arrest recognised by

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the law and tried to analyse in each case the procedures which ought to be followed. I pointed out the obvious that there was no recognised procedure under the law for the arrest and detention of any person for a reason that cannot be specified. I wrote about the number of people affected by illegal arrests and the disaffection which was bound to arise from such action. I later learnt that this letter had led to a number of people being released. I had written directly to the Police on what I thought was a confidential matter. But Ghana being what it is, not long after that, Victor Owusu, one of the leaders of the Opposition, told me that he had heard that I had been writing to the Police about illegal arrests and detentions. One other consequence followed from this address to the Police which I shall presently relate.

The case of Tawia Adamafo, Ako Adjei, Coffie Crabbe and others, came before the Special Criminal Division of the High Court. This time, the Court was constituted by Chief Justice Korsah, Justices Van Lare and Akufo Addo. The importance of the case was such that I was led by Kwaw Swanzy. Apart from the three CPP men, two other accused persons, Otchere, a former member of the Opposition and Yaw Manu, a messenger between the members of the Opposition outside Ghana and those within, of no great significance, were added to the accused as the treason charges were capital in nature, the accused persons needed Counsel. But the Chief Justice ruled that as they were charged with an offence against the security of the State, the State was not obliged to provide them with Counsel. The evidence was taken and the Court adjourned for judgment. Government must have felt confident that the accused would be convicted, because when the judgment was read, convicting Otchere and the other accused of little consequence, but acquitting Tawia Adamafo, Ako Adjei and Coffie Crabbe, Government's reaction was one of shock. We had a meeting in Kwaw's house. He was angry, as were other political figures present. The more they talked, the more the temperature rose. It was decided that Kwaw should hold a press conference and denounce the judgment. The press conference was arranged. Johnny Abbensetts was present and was invited to join Kwaw to the conference. I had some other engagement and was excused from attendance. Later, I was told of what happened at the press conference. Kwaw had denounced the judgment on the ground that the judges had acted iniquitously in accepting the prosecution evidence with respect to the minor accused person but rejecting it in respect of the big three. There, I thought, Kwaw was wrong because to me there was nothing wrong in what the court had done, as the evidence against each accused had to be separately evaluated. Kwaw enunciated at the press conference the rule that a court could not use the same evidence in convicting but disbelieve it in respect of other accused person.

The results of the case were dramatic and serious for the Ghana Judiciary and the press conference had unfortunate consequences for Kwaw personally. Not only the judgment but the whole case was nullified. It was by Act of Parliament treated as if a nolle prosequi had been entered by the AG, thus making the whole trial of no effect. Chief Justice Korsah's appointment was revoked by the President, as he had the constitutional power to do so but from a date prior to the hearing of the case. As a result, it was as if he had never sat on the case as Chief Justice at all. Technically, he was then reduced to the status of an ordinary judge of the Supreme Court. He resigned his office as a judge. So did Justice Van Lare. But Justice Akufo Addo took the view

that he had done nothing wrong and had no cause to resign. The 1960 Constitution was amended. Power was conferred in the amendment on the President to remove judges for whatever cause seemed to him fit. Justice Akufo Addo was removed. Of the judges who departed from the bench after the Second Treason Trial, Akufo Addo was the one who had the greatest opprobrium heaped on him. The extent of the public abuse which was hurled at him can be gauged from the parliamentary debates which I have cited in *The Contribution of the Courts to Government*, which for completeness may be repeated here. [Here Quote from *The Contribution*]

With the case nullified, all the accused were kept in custody. The Special Criminal Division of the High Court was reconstituted: [\* originally "reformed" ] instead of three judges, it was to have one judge who was to sit with a jury. The jury was to be specially selected. The trial judge was obliged, at the end of the prosecution case, to call upon the defence to make its case. The decision of guilt or otherwise had to be left to the jury. The court, unlike the previous one, was to sit in camera. Justice Sarkodee Adoo succeeded Korsah as the Chief Justice. The treason case against the same accused persons was brought before him sitting with the special jury. The trial was held in camera at Christiansborg Castle. Kwaw Swanzy again led for the prosecution. This time I was not called upon to assist. Kobina Taylor was his most senior assistant. All the accused persons were convicted by the jury and they were duly sentenced.

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It was ironical that Chief Justice Korsah's tenure of office should have been terminated over his court's acquittal of Tawia Adamafo and Ako Adjei. Some time before then, an attempt had been made by a faction of the Government which no doubt included Ako Adjei and reputedly had the backing of Tawia Adamafo, to get rid of him. The election of a judge of the International Court of Justice normally starts by a nomination by a body called the National Committee(?) [\* consider ] formed by judges, lawyers and other international personalities distinguished in international affairs. The nomination is then put forward by the State which follows up by promoting the candidature of the nominee until the elections by the United Nations General Assembly. A National Committee was formed mainly by Government nominees consisting of the Minister of Justice, the Attorney General, the Minister for Foreign Affairs, who was then Ako Adjei and the Chief Justice (Korsah). I was appointed the Secretary of the Committee. Its task was to select a candidate for election as a judge of the ICJ. When the meeting was called to order and its business was announced, Ako Adjei immediately nominated Chief Justice Korsah as the candidate. The Chief Justice protested. He had not expected to be nominated, he said; he himself had come to nominate Justice Van Lare. The Chief Justice had not planned to leave the Ghana bench at the time. His embarrassment may have been due to the fact that he had discussed the matter with Justice Van Lare before and had suggested that he was going to nominate Van Lare. So there was some difficulty over having to explain to Justice Van Lare, that instead of him, the person who was to have nominated him had rather been nominated. But Chief Justice Korsah's nomination was quickly approved. After the meeting I was seeing him off when he said, he repeated that he had not expected this result. He then asked me what the terms of appointment of a judge of the ICJ were. I told him that he held office for nine years to begin with and was eligible for re-election. The salary was by any Ghanaian standards astronomical.

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Chief Justice Korsah's nomination was transmitted to our Mission in New York. There was a lot of lobbying to be done and Alex Quason-Sackey, our Ambassador to the United Nations was there to do it. He soon started sending back messages that support for Korsah was very strong. Important States were behind him. The British knew him and liked him. The Americans were prepared to support the candidature and so was the Soviet Union, which would support Ghana's candidate because of Nkrumah. But support for Quason-Sackey from home was not strong. His messages back became more frantic. He needed assurances from home that the Korsah candidature was serious but this was not forthcoming. At a time when there had been expressions of support for Korsah, his candidature was withdrawn. A new candidate, Sir Edward Asafu Adjaye, was substituted. Apparently, it had always been the plan to withdraw the candidature of Korsah, but only after he had committed himself to resigning from the Chief Justiceship. This would have left him without anything. The support shown for him was unexpected and did not fit into the game plan. The support for Chief Justice Korsah was not transferred to Sir Edward. One question which was always asked about him was whether he had ever been a judge, which at that time the other States wanted to be satisfied on. Sir Edward, consummate lawyer and diplomat as he was, had never been a judge. That was the last chance Ghana had of having a judge of the ICJ. Others tried later to get there. Patrick Anin, when he was nominated by the Busia regime, was asked by the octogenarian Togolese judge, Pinto, why such a young man, Patrick was still under 50, wanted to join the court. Dr. Asante was put forward a few times without success. There were several promotions in the Judiciary as a result of the resignations and removal of the original judges of the nullified Second Treason Trial. I have dealt with these in *The Contribution of the Courts to Government*. The constitutional amendment which permitted the removal of judges by the President, for whatever cause he might think sufficient, also declared Ghana a one party State. The CPP was that party. The thesis was put forward that the tradition of Africa made the western style democracy unsuitable for African countries. In a way, I agreed with this thesis; I could not see an accommodating political process developed on the basis of the confrontational and, sometimes insulting criticisms found in western societies. You do not openly call another a fool in our society and expect to continue to be friends with him afterwards. And we tend to take the title Opposition too literally, thinking that we are obliged to oppose everything, whatever the merits because we are an opposition. But I was at the same time concerned that a one party state would not bring out the objections which people would seriously have to the policies of the dominant faction of the one party. Any criticism of declared policy would be taken as treachery. What the practical adjustment should be has always been the political problem of government in African societies.

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The constitutional amendment stopped short at making Nkrumah President for Life. But he was Life Chairman of the CPP and even with a one party State, Nkrumah delayed in having an election. I do not think that until the latter part of his presidency he needed a one party state for the CPP to be the party of government. Nor do I think that his election results needed to show that he had over 90% support to convince the world that he had the support of his people. When at last in 1964 an election took place, the inevitability of the result deprived it of all interest. But by this time, other forces were

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at play.

The Treason Trials did not stop the attempts on Nkrumah's life. There was one more blatant attempt. That was by Ametewee, the Police Officer on guard duty at Flagstaff House. 395

Robert Hayfron-Benjamin had joined the Attorney General's Department as a Principal State Attorney, on the Civil side. I had known him since I joined Cadbury House at Achimota. As he was a few years ahead of me we were not that close. But I remember him well: it was from him that I learnt the word "obvious". He used it so often in his many arguments, when he wanted to say that his opponent's view was so well accepted as not to merit being raised. As a result, I had to look up this word which became so intriguing in the dictionary. Later, I learnt that he was a grandson of the great John Mensah Sarbah, the first native of the land who was called to the English Bar and did so much to raise the awareness of his people in relations with the British administration. Robert's legal pedigree was pure; his father was a lawyer still in practice in Cape Coast when I started in the Attorney General's Department but occasionally appearing before the appellate court in Accra, where he was noted for raising obscure legal points to confuse his adversaries. Robert was to develop later into one of the most outstanding human rights judges in Africa. Robert was friendly with Eric Otu, the co-ordinator of security in Nkrumah's regime. Benjie, as all his friends from Achimota and elsewhere called him, called me at the office one day. He said he was with Eric, who wanted to see me. So following his directions, I arrived at Eric's office, which was at the back of Flagstaff House, where Nkrumah had both his office and his residence. There was only a wall dividing Eric's office from Flagstaff House. Benjie introduced the subject of our discussions by saying that I had decided views on preventive detention and, perhaps, Eric would like to hear them. In our discussions, it became clear that Eric was also disturbed by the measure. I had a theory that as long as it was available, people would be kept in prison under it because where they are arrested because of some security disturbance and the authorities felt that the situation was calm enough to order the release of the detainees, something was bound to happen which instead of allowing those in custody to be freed would rather ensure that more people are arrested and added to those already there. As a result, the detainee population kept increasing without any chance of reduction. He agreed with this thesis and we were thinking of possible ways of reducing the detainee population when his telephone rang. The message given him was coded and he, at first, did not understand it because he also made an immediate call, and then he put the telephone down in some bewilderment. He said the message given by the caller was that he should come over quickly because his baby was very ill. By accident, Eric's wife had recently had a baby, so he phoned home to her to find out what was wrong with the baby. His bewilderment was due to the fact that the wife said the baby was fine; there was nothing wrong with it. Obviously, the code had not been rehearsed. We were discussing the meaning of the message when the telephone rang again. This time, apparently, the voice was insistent. He must come over immediately. So, Eric turned to Benjie and me and said, he thought he must go over to Flagstaff House to see what was happening there. We should continue our discussions which were of great interest to him later and he added, ominously, "unless what has just happened makes it irrelevant." So we parted company, he to 396

go to Flagstaff House and ourselves to go back to the AG's Department. It was not long after that that I heard that an attempt had been made on the President's life. A policeman on guard duty at Flagstaff House by the name Ametewee had shot at the President at close range, missed him but killed one of the senior security officers, Salifu Dagarti. I knew I had work to do.

The docket on the Ametewee case got quite soon to me. The evidence was straight forward. All expected that there would be another charge of treason for trying to overthrow the established government by force. But I thought that we had had enough of treason trials for a while. This was a case with no obvious political overtones. True a charge of treason could be made but I thought it would continue to increase the political polarisation of the country. But here was the simplest case of murder. Ametewee had killed Salifu Dagarti intentionally. Of course he did not intend to kill Salifu Dagarti, he intended to kill Nkrumah. But in law this was no defence. You cannot escape a conviction of murder on the ground that, oh I intended to kill but not the one who was actually killed. Whether Ametewee was charged with treason or murder, the punishment was the same. It was the death penalty. I reduced tensions considerably by charging him with murder. Ametewee was furious; he had intended to make a political speech. He intended to derive the maximum political benefit from his act. He wanted to be acclaimed through his trial as the hero who had tried to rid Ghana of Nkrumah. Now he found himself charged with the murder of someone whom he considered as a nonentity. To the murder charge, he had no real defence. There were witnesses who had seen him fire within the Flagstaff House compound at Nkrumah. They had seen Salifu Dagarti fall as a result. Salifu Dagarti died as a result of the gunshot wound. Ametewee's conviction was quick and sure. On appeal, he dismissed his lawyer, and started on his political speech. But the Court told him that he was not charged with a political offence. He was enraged by this. His conviction was confirmed and he was led away protesting.

The procedure after a conviction for a capital offence was that after the judicial process was through, i.e. the trial and any appeal thereafter had ended, the trial judge submits a report of his view of the case. Sometimes, although the legal conditions which constituted the offence had been satisfied, the judge may make a recommendation for mercy because, although there had not technically been evidence which would amount to provocation at law, yet the convicted person may have been moved by insufferable conduct on the part of the deceased which morally reduced the responsibility of the convicted person. It may be that the act was not planned or premeditated over any appreciable time before the act, but was an act of the moment. The judge on the other hand may say that there was nothing which could be said in favour of the convicted person; the law should, accordingly, take its course. A conscientious judge may want to write this report as soon after the trial as possible otherwise, he may have forgotten the details of the trial by the time the appeal process is finished. But writing the report before the appeal is through may result in the trial judge writing a report which is never submitted, if the appeal were to be allowed. Most judges leave writing this report until after the appeal. Apart from the trial judge, the prosecuting Attorney would also write his views. There would be reports from the Director of Prisons and the prison doctor, the latter dealing with the physical and mental fitness of the convicted person to un-

dergo the sentence of death. All these reports are collected and collated by the senior lawyer in the Attorney General's Department responsible for prosecutions. After the creation of the post of the DPP, it was he who finally put the reports together with the various recommendations and submitted them to the President. The President would then, on the basis of these reports decide whether to grant a reprieve or let the law should take its course. Nkrumah never signed a death warrant in my time as the DPP. In fact, I do not recall him signing one during the time that I was in the Attorney General's Department, except in the case of Ametewee. That warrant came very quickly and he was executed.

Eventually, an election was called based on the one-party State introduced by the amended Constitution. The CPP fielded all the candidates. Some of them were nominated for constituencies with which they had nothing to do. It was like having a list system in a constituency context. The Party was now supreme. But the economic situation was now fast deteriorating. There were shortages of imported food items and materials. This was partly due to the fact that, in an egalitarian and more educated Ghana which Nkrumah's Government had developed, there was a great increase in the number of people consuming imported items like imported milk and butter than the colonial peoples had done. But it was also due to the rapidly deteriorating terms of trade against Third World countries and, unless the economic base and production were expanded, foreign exchange for imports became increasingly scarce. 399

I had a wretched feeling of inability to help improve the lot of the common man. But personally, it was not all doom and gloom. In 1964, I had an invitation from the German Government to visit Germany. This was organised by Count Dietrich von Bruhl, who was then the Counsellor and Charge d'Affaires at the West German Embassy. There was always some competition between the West and East Germans in the days of Nkrumah. The West Germans operated a policy of severing relations with any country which recognised East Germany. Ghana did not go as far as recognising the East German Government but we flirted as near as we could with it. There was a Trade Mission in the country, which for all practical purposes behaved like an Embassy. Ghanaian officials visited East Germany often. Nkrumah was proud of Humboldt University and other institutions in East Germany. I do not know whether an invitation from East or West during the heyday of the ideological divide meant that the invitee was excluded from invitations from the other side. But I know that my first invitation to visit a country came from West Germany and I had other invitations from Western countries afterwards. No invitation ever came to me from the East. 400

For my visit to West Germany, there was an elaborate programme prepared. My tour covered visits to Munich, Stuttgart, Karlsruhe, Frankfurt, Bonn and Berlin. In each place, I went on a tour of the sites and learnt of the culture of the place. In each place, I had a guide-cum-interpreter, who took me round and interpreted conversations. I tried to learn as much about the German legal and constitutional system as I could. Germany is the country of beer-drinking, with the beer of each of the places which I visited being different from the other. I was delighted to sample them, except in Karlsruhe, as I went around. While in Munich, I was taken to Landsberg Prison, a few kilometers away, where Hitler had written Mein Kampf. I was quite attracted to the openness and apparent easy- 401

going nature of the people of Munich. When told that I was visiting Stuttgart next, they thought I would meet a people, the Swabian people, who had no fun in life except work. I found when I got to Stuttgart, that included in my itinerary was a visit to the local prison, this time for youths. Karlsruhe was the seat of the Constitutional Court. Unlike the other cities, I did not stay there but paid a day's visit while I was staying in Stuttgart. Unfortunately, I did not see the Court in session, which I would have loved to. My visit to Frankfurt included a call on the equivalent of the Attorney-General, Dr. Wolff, who had a reputation for having resisted Hitler. But again, I was scheduled to visit a prison. It was a prison for women. My host, the Attorney General, told me that I would find that there were more women convicted of homicide in there than I would find in the men's prison. As he jokingly put it, that shows that homicide was a woman's offence. But at this stage I asked why it was that I was being shown prisons everywhere I went. My hosts looked surprised at the question. They had thought that I was interested in seeing the prisons because they had assumed that, in Ghana, the DPP was in charge of prisons. I quietly disabused their minds. They were profusely apologetic. What then, would I like to see? I said I would appreciate it very much if I was to sit in on a court in session. That was easy to arrange. I spent the next day in court at a small trial with my guide interpreting the proceedings for me. But it was too late and my stay ended before I could see the end of the trial.

Next, I went to Bonn, where I was to see the Ghana Ambassador. It was Lawyer Doe, whom I knew. He graciously entertained me. I had been dealing with a criminal case in Ghana which had a German dimension, and I discussed it with him. I stayed at the Hotel Dreisen, a beautiful hotel by the Rhine and a favourite of Hitler. But I was shown a place across the river where Adenauer, the current West German Chancellor, hailed from. From Bonn, I was flown to West Berlin, a visit to which I looked forward because my brother, Ambrose, whom the family called "Sonny" was studying veterinary surgery there. He had been in Germany since 1960. My last exchanges with him had not been too happy, and before I left for Germany, I was not sure how he would receive me. But he had phoned me in Bonn and asked where I was staying in Berlin, so from then on I was not so apprehensive of our meeting. I was staying at the Hotel Am-Zoo, and we met there. My guide and interpreter was the interpreter of Willie Brandt, then the Mayor of the western part of the divided city. I would have liked to meet him but, unfortunately, he was not in town the day that I was to meet him. My guide, Miss Amersdinck, was an impressive interpreter, without doubt the most accomplished that I came across. She also had a peculiar interest for a German; she was a fanatic cricket fan. When I found that I could not match her knowledge of the game, I began to avoid the subject. A funny incident occurred at that hotel. She left me at the hotel when she first took me there to rest and to freshen up. She was to call back for me in about two hours for lunch and to begin with my programme. Soon after she left, Ambrose arrived and came up to my room. When Miss Amersdinck returned and gave me a call from the hotel lobby, Ambrose took the call. Both of my brothers are supposed to have indistinguishable voices on the phone as myself. Ambrose spoke to her in fluent German. Miss Amersdinck had a shock. When did I become such a fluent German speaker? In the Berlin of that time, I am sure she must have started thinking that I was some sort of agent, when my brother and I came down to the lobby, then she



realised that I had a German speaking double. Ambrose was better to carry on her cricketing conversation because he was more knowledgeable about the subject than I. I had the customary visit to the Berlin Wall. The City Council gave me a lunch at which the apologies of Willie Brandt were conveyed and I was given a valuable coin, a Maria Teresa "taler" as a memento. Ambrose and friends threw a party to which I was invited. Of the friends, the one I remember was a Namibian (then still called South West African) girl by the name of Nora Schimming. I should be forgiven for remembering her because she was Ambrose's girl-friend at the time and I thought their friendship would develop into something more permanent. In any case, I liked her. But I heard later that they had broken up. She became a freedom fighter for her country and suffered persecution from the hands of the then apartheid South African government in power. The next time I met her, nearly twenty years later, she was Nora Schimming-Chase, married and divorced, with grown up children. By then, Namibia was independent. She was in Paris to set up her country's first Embassy in France. She later became Namibia's Ambassador to Bonn.

The visit to West Berlin was the end of my tour. But I did not leave Germany immediately. I had official business to transact on behalf of Ghana. I went back to Stuttgart because of the famous case known as the Djaba Case. Charges of conspiracy and fraud by false pretences were brought by the State against Henry Kwadjo Djaba, James Quartey, who was also known as Kwesi Kota, and the former Minister of Agriculture, F. Y. Asare. The charges arose out of a tender for mist-blowers used for spraying the cocoa trees as protection against disease. Government from time to time asked for tenders for the acquisition of these mist-blowers for supply to the farmers. About a couple of years before the charges, such a tender had been advertised. In competition for the award were three types of mist-sprayers: one produced by a Dutch company, a second produced by a British company and a third produced by a German company. Apparently, to the initiated, the German product stood head and shoulders above the competition. It was produced by two German brothers, Hans and Heinz Emmerich, who had started their factory, Solo Kleinmotoren GmbH, near Stuttgart from very small beginnings. One of the brothers was the engineer and the other dealt with the books of the company. By the time the case came up, they were in a flourishing way of business. Their product was called Solo. By all accounts, on any fair competition, it had to win the tender. But, what happened was not so simple. Djaba, then a young businessman and member of the CPP, was the agent for Solo. According to the evidence, he had approached James Quartey, who was the Government examiner for such machinery and come to an arrangement with him whereby Quartey was to recommend the product as the best and the two would obtain a part of the price which they would share equally between them. Hans and Heinz Emmerich were then persuaded to add to the price they required for their product, a certain figure which was to be passed back to Djaba and Quartey to share. It was alleged that F.Y. Asare, the Minister, was part of the arrangement. The Solo machine was duly recommended by Quartey and approved by the Minister. A couple of bulk orders were made by Government which were duly fulfilled by Solo Kleinmotoren and the extra money was passed back through Djaba for distribution. The newspapers occasionally showed Djaba as making contributions to the CPP at rallies. As long as the Emmerich brothers got the orders and the price that they asked for themselves, they

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were happy to see the arrangement continue. But matters took a different turn when Djaba managed to entice one Gaede, the chief engineer of Solo Kleinmotoren, from the company in order to form a rival company of their own to continue the exploitation of this arrangement to the exclusion of Solo. The Emmerich brothers then decided to report the whole matter to President Nkrumah. The President decided that Djaba and his associates should be prosecuted. I had the task of advising on and heading the prosecution. Geoffrey Bing, now Legal Adviser in the President's Office, was providing support to ensure the success of the prosecution.

On my return visit to Stuttgart, one of my tasks was to persuade the Emmerich brothers to come to Ghana to give evidence. Without their evidence, there was no chance of securing a conviction. But they were so impressed with the importance of Djaba that they were afraid of coming to Ghana. The other assignment was to find out about the accounts into which the moneys paid over to Djaba and James Quartey had been deposited with a view to their recovery. On both aspects, my visit was quite successful. I left Germany for Finland where Stella and Ralph already were, having managed to convince the Emmerich brothers that it was the President who had ordered that Djaba and his associates be prosecuted; that their evidence in the court in Ghana was essential to the prosecution case; and that nothing untoward would happen to them if they came to Ghana to give this evidence. I also got the particulars of the accounts of Djaba and Quartey into which payments had been made and put a stop order on those accounts. Later on, Dan Annan visited Germany to ensure that the Ghana Government recovered the moneys still in those accounts. 404

I took the opportunity of being so close to Finland to visit Stella's family. Stella and Ralph had already gone ahead of me, so I joined them for a holiday. I knew that the Djaba trial would take a little time to mature for trial. Finland, as usual, was restful. Stella's father, Pa Ejnar, had died in the earlier part of the year. So we were unable to renew our relationship established in 1960. Stella's mother, Ester, was kindness itself. It was amazing the infinite trouble she and Stella's invalid sister, Nora, went through to learn enough English to be able to speak to me. Walking Nora in her wheelchair was one of the relaxing exercises of the holidays. We visited Stella's brother, Rainer, who was then working with the dairy company, Enigheten, in Vasa which was my first visit up north in Finland. Helsinki we visited to see Nina and her husband, Bjarne who had a sharp and inquisitive mind. He would want to inquire into anything about a person. He was trained as a forester but a disability with his lungs caused him, in later life, to qualify as a lawyer. By this time, he was working in an international debt collection agency. He enjoyed seeing me in Helsinki as it gave him the opportunity for an evening outing to show me around. We would leave Nina and Stella at home and he would give me dinner at some good restaurant, then perhaps visit other night spots. 405

With Pa Ejnar's burial in the Kimito churchyard, I learnt an aspect of Finnish life which was so different from what I knew in Ghana: the frequency with which people visited the graves of family and friends to see that the graves were cared for and decorated with flowers. Cemeteries in Ghana for me had been places which one avoided except for those anniversaries or days of remembrance on which one must visit and pay respect to the dead. In Finland, it is a neatly laid out place which one visits often to see how 406

the dearly beloved departed are faring. The cemetery thus invites no reluctance nor fear from its visitors.

On our return to Accra, Stella and I were invited to a concert at which Marijote von Bruhl, Detriech's wife, sang classical songs to the piano accompaniment of Henry Sekyi. It was more or less the farewell of the von Bruhls as they were being replaced in the German Embassy by Dieter and Hildergarde Schaad, who were introduced to us at the concert. Also at that concert was a new couple who had come to join the American Embassy, Bill (a name which stood not for William but Willard) and Beppy De Pree. When we were introduced during the interval, Beppy, who was born Swedish said she had heard so much about Stella and how she, Beppy, looked like Stella that she was quite fed up with the comparison. They did have a certain Scandinavian likeness. We all went to our place for a drink after the concert. We got to know both the Schaad and the De Prees very well. Dieter was the number 2 in the German Embassy after the Ambassador; Bill was the head of the political section of the American Embassy. It turned out that the De Prees and we were married on the very same day and in the same year as we were. They became good friends almost immediately. Bill, being a kind and reflective person who loved books and enjoyed cultivated conversation, it was not difficult for the four of us to get on well. We often went together to the beaches at the Panagiotopulous salt flats at "Mile 7", which was on the Winneba Road, seven miles east of Accra, at Teshie/Nungua and other places. We sometimes played tennis. We attended each other's parties and the parties of friends. We did not know then that this was a friendship which was going to last for the rest of our lives. When the whole of our family visited the United States in 1973-74, they were most kind and helpful to us. We spent our fortieth wedding anniversary together in Bermuda in August 1996.

Ghana was of some importance in the calculation of the international community around this time because it was then full of young diplomats who later rose high in the service of their own countries. It must have been taken as the training ground for promising young diplomats. Bill himself became Ambassador to Mozambique and later to Bangladesh, where he won the presidential order of merit in the service twice and, for many years later, the chairman of the Inspector [\* Inspectorate? ] of the US Embassies. He was unlucky to have been adversely noticed after Mozambique by the ultra-right Senator Jesse Helms, who was for many years a power in the Foreign Affairs Committee of the Senate responsible for approving ambassadorial appointments. Under Bill in the Political Section of the American Embassy served Jack Matlock, who later became the US Ambassador to Yugoslavia and then for many years the Ambassador to the Soviet Union, followed by a seat in the National Security Council advising the President of the US. Jack's and Rebecca's parties were characterised by games requiring a high degree of intellectual concentration. The Dutch sent a succession of young diplomats who occupied very high positions in later life. There were Wim and Aneke van Ekelén, who staged a memorable treasure hunt; Wim later rose to become his country's Minister of Defence, followed by the Secretary General of the Western European Union. They were soon succeeded by Joris and Yvone Vos; Joris later became Ambassador to Australia, to the Soviet Union followed by an ambassadorship to Russia and a number of the successor States of the disintegrated Union, and later of the United States. Dieter and Hildegard Schaad were in the German Embassy; they hosted the fancy dress party at

which General Ankrah appeared some five days before Ankrah became Head of State; Dieter later ended up as Ambassador to the International Organisations in Austria. Mahen and Mona Mahendran were in the Sri Lanka High Commission; Mahen became his country's Ambassador successively to China and Japan and was, afterwards, adviser to the President on Foreign Affairs. The Ambassadors themselves were often people of quality. There was Franklin Williams, the American Ambassador who later took on the task of black education with the Phelps-Stokes Foundation. Jamsheed and Diana Marker represented Pakistan. Jamsheed was later Ambassador in Switzerland, then the United Nations and the US. Over thirty years later, he was still active as the UN Secretary-General's special representative on East Timor on its relations with Indonesia. Unfortunately, the Australian High Commissioner of the time, John Ryan, who was in Ghana with Pat, his wife, and who, after being among other things, High Commissioner to Canada, became head of the Australian intelligence services, died early after some of his staff had bungled a sensitive mission. Sending people of high quality to serve in the diplomatic corps in Ghana continued for some time after this.

I recall that on my return to Ghana from Germany and Finland, I had to visit London with the necessary papers to secure Djaba's extradition because he was there at the time. The affidavit of the law of Ghana, that I drafted and swore to for the English courts with the advice of Bing was a voluminous printed book. It gave me the experience for the next important extradition exercise when I did a similar document for the extradition of Kwesi Armah, the former High Commissioner to the United Kingdom and Minister of International Trade at the fall of Nkrumah, whom I tried to have extradited from the United Kingdom after the 1966 coup d'état when I was acting as Attorney General. In the case of Djaba, on the advise of Geoffrey Bing, we had employed the services of Joynson-Hicks, the solicitor firm established by the one time Home Secretary in Britain. However, when I got to the Magistrate's Court in London and Djaba was brought in, he undertook to return voluntarily to Ghana to stand trial. An order was made accordingly and so there was no further need for a fight in the English Courts to secure his return to Ghana. 409

The trial was before Justice A. A. Akainyah, who had been appointed a judge in 1964. [\* fixed by Uncle Roger from note 127 at p.195 of "Contribution of the Courts to Govt." ] I remember clearly when he returned from England as a qualified lawyer, because I was then in 1949 about to leave to England for further education and my father bought his black and grey herringbone great coat second-hand for me to take. Unfortunately, Akainyah was a much larger man than myself and I was saddled with this ill-fitting coat for a while. The defence was led by Victor Owusu. The original charges which came before the Magistrate's Court for committal had been drafted by me. But by the time the case came for trial these charges had, on the advise of Bing, been referred to the lawyers in England for review and they had made some modifications to the substance of the charges. Victor knew how this had come about and he paid me a compliment by saying that he was going to challenge the new charges and, in an aside, said the charges I had originally drafted were the correct ones. 410

The case was quite controversial because a number of people thought that the accused persons had done nothing wrong as what they did was business. I found this strange. I 411

could understand that Djaba as a private businessman would come to an arrangement with the Emmerichs to charge a price, including an element over and above what the Emmerichs themselves wanted, which would be passed on to him as his profit. What I failed to understand was that it was considered acceptable business practise to corrupt a public officer to one's advantage. That Djaba should go out of his way to agree with the government official responsible for the testing and approval of the machines that, if the latter recommended the Solo machine and Government bought it, they would share the element of the price which he has caused the Emmerichs to add on to their price, was to me not mere business but a conspiracy to corrupt a public officer. I must say that this argument was more in the public domain than in the trial court. Victor did not use it as his defence.

The trial resulted in the conviction of the accused. Just before the conviction, the law was changed to make the penalties for the type of offences for which the accused had been charged much stiffer. Upon conviction, the trial judge sentenced the accused not for the penalties in existence at the commencement of their trial but those imposed by the amendment. The learned judge took the view that the sentence was a procedural matter and, in law, although a substantive provision could not be amended to adversely affect an accused, a procedural matter could be changed at any time and be made to apply immediately. There was an appeal against the conviction and sentences which had a curious history. But by then I was no more in the Attorney General's Office, and not responsible for representing the State in criminal cases.

I also visited Australia in August, 1965. The Commonwealth Law Conference that year was held in Sydney. The Ghana Government was prepared to sponsor the Chief Justice, the Attorney General and a practising member of the Bar. But, Justice Sarkodee Adoo, the Chief Justice, did not want to go and chose Fred Apaloo to represent him. Kwaw Swanzy did not want to go either and so he asked me to go in his stead. Stella, whom I had tried to teach how to drive in Kumasi, without success, insisted that if she did not get a driving licence, I would not be able to travel for the conference. She was then carrying our second child, Tonesan, and did not like the idea of being stranded in my absence. We had to get down to serious driving lessons and, fortunately, she had enough time to try a second time and pass before my time of departure.

David Effah was the member of the Bar chosen. He turned out to be a congenial travelling companion. David and I flew from Ghana first to Rome, where we joined a flight from London to Australia on which Fred was. It was a long flight which we broke in Singapore. We arrived in Australia on the morning the conference started. Lord Gardiner, the Labour Lord Chancellor, was most impressive in his opening address, as indeed was Sir Elwyn Jones, the Attorney General. Among the dignitaries who then spoke was Sir Samuel Quashie-Idun (Uncle Okai). He was then on the East African Court of Appeal. Through him, I got an introduction to the Chief Justice of Nigeria, Sir Adetokumbo Ademola, and to Justice Udo Udoma, who was also on the East African Court. The Australian organisers, led by John Kerr, had put on an impressive programme of discussions and entertainment, which went off very well. I believe he was knighted afterwards. He later became Governor General of Australia and made history by sacking Gough Whitlam, the Labour Prime Minister. The conference organisers assigned groups of foreign Com-

monwealth lawyers to Australian lawyer hosts. Mine was Biddulph, who went around in very simple clothes but had a home which exuded wealth. He and his wife were most generous hosts. The name Biddulph was not common but I had been at St. Bees School with one Jim Biddulph and I asked my host whether he was connected. Of course, it was a wild enquiry; he thought their name was so unusual that they must be distantly related but he did not know my school-mate or his immediate family. Years later, Biddulph was to act as an equally generous host to my brother, Sonny, when he visited Australia. I was also invited by Justice and Mrs. Fox for dinner. Mrs. Fox had the practice of making her dinner guests sign their names on the table cloth used, which she afterwards embroidered. I had the good fortune to be invited by them again ten years later and was surprised to be shown the table cloth which we used in 1965. My pupil-master, Tom Kellock, wrote a paper and participated in the panel discussion arising from it, which made me quite proud by association. The Ghanaian contingent were put up at a motel in Wolomoloo, which apparently is not one of the best areas of Sydney. But the organisers must have been pressed to find sufficient accommodation for the large number of participants who turned up. I was dumbstruck by the breakfasts served at the motel. It consisted, among other things, of a large plate of lamb chops every morning. Obviously, the Australians being hard-working outdoor people, needed a hefty breakfast in the mornings. But such a hearty breakfast came as a surprise for someone who had been led to believe that eggs and bacon or kippers were the heaviest meal that a person should endure early in the morning. [\* sentence modified ] I was, however, taken by the general beauty of Sydney, especially the Middle Harbour area and its architecture, and wondered why my friend Winky Scott, the architect, had left the city for Ghana as a young man.

We called on the Australian Chief Justice, Sir Garfield Barwick, who delighted us with his common touch. He took us outside his French window to show us the Sydney Opera House then under construction. At that time, the raging debate was whether it was worthwhile having regard to the fact that it had overshot its budget by several million dollars. Sir Garfield thought the complaints silly because all that was needed to meet the rising cost was a lottery which people would happily indulge in. One of the highlights of the Conference was a dinner in which Sir Robert Menzies, the Australian Prime Minister, was the guest of honour. Around him were legal personalities like Lord Parker, then Chief Justice of England, who with other luminaries around had been Sir Robert's juniors when he used to appear before the Privy Council. 415

The Sydney Conference was followed by a conference of Chief Justices and one for Attorneys General held in Canberra. Fred Apaloo attended the Chief Justices' conference and I attended the Attorneys' General Conference. Canberra was then very new. The building programme was not very advanced and the lake was practically empty. I remember pleasant walks round Canberra with Uncle Okai and Justice Udo Udoma. My main recollection of the Ministers' conference was a discussion of the possibility of broadening the base of the Judicial Committee of the Privy Council by the addition of judges of other Commonwealth countries and organising sittings of the Committee in places other than London. This was Lord Gardiner's last throw at a question which had vexed many observers of the Privy Council, especially as its jurisdiction was continually dwindling by the withdrawal of several of the new Commonwealth members. Ghana 416

had withdrawn from it after the introduction of the Republican Constitution in 1960 and Nigeria, after the Akintola v. Adegbenro case a few years later. Several contributors who had a romantic attachment to the institution spoke positively of the suggestion. Of course, I had no mandate to speak one way or the other on this issue and, although I thought that it was too late for Ghana to come back to the fold, I held my peace. The Canadian Minister, who had been silent throughout the conference, at this juncture, read a short prepared statement. Canada had withdrawn from the Privy Council because it thought that the Privy Council was not the best judicial forum to deal with the problems of Canadian federalism. If the suggested plan of enlarging the Privy Council and making it less Anglo-centric was to attract Canada back to it, he, the Minister said, had authority from the Canadian Government to say that Canada would never come back under any circumstances. He read his prepared statement and fell thereafter into his customary silence. But the effect of his statement was dramatic. It undercut the base of the project. After it, other countries made contributions about the possibilities which the suggestion held. But there was no doubt in the minds of all that the project had been killed by the Canadian statement.

From the Canberra conference, I joined David Effah in Sydney and together we flew to San Francisco, through Pango Pango in American Samoa and Honolulu. Altogether, we had spent about three weeks in Australia and I had thoroughly enjoyed it. From time to time, we had been accosted by protesting Aborigine groups who wanted the delegates to the Commonwealth Law Conference to take note of their plight. I had great sympathy for them but, when I raised the matter with Australian friends, they admitted that the Aborigines had been badly treated but that the Government was making efforts to redress matters. We went back through Honolulu, as indeed did Fred Apaloo, because we had been invited to that year's World Peace Through Law Conference which was being held in Washington D.C. Besides, we had been awarded Leadership Grants by the American Government, under which we were to tour the United States and meet people of interest, after the Washington Conference. There was the minor additional achievement that going back through the United States would enable us to claim that we had flown right round the world. 417

On arrival at San Francisco Airport, I found a surprise invitation waiting for me. Just before I left Accra, I had seen Dick Davis who was with VALCO, the Kaiser Aluminum and Reynolds subsidiary, which had been established to buy the major part of the electricity generated by the Akosombo Dam in order to make the project viable. Dick was sorry he had not known earlier of my intended visit to San Francisco because he would otherwise have arranged for me to meet Virginia De Friest (nicknamed "Quig" standing for "the Quinby Girl") as both her father and brother were lawyers in San Francisco. I regretted this fact but it was too late then to do anything about it. But there at the San Francisco Airport was a letter from Mr. James Quinby, Virginia's father, inviting me to phone him so that he or Carter, Virginia's brother could pick me up and drive me to his home in Palo Alto. I had never met Virginia but this, I thought, was an opportunity not to be missed. I had six days in San Francisco before moving to Washington D.C. for the next conference and I had no special programme for those days. So I phoned Quinby Senior, and we arranged that he would pick me up and take me to Palo Alto, which he did. I met Virginia's mother, Catherine, and later Carter and 418

wife joined us for dinner. Carter, was in the same firm of Quinby, \*\*\* [\* missing name ] and Tweedt with his father, who had an admiralty practice, and was good company during my stay in San Francisco. I slept in Virginia's room, which was still furnished with her old cot and had her childhood dolls, that night. To her family, I was an old friend of Virginia's who had come visiting from Ghana and they treated me as such. Quinby Senior took me round the campus of Stanford University nearby and gave me a bit of its history. I met Virginia and her husband, Jim De Friest, who was with Mobil Oil in Ghana, when I returned from my American visit.

I had one other contact in San Francisco: that was Bill De Pree's sister, Lila. Bill asked me to get in touch with her and her doctor husband, which I did. I was under strict instruction from Bill that I should not ask for any alcoholic drink when I visited them. Bill came from a teetotal Huguenot family in Michigan. He had been corrupted by the diplomatic life into drinking alcohol but he thought from that standpoint that Lila was pure. When I went to them for dinner, I was duly asked by Lila what I wanted to drink and I started going round the non-alcoholic drinks that I knew. But I was cut short by Lila, who said, she did not know what I was going to drink but she was going to have a gin and tonic. I was staggered. Bill did not know his sister any more. I enjoyed the evening more with them after this realisation. 419

San Francisco was an impressive city. I came away thinking that it was one of the most beautiful cities that I had seen. I liked riding on the trams in the undulating streets. I went around for walks, in one of which I ran into Chief Justice Ademola of Nigeria. His son, Neko, also a lawyer was married to Uncle Okai's daughter, Frances, and so, apart from law and conferences, we had common personalities to talk about. He was also Washington bound and was spending some time on the way in San Francisco. Eventually, I flew east to Washington D.C. 420

World Peace Through Law conference idea was developed by an American lawyer by the name Jim Ryan. The idea was neatly embodied in the title. It involved the collection of a large number of judges and lawyers from all parts of the globe to talk about securing world peace through law. It was a mammoth jamboree. No doubt, learned papers were read on the subject. I confess, I retain no recollection of their importance or impact on world peace. 421

I stayed in Washington with my old class-mate, Kwame Boafo (M'Bro) and his wife, Diana. M'Bro was then Counsellor at the Ghana Embassy. After his degree in Politics, Philosophy and Economics (PPE) at Queen's College, Oxford, he was selected as one of the early batch of Ghanaians to be trained as diplomats. His group must have followed the first batch selected before independence which included K.B Asante, Richard Akwei, Alex Quayson-Sackey, Henry Sekyi, Ken Dadzie and Kodjo Debrah. In the course of his training, he was sent to Australia. M'Bro was later to hold several ambassadorial positions in Lebanon, Yugoslavia and the Soviet Union. His career was surprisingly cut short in the 1980s for some reason which none of my friends in the diplomatic corps was able to explain. His service was terminated together with several others all of a sudden. Several reasons were assigned generally to cover the whole group of diplomats whose services had been dispensed with. For the other persons whom I knew, I either had heard things which could identify the reasons for their termination of office and, if not, 422



I got explanations when I enquired. For the termination of M'Bro's appointment, there was nothing. I made it a point of asking distinguished diplomat friends like Ken Dadzie and Kodjo Debrah but they had no explanation. It has always been a matter of great regret to me that such a valuable career should have been cut-off before its natural end without any explanation at all.

The Ambassador at the time was no other than my old teacher, Uncle Mike Ribeiro. After our last meeting in London when he was in charge of education and scholarship matters in the Ghana Mission, he had joined the diplomatic corps and become Ambassador, first to Ethiopia, West Germany, and was now in Washington. He was later to become Ambassador to Rome and several other States round the Mediterranean. Uncle Mike had always looked on me as a nephew and a bright old student who should be indulged. On my part, I was always grateful to him that he had set my mind at rest through his advice about choosing law as a profession. As is to be expected he entertained me in Washington. But he also invited me to accompany him to New York, where the Ghanaian representative, Alex Quayson-Sackey, had become the new President of the General Assembly. In New York, we stayed together at his hotel at the Plaza. Diplomatically, Ghana was still an African voice to be reckoned with at the time. Quayson-Sackey, whose final year at Exeter College, Oxford, coincided with my first year at Jesus College, had now reached the pinnacle of his diplomatic career. He was shortly thereafter to be recalled to be Minister of Foreign Affairs, a post which he briefly held until determined by unforeseen circumstances. 423

I was now to continue with a tour of the United States in the company of several other young persons from other countries who had all been awarded Leadership Grants. I had been away for six weeks and I was quite tired. I decided to apologise to my American sponsors and to return home to Ghana. 424

The atmosphere in Ghana was not so rosy. Tension had been mounting since the Kulungugu bomb was thrown in 1961, the political and security tensions increased continuously. Kulungugu was followed by the throwing of bombs at public meetings to create an sense of fear and insecurity among the Ghanaian people. Komla Agbeli Gbedema, who had been one of Nkrumah's right hand men from the inception of the CPP and who had been a capable Minister of Finance in the early years of independence, had broken with Nkrumah, escaped from the country and papers were being sent through the post ostensibly under his hand denouncing Nkrumah and threatening an overthrow of the regime. Nkrumah, who must have thought that the Kulungugu bomb was inspired by Western nations who wanted to get rid of him, had dispensed with earlier security advice from the West and was increasingly relying on Soviet protection and assistance. After Ametewee had shot at the President and killed Salifu Dagarti, the top echelon of the Police was arrested and detained. This included R. T. Madjitey, the first Ghanaian Head of the Police, who was then Inspector General, S. D. Amaning, one of his Deputies, and T. O. Adjirakor. The Security Services were re-organised in order to bring about what was supposed to be a rational and unified structure. But it was difficult to bring everything under one structure. It was for example, difficult to fit in Military Intelligence with the rest of the civilian structure. Nkrumah was accused of relying mainly on people of his Nzima tribe for his protection. This was supported by the closeness 425

to him of his eminence \_grise,\_[\* grace??? ] Ambrose Yankey. But there was still the group of Anlogas from the Keta area in Special Branch even after John Harlley left Special Branch to become Inspector General of Police. It is also true that Ben Forjoe (Uncle Ben), who had succeeded Harlley as the head of Special Branch, was Nzima. But he was not under the control of Ambrose Yankey. Indeed, during this time, Special Branch had information that Ambrose Yankey's son, who apparently worked in his father's outfit, was going round the Lebanese community extorting money. Uncle Ben organised the arrest of Yankey junior while he was allegedly with one of these Lebanese victims who had handed him money prepared in a parcel by Special Branch. The case was taken to court. The papers were sent to me and I was asked to depute a State Attorney to prosecute. At about this time, Nkrumah went on one of his holiday meditation sessions in Western Ghana. Ambrose Yankey was with him. Shortly after that, Uncle Ben visited me at home one morning before I left for work to tell me that he had been instructed that a nolle prosequi should be entered in the case. I did. A British MI5 agent who had been attached to their High Commission, but who had been involved in the training of Special Branch personnel for the previous 9 years or so, was withdrawn from Ghana.

Relations with the British Government itself were at their nadir because, on the declaration of UDI (unilateral declaration of independence) by Ian Smith, Prime Minister of Southern Rhodesia, Ghana had broken diplomatic relations with the British Government. The High Commissioner, Harold Smedley, had been withdrawn. British interests were being handled by the Australian Government, with Solly Gross, the former Trade Commissioner as Head of the small British interest section in the Australian High Commission. 426

It was not only in the Police establishment that there were changes. Changes occurred also in the Military. Generals Steve Otu and Ankrah who held equal rank at the head of the Military were suddenly relieved of their duties on the return of Nkrumah from a visit to the United Kingdom amid rumours of dissatisfaction in the Military and of security plots. General Ankrah was put in charge of one of the State corporations. General Barwah became the head of the Military, with Steve Otu's younger brother, Mike, the head of the Air Force. But the President's own favourite military unit was the Presidential Guard, which was responsible for guarding him at Flagstaff House and was also used for ceremonial purposes. This unit was under Colonel David Zanlerigu. Grumbles from the Military were to the effect that this unit was being given preferential treatment in weapons and privileges and perks. 427

During all this state of change and uncertainty, the Ghanaian economy was declining rapidly. There were shortages of all kinds of commodities, which the Ghanaian had come to expect with independence. This sense of deprivation was intensified by the sweep of detentions without trial, most of which were unannounced. 428

With the Government take-over of the Daily and Sunday Graphic newspapers, originally founded by the Daily Mirror Group in England, and the establishment of the Ghanaian Times, as well as ideological papers like The Spark, owned by the Government, and the control of radio and subsequently television broadcasting by Government, information was wholly controlled by Government. The result was the proliferation of rumours of all 429

kinds as the source of information which Ghanaians preferred to rely on. A wag once said that one had to listen to the BBC World Service to find out whether one has been detained.

In this state of tension, the Volta River Project was given its official opening, I believe, in November with ceremonies at Akosombo and a dinner at the State House (Job 600). I recall that our friend, Jean Steckle, was visiting us in Accra on that day and we were sitting in our house behind the State House watching the lights when, suddenly, all went dark. Goodness, I thought, how could those in charge of the proceedings avoid being accused of sabotage? I was quite relieved when I found that Nee Quartey, who was then the Chief Electrical Engineer, retained his post afterwards. 430

Our daughter, Marianne Tonesan, was born on 8 December, 1965. She had to be called Tonesan after my maternal grandmother, Tonesan Okorodudu of Warri, Nigeria, had died three weeks before our daughter was born. Giving our daughter the name, Tonesan, pleased my mother immensely but she also noted that I had not named my daughter after my godmother, Mrs. Marion Odamtten. Stella really did not believe in naming children after others. She thought a child should have its own personality and, consequently, its own name. However, she agreed to the name Marianne as the nearest to Marion which was acceptable. Her invalid sister, Nora was also called Marianne. My mother went away to Nigeria for Grandmother Tonesan's funeral. She was greatly helped by David and Brenda Garrick; David, who was a director of Gulf Oil in Nigeria, had her flown by private craft from Lagos to Warri. When our daughter, Marianne Tonesan, was christened, her godfather was J. H. Mensah who, being a Catholic, had to be represented by a more acceptable Anglican for the occasion. 431

All through this period, we had kept up our arrangement whereby friends visited us for lunch and some stayed on or a new set visited for tea on Saturdays. We continued this arrangement practically every Saturday when Mungo would turn up for tea. On the rare occasion when he did not, there was concern about his health or some other disaster overtaking him but, usually, his absence was because he had travelled to Takoradi or Kumasi on a case and had not returned. The tea arrangement was tied up with a regular lunch which we had prepared by Auntie Korkoi who must have been a young woman when she became the cook of my grand Aunt, Nanaa, before I went to England. When we came back, I got my mother to agree with her on cooking for us every Saturday. I would give her the money and she would buy what was necessary and cook us the meal. It was usually either palm soup and "fufu" or garden egg stew with "banku". It was delicious. We made it known to all friends that lunch was available on Saturdays but upon one condition: immediately after lunch, I was going to retire for a nap. Those who wanted to stay and have tea with Mungo and the rest of us could amuse themselves as they wished until then. I appeared again at tea-time. Of course, Stella often did a lot of baking for the tea. Not having been grounded properly in our customs, I found myself in trouble some time after Auntie Korkoi had started cooking for us. Her husband walked to our house. We were then living at Osu behind the State House. He wanted to see me. He made it clear that he was displeased by the fact that I had asked his wife to cook for me without his permission. Perhaps he wanted some compensation. But I told him, by way of excuse, that the whole arrangement had been 432

done by my mother and that he should see her for the resolution of this complaint.

In January 1966, the Nigerian Government of Prime Minister Abubakar [\* check original name written was Abubakir ] Tafawa Balewa was overthrown by a coup. He and his Finance Minister, Chief Okotie Eboh, were killed. So was the Premier of Northern Nigeria, the Sardauna of Sokoto, who had always regarded Tafawa Balewa as his surrogate in the central government. The coup took place after a Commonwealth heads of government meeting in Lagos. There was talk of Prime Minister Wilson having information of the impending coup and inviting Tafawa Balewa to join him on his plane to England, an invitation which Tafawa Balewa declined. Nkrumah made an ungenerous remark about Tafawa Balewa being swept away by forces which he did not understand. He was to be reminded of this remark just one month later. In the unsettled situation created by the Nigerian coup, travel there was not easy. ~~David Garrick was a director of Gulf Oil in Nigeria, and organised her transportation to Warri in the company's private aircraft.~~ [\* repeated a few paragraphs earlier ]

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On 19 February, Dieter and Hildegarde Schaad threw a fancy dress party at their residence in Latebiokorshie. I remember going to the party as a pipe smoking sailor. Other friends in the diplomatic world and the public service were there. So was retired General Ankrah. I did not then know that in less than a week we would be called upon to work together. In late afternoon of 23 February, there was a regular meeting in the Attorney General's Office of a committee for the control and prevention of crime, on which Kwaw Swanzy, as Attorney General, I as DPP, and Tony Deku as head of CID, served. The meeting was very ordinary. I did not know that in less than 24 hours the positions of the three of us would radically change.

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At dawn on February 24, there was an announcement on the radio that Nkrumah and his government had been overthrown. The CPP had been disbanded. The Constitution had been suspended. The announcement read by an army officer by the name of Kotoka, invited Ghanaians to stay by their radios. I immediately phoned to Kwaw Swanzy and asked him whether he had heard the announcement. He had. I asked him what he was going to do. He said the announcement had asked all Ghanaians to stay by their radios and that was what he was going to do. Outside, there was already dancing and celebrations. I wondered whether the persons celebrating were not being incautious. I decided that this was a day for staying away from work. The radio, when it was not making an announcement on the coup, simply played martial music. Nkrumah was out of the country at the time. He was on his way to Vietnam to mediate in the war between the North and the South. The news was apparently broken to him when he arrived in Peking on the way. I was, however, not allowed to stay by my radio as I had intended that morning. Before 8 o'clock, a Police car drove in. When I walked out of the house to meet it, out stepped Tony Deku of the CID, unusually clad in uniform. He gave me a salute and said that I was wanted at the Police Headquarters. I quietly followed him into the car, not knowing what I was wanted for.

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## 8. The Early Months of the National Liberation Council

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At the Police Headquarters I was ushered into the office of the Inspector General, John Harley. With him at his desk was the retired General Ankrah. It was obvious that the two of them were in charge of things. Officers kept coming in for instructions which were being issued with great authority by the two of them. They told me that they needed me to assist them. I was eventually taken to Harley's conference room which was a hive of activity, with movements by policemen and soldiers in and out. In the midst of this turmoil sat Nee Noi Omaboe and Daniel Sackey (DS) Quarcoopome. Both of them were friends. Nee Noi was the Government Statistician. Later he became Nana Wereko Ampem, a Chief of Akwapim, to which office he brought great dignity. At the same time, he carried on his activities as a businessman, economist and a member, later Chairman of the United Nations Investments Committee. DS, I had known since childhood. At one time, we went to the same school. He became an administrative officer and spent some time in Northern Ghana, where Stella and I visited him in Navorongo. He had for some time been working on security matters, a field in which he was to rise to the top. On retirement, he became a large-scale farmer. I also knew the senior police officers around the conference room that day quite well: Harley, who was the Commissioner of Police, and Deku, a Deputy Police Commissioner in charge of the Criminal Investigation Department, I knew well as I had worked with them in the course of my duties as Crown Counsel, State Attorney and Director of Public Prosecutions. Deku was with me at an official meeting on crime prevention just the afternoon before the coup. I did not know John Nunoo, although he seemed to know me. Of the soldiers, my class-mate Coker Appiah came in, though not frequently. But I did not know the others except Ankrah, who had always regarded me with avuncular interest. We had in fact been to a diplomatic fancy dress party just five days before the coup. Nee Noi had been writing something and I was asked to join him in that effort. It turned out to be a justification for the coup. Nee Noi had been writing the economic justification and I was asked to write the non-economic justification. Our efforts were later merged and used by General Ankrah in his first broadcast to the nation. Soldiers like Brigadier Kotoka, Ocran and Colonel Afrifa kept coming and going in a state of high excitement. Afrifa had a terrible habit of leaving his machine gun on the floor in awkward places. Not being used to weapons, the possibility of tripping over a loaded gun and setting it off was highly disturbing. I pointed out to him the danger that he exposed people like me to. I asked what he thought would happen if I tripped over the gun and it went off, smiling he answered that then I would be a man. DS was turning his high-powered short-wave radio to international news reports, like BBC and letting everybody listen to how the world was taking the coup. Gradually, the picture of what was happening sank in.

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It was clear that the important centres of the country had been secured by the coup-makers without resistance. There had been fighting between the main body of soldiers who were under the command of the coup-makers and the small crack Presidential Regiment led by Colonel David Zanlerigu based at Nkrumah's residence and office in Flagstaff House. Afrifa wanted some method of getting it across to Zanlerigu that if he did not give up, there was going to be a bloody fight and his people would be slaughtered because they were heavily outnumbered. I do not know whether this message

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got through but on one of the many return visits to the conference room I asked Afrifa what had happened and he told me that Zanlerigu had surrendered. The one body of soldiers whom the coup-makers wanted most to avoid fighting was the heavy mortar brigade based at Ho. The message was sent to them that General Ankrah was back and was in charge of the whole military establishment and so there was no need for them to fight between themselves. This worked. Many have tried to tell the story of the coup, who were involved and what part each played. In this, the tendency is often to dismiss Ankrah as having played no part at all and that he was brought in at a late stage to head the government. I do not know when Ankrah was made aware of the coup and what part he had to play in it. But obviously, whoever were the coup-leaders must have calculated that making Ankrah, the highly respected soldier whom many thought had been wrongly and unjustly retired, the head of the military would bring unity among the potentially divisive forces in the military. Harlley once told me that the choice was between calling in Ankrah or General Steve Otu, the two Generals who had been rivals for the position of undisputed head of the Military, both of whom were retired by Nkrumah when he returned from the Commonwealth Heads of State meeting in 1965, amid rumours of a planned military take over. Both were given some innocuous positions in civilian life. Otu was slightly senior in rank, but according to Harlley, they chose Ankrah because the soldiers regarded him as a brave and fearless leader. Harlley had had a very hard night and morning and he excused himself to go to his bungalow to rest later that morning when he thought things were stabilised enough. During his absence, Ankrah was in complete charge. By now, I had called in Lebrecht Chinery Hesse (my distant cousin, Nii Tete), who was the Chief Legal Draftsman to the Police Headquarters as I knew that some legislative drafting had to be done. The announcement of the coup had also disbanded the CPP and other political organisations connected with it. By now, the Ministers of the Nkrumah Government had been asked to report themselves to the Police. Other specified persons who were considered close to the political power centre were also asked to report. There were discussions of the freezing of assets of Nkrumah, members of his Government and prominent members of the Party. These and a host of other matters had to be supported by some legislation. Those who had been detained under the Preventive Detention Act; those who were detained without even the fig-leaf of the Act to cover their detention were released; and those, like Tawia Adamafo, Ako Adjei and Coffie Crabbe, who had been convicted of treason by courts during the Nkrumah regime, were released. But to my disappointment, the jails were not to be kept free of political detainees. Instead of the detainees under the Nkrumah regime, the Ministers and political officers of the CPP, who had been taken into custody as they reported to the Police after the announcement were substituted in custody. The leaders of the coup had a description and a justification for their detention. They were to be held in "protective custody" for their own safety as they would be in danger from the wrath of the people if left to go about free. Decrees had to be made listing the people held or to be taken into custody.

It was during that day that the constitution of the National Liberation Council (NLC) which was to rule the country in the interim before a constitutional government was reinstated, came up. It had been decided that the NLC would consist only of members of the military and policemen. So those round the table started throwing up the names.

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It must have been decided before Harlley left that the Chairman was to be Ankrah and the Vice-Chairman, Harlley. So those names were put forward without dissent. There were other names like Kotoka, Ocran and Afrifa which because of their recognised involvement with the military movements of that morning, selected themselves. So the next name approved was that of Kotoka. The next put forward was Deku. As I expected that the NLC would be small in number, I thought that having three people from the same small area, near Keta in the Volta Region, would send the wrong signal to the country. It would appear as if the coup was made in and for the people of that small area. I wanted the membership of the government to include persons from as wide a spread of the country as possible. That would give maximum support to it and avoid the obvious criticism that the coup had been organised only for a small tribal group. I argued for the inclusion of Deputy Police Commissioner Bawa Yakubu, who came from Gushiegu in the north of Ghana. Kotoka, was the person who had announced the coup. He was the first soldier after Ankrah who had been nominated as a member of the NLC. It may be that the fact that I did not know him before and that as between him and Deku, the latter would understand my argument better played some part in my action. I therefore protested at the inclusion of Deku. He was dropped. Yakubu was put in in his stead. Then Ocran, a Fanti; Nunoo, a Ga from Accra, and; Afrifa, an Ashanti, completed the list. I was happier with this composition as it reflected as near as possible a countrywide inclusion.

Someone then pointed out that we needed to announce the name of an Acting Attorney-General. I put forward the name of Johnny Abbensetts, then Solicitor General, who by date of appointment was the most senior of the officers in the Department. The announcements were made. The names of the members of the NLC, excluding Tony Deku, were announced in the early afternoon news. So was the name of Johnny Abbensetts as Acting Attorney-General. 440

I was summoned by John Harlley by phone to come and see him at his bungalow in the afternoon. Why did I suggest the substitution of Tony Deku by Yakubu? Yakubu had known nothing about the coup till 5 o'clock that morning when he, Harlley, called him into the office and told him what was happening. According to Harlley, he asked Yakubu then whether he, Yakubu, was going to co-operate with them. If he did not, Harlley told him that he was going to be arrested and kept in custody until everything was stabilised. Yakubu, according to Harlley, had agreed to co-operate. Deku, on the other hand had known about the coup from the beginning and had helped in the planning of it. Why should he be excluded from the Government. I explained to Harlley why I thought a person like Yakubu, though knowing little or nothing about the planning of the coup, should be included in the NLC. I told Harlley that instructions had already been given for the publication of a decree on the membership of the NLC. Eventually, we agreed that another decree ought to be issued enlarging the membership of the NLC to include Deku. Fortunately, the name of Yakubu was retained. Deku was obviously hurt by my action. I was a bit naive to expect that he would simply overlook any attempt, however well-intended, to exclude him from the highest office in the State which he had worked for. His feelings came out some time later when in a discussion at which I was present, he stated that he thought I was his friend and he had suggested on the morning of the coup that I should be invited to come and help them and the first thing I did when I 441

joined them was to exclude him from the NLC. Harlley's second complaint was why I had suggested Johnny Abbensetts as the Acting Attorney-General. I explained that he was the most senior of us in the Attorney-General's Department. Harlley's reply was, "But we knew that he was there when we invited you to come and help us?" Harlley said I did not know what had been happening during the Nkrumah regime. He did not explain further but said he was going to have it announced on the radio that the name of Johnny Abbensetts earlier given was a mistake and that I was the person appointed Acting Attorney-General. I then recalled that soon after the news broadcast, Johnny Abbensetts had phoned me at the Police Headquarters and asked me whether I had suggested his name as the Acting Attorney-General. I answered yes. He had not explained the reason for his question but had then put down the telephone. At that time, I thought he knew that he was not popular with the coup-makers and was surprised that he had been put into that position. I learnt that his closeness to Nkrumah's financial adviser, Ayeh-Kumi, whom the coup-makers had always suspected, and his frequent travelling with him abroad on State business, had put Johnny Abbensetts himself under a cloud. My relationship with Johnny became somewhat formal after that. Unfortunately, he died not long after the change of Government.

I made the changes desired by John Harlley. In the case of Deku, I had another decree published showing the members of the NLC. It contained all the names already published together with that of Deku. In the case of the Acting Attorney General, another announcement was made that the person appointed to the position was not John Abbensetts but myself. There was quite a lot of movement at the conference room of the Police Headquarters that afternoon. T. K. Impraim, the Deputy Secretary to the Cabinet in the Nkrumah regime, was brought in. He was the second Gold Coast soldier who had been made an officer in the Royal West African Frontier Force during the Second World War. While Seth Anthony had become a major, Impraim became a lieutenant. He, like Anthony, joined the administrative service of the Gold Coast after the war. Having regard to his position under Nkrumah, he must have entered the inner sanctum of the coup-makers on that day with considerable apprehension. But he soon became relaxed when he realised that he had been brought in to help. Walking round the conference table with some of us engaged in writing on various matters with others chatting, he suddenly shouted, "We must have a proclamation! We do not even have a proclamation legitimising the government of the NLC. We must have a proclamation!" I thought to myself, what a terrible omission. And I instructed Chinery-Hesse to draft the necessary proclamation. He was part of the administrative organisation of the NLC from then on. I was to be reminded years later of the fact that for most legal advisers, the first coup puts them in totally strange territory, as they had never had any such experience. I was on a Commonwealth Secretariat Committee of Enquiry chaired by Sir Roy Marshall, whom contemporary law students of my time would recall as the editor of the second edition of Nathan's *Equity Through the Cases*, and who later became Vice-Chancellor of Sheffield University, that looked into forms of cooperation in legal matters between Commonwealth countries. One of the institutions we had to examine was the Commonwealth Legal Assistance Section of the British Institute of International and Comparative Law which seemed, to us, to duplicate the functions of the Legal Division of the Commonwealth Secretariat. We questioned the Director of CLAS about the

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services it provided. To my astonishment, one of the things he said they advised on was on questions with regard to the legal steps to take when there was a coup. Perhaps, we misunderstood him and that what he really wanted to refer to were legal steps to counter a coup. But he conjured to our mind a situation where a coup-plotter would approach CLAS to enquire about the legal steps to take, which were not familiar to me in 1966, to underpin a successful coup and that CLAS would feel obliged to give an answer.

Colonel Afrifa was worried by the fact that David Zanlerigu was still at liberty. As he said, Zanlerigu's soldiers had "peppered" the heads of his boys when they went to take over Flagstaff House and he did not see why Zanlerigu should go free. In any case, Zanlerigu moving freely around would expose him to being shot by some soldier. Ankrah, however, quite liked Zanlerigu, a younger man, whom he must have known and admired while he, Ankrah, was with the military. Ankrah said that he was going to keep Zanlerigu with him and be personally responsible for Zanlerigu's safety. That ruling was accepted, but I do not think it was popular with Afrifa.

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Eric Kwamena Otoo also came into the conference room. He was clearly worried. I had not seen him since the strange telephone call terminated the discussion between himself, Robert Hayfron-Benjamin and myself in his office on the other side of the wall around Flagstaff House on the problems and consequences of preventive detention. As he had unconsciously suggested the meaning of that call might be that things would get worse instead of getting better as we had both hoped. Ametewee, the police guard at Flagstaff House, had thereafter been arrested for attempting to assassinate Nkrumah and succeeding in killing the security officer, Salifu Dagarti. He was given a trial and convicted of murder. But a number of top police officers, including the IGP, Madjitey, one of his Deputies, S. D. Amaning, and Adjirakor were merely detained without trial for a long time as a result of Ametewee's failure in marksmanship. Eric now came and sat by me at the table and asked quietly whether I could tell the soldiers and policemen in charge of the affairs of the country that he was not really a bad man but that he had been followed around all day by soldiers brandishing guns who threatened to shoot him. When I got the opportunity, I passed Eric's concern on to Ankrah and Harlley. I did not have to explain what I thought of him. They knew. Indeed, Harlley had an assessment of all public servants who had been holding high office in the Nkrumah regime. They asked me to assure Eric that he would be all right from then on. It was Harlley then who told me that, in his position as the co-ordinator of security for Nkrumah, Eric had done a lot of good. [\* might prefer: "Eric had done a lot of good in his position as the co-ordinator of security"] According to Harlley, after the Second Treason Trial judgment had been given, Nkrumah, in his anger, ordered Eric that Chief Justice Korsah be detained. Eric merely accepted the order but did nothing about it. Apparently Nkrumah sometimes gave orders when upset by a person or situation. If one knew him well and thought that the order was ill-considered, one could risk not executing the order in the hope that after reflection, Nkrumah would countermand that order. Eric took that risk on that occasion and disappeared from Nkrumah's sight for a couple of days. When they next met, Nkrumah asked Eric what he had done about the order. Eric replied that he thought Nkrumah was not really serious about the order. Nkrumah did not pursue the matter any more. From Harlley's account, this was not an isolated occasion. Eric was

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given protection from unruly soldiers after that and he gave many years of invaluable service to Ghana at various times as head of the Ministry of Foreign Affairs, Ambassador to Bonn and Washington and a member of the Council of State under the Constitution of 1992.

Others who worked closely with Nkrumah were not so well treated by the NLC. As stated before, it came as a shock to me that Kwaw Swanzy was regarded as one of the most hated persons in Ghana and, as a result, was detained in protective custody for a long time. I understood the animosity towards Geoffrey Bing better because, rightly or wrongly, he was taken to have been the principal engineer of the human rights record of the Nkrumah Government. As already pointed out, T. K. Impraim was welcomed on the first day of the coup to the Police Headquarters Conference Room. But the poet, litterateur and adviser on African Affairs, Michael Dei-Annang, was considered to be one of the evil geniuses of the regime. He was detained. When he came out, he secured a professorship in City University of New York. I have mentioned how generous he and Robert Baffour had been in allocating a bungalow to us when we arrived in 1956. I did not, however, follow closely his activities as head of the powerful African Affairs Secretariat, which was substantially the most important instrument of foreign policy used by Nkrumah. In 1973, when Dei-Annang heard that I was a Fellow at the Woodrow Wilson Centre in the Smithsonian Institution in Washington D.C., he wrote an unprompted letter inviting me to visit him at the their campus in Bridgeport (?) so that he could introduce his colleagues to me. The NLC adopted an ambivalent attitude towards Ayeh Kumi. I think because the Government thought it could get valuable information from him regarding Nkrumah's wealth, if treated gently. Thus, he kept being oscillated between detention and release. His periods of release were questioned by many but could always be explained on the ground of his ill-health.

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But this digresses from the narrative of the early days of the coup. Those of us chosen to work in the conference room did so with enthusiasm. We missed most of the celebrations and the route march of the soldiers round Accra. We were quite satisfied with the second-hand reports we had of happenings in town. We heard stories that several Chinese brought in by Nkrumah for his security had been killed but we never had any concrete proof of this nor was there any official confirmation of it. By and large, the coup appeared to have been bloodless, although there were one or two reported incidents of killing near Flagstaff House. General Barwah, the Commander of the Army, was also reported to have been killed while resisting arrest. With news coming in that the coup was stabilised, we became more relaxed and the atmosphere was decidedly friendly. I remember Albert Adomakoh, then the Governor of the Bank of Ghana, being invited to the place on the day of the coup. He entered the room in a state of apprehension. He told me, some years afterwards, that it did him a power of good when I said that he looked worried that he had nothing to worry about but should relax. He had been invited to discuss money matters and the question of freezing of assets. Subsequently, the assets of the CPP, party officials, Ministers and Deputy Ministers and persons connected with the party, were frozen.

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All through that day, and in the following days, we closely followed the world news to hear what the world's reaction to the coup was. We also wanted to have news about

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Nkrumah's reaction and his movements. We heard that the news of the coup had been broken to him by his hosts in Peking on the break there in his journey to Vietnam. His first reaction apparently was dismissive of the seriousness of the coup and the alleged leaders. Who was Kotoka? He was supposed to have asked. Remarkably, he is supposed to have asked, where were people like Harlley. He had until the end of his regime believed that Harlley, his most dangerous enemy, was one of his most trusted lieutenants. When he was told that Harlley was behind the coup, his observation was in Fanti, "Afei na agoro ni be sor". A very graphic statement which translates roughly into English as the mild "Now the game is going to become very interesting". We followed the break-up of his entourage, first by the detachment of the public servants, like Henry Van Hein Sekyi, the charmingly accomplished diplomat with an eccentric sense of humour, who, when he got to the safety of Europe made a phone call to his wife, Maria and the first question which he asked her after what must have no doubt been a traumatic experience, was whether the piano tuner had been as he promised. Many years later when I was teasing him with this story, he asked plaintively what else he could have said over the open telephone when he had been told that he should not say anything of substance? Later, we heard of the defection of Alex Quaison-Sackey, the first black President of the United Nations General Assembly and Nkrumah's last Minister for Foreign Affairs, who was sent by Nkrumah to go to Addis Ababa to make a stand and ensure support for Nkrumah, but when he got to Germany, he made an announcement breaking with Nkrumah and giving his support to the NLC.

On the day of the coup, a Commission of Enquiry was set up into Nkrumah's properties. There had been a great deal of rumour about the extent of his wealth and about moneys stashed away in Swiss banks and other places. His old lieutenants, W. Q. M. Halm, first Ghanaian Governor of the Bank of Ghana and former Ambassador to the United States, and E. Ayeh-Kumi, a businessman who was a friend and economic adviser to Nkrumah, were rumoured as the agents who had dealt with the money. Obviously, if the allegation was true that Nkrumah had vast wealth stored abroad, this would destroy his reputation for honesty and betray the socialist principles which he avowed. It was an important commission and I made sure that it was presided over by one of the best judges that Ghana had ever produced, Fred Apaloo. Another Commission with S. Azu-Crabbe as Chairman on \*\*\* [\* ? ] was constituted. At this rate, if further commissions were to be appointed with judges as chairmen, they would soon exhaust the best talent on the bench. I was naive enough to think that the NLC would appoint only a few such commissions because random commissions, appointed into every aspect of life under Nkrumah's regime, would soon diminish the importance of the system of commissions and reduce the quality of the tribunal. But the setting up of these commissions could acquire a life of their own. As I later learnt, at such times of political change, especially by a sudden coup d'état, all kinds of advisers spring up with suggestions to their new friends in government. So more suggestions were made as time wore on for more commissions of enquiry to be appointed and more were appointed. There came the time when some of the lawyer chairmen selected were so unqualified for the work that some of them did not realise that adverse findings should not be made against persons who had not been given an opportunity of being heard. But by then many months had passed and I no more had any advisory relationship with the NLC.

I left the Police Headquarters for my bungalow very late on the night of February 24. If Stella had been concerned about my safety, she did not show it. She always presented a brave face when things were difficult. She had had an anxious call from our friend, Bill De Pree of the American Embassy, asking what had happened to me because he had heard that the police came in early that morning to collect me. She asked Bill not to worry because I went with Tony Deku, a friend. It was not unusual that Bill should ring to enquire. As pointed out in an earlier chapter, during the period that they were in Accra, we had become very good friends. 449

When the Chairman of the National Liberation Council, General J. A. Ankrah, made his speech to the nation the next day, he gave a justification of the coup in terms of the economic mismanagement and decline and deprivation of human rights, especially through detention without trial. He promised to return the country to democratic civilian rule once the fundamentals for achieving this had been established. 450

A number of countries, especially those African countries which felt that Nkrumah had been interfering with their internal affairs recognised the NLC. Others played the game of wait and see. There were some who stated that they recognised States and not governments and, therefore, as far as they were concerned, business continued as usual. Some, like Tanzania under President Nyerere, never forgave the NLC for overthrowing Nkrumah. The rate of recognitions and the need to explain more effectively the reasons for the coup to other African States and, in any case, sheer courtesy to the Governments of those States, made the NLC decide to send out high-powered delegations headed by distinguished Ghanaians to various African countries. One such delegation, led by Chief Justice Korsah, brought some flak upon the NLC from the political opponents of Nkrumah who thought their time had come. Chief Justice Korsah, in their view, had supported Nkrumah for too long to be a credible advocate of Nkrumah's shortcomings. Harry Amonoo, the Foreign Service officer, was included in the delegation to Nigeria and suffered the embarrassment of being denied entry into Nigeria, because the Nigerian Government objected to his activities in the African Affairs Secretariat. Otherwise, the delegations gave no problems and, by and large, served their purpose. 451

A few of the officials summoned to help the NLC on the day of the coup spent their time at the Police Headquarters the next few days. The NLC Government and its advisers shortly thereafter moved to Osu Castle. I started sharing my time between the Police Headquarters and, subsequently, the Castle, and my Director of Public Prosecutions office at the Attorney General's Office. Soon after the coup, I was given a quiet assurance by the British Government representative of Britain's support of the coup. It will be recalled that at the time of the coup, Ghana had broken diplomatic relations with Britain over Southern Rhodesia. The British High Commissioner, Harold Smedley, had left and the affairs of the High Commission were being handled by the Australian High Commission, with Solly Gross, the British Trade Commissioner before the breach, as head of the British interest section. Solly Gross walked into my office early after the coup and handed me a handwritten note on nondescript paper, which said that the British Government welcomed the coup but would like to see recognition given to the new Government by a few African countries before it gave recognition. If the Government made the contents of the note public, the British Government would be obliged 452

to deny it. I passed on this note to the NLC. One of the early decisions taken by the NLC was to restore diplomatic relations with the British Government and to ask specifically for the return of the High Commissioner Smedley, which duly happened later.

I soon got to know that my former Attorney General, Geoffrey Bing, had taken refuge in the Australian High Commission. Of course, he would go there as the Australians were handling British interests before the restoration of relations. I guessed that I knew that my informant, apart from sharing a secret, wanted my assistance to relieve the Mission of an embarrassment. The longer he stayed, the more of an embarrassment he was. Bing was wanted by the NLC but I thought it was not my duty to report his whereabouts. So I did not pass on the information to the members of the NLC. This may have been wrong for a person in my position but nobody had told me officially what he was wanted for. In any case, I thought that the Government had enough Special Branch talent to be able to find out where he was, if he, indeed, was wanted that much. He eventually surrendered himself to the NLC. Several people told me of Bing having hid in the Australian Mission but I did not let on that I had known that for some time. He was sent, I understand, to Ussher Fort Prison, where he stayed for some days. He was so hated by the new Government that although they had no plans to detain him for any length of time, they wanted to give him a taste of a Ghanaian prison, where many people had been detained without trial under the Preventive Detention Act which he was, rightly or wrongly, perceived to have fathered and whose use he was taken to have encouraged. He was eventually deported. The decision was taken by the NLC and I, as the Acting Attorney General, was instructed to make the order, which I did.

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The making of this deportation order, coupled by an event which occurred a couple of months later, combined to ground the colourful description of me by Bing in his book, *Reap the Whirlwind*, as his protégé who signed his deportation order and took his house. Factually, the statement was correct. But the sinister implication it carried that I deported him because I wanted his house was far from the truth. The position regarding the house was that I avoided moving into it for as long as I could. From the time I joined the Attorney General's Office, bungalow No. 1 Third Circular Road had been known as the Attorney General's bungalow. When Bing ceased to be Attorney General, he was allowed to continue in occupation of the bungalow, apart from everything else because his successor, Kwaw Swanzy, had his own house from which he did not want to move. In 1960, when we returned from leave, we found that our bungalow, which we occupied, had been given to one of the senior Civil Servants recruited as a result of the changes brought about by the Republic and we were put in a bungalow behind the State House. I was then a Senior State Attorney. We did not like the house very much and our unhappiness with it was not diminished when we learnt in due course that the house lay right in the path of the earthquake fault in Accra. We had always wanted to move from there and I had been asking for a better bungalow. Tony Deku, who knew of my desire to move, asked me to move into Bing's bungalow after he had been deported. I declined. I did not want to because the house seemed too big for us and, in any case, not having been appointed Attorney General, there was a distinct possibility of being pushed out when a substantive Attorney General was appointed. But I kept talking about a new bungalow with friends in the new Government. Once when the allocation of bungalows was under discussion in the NLC Cabinet, I made the statement that I had

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wanted better accommodation for some time but had been unsuccessful in my quest. I think some of the members of the NLC were sympathetic and would have allocated to me one of the bungalows then under discussion, but Tony Deku immediately intervened to say that his colleagues should pay no attention to me, because he had been telling me, ever since Bing vacated his bungalow some two months before, to move into No. 1 Third Circular Road, but I had ignored him. How could I say to the NLC now that I was in need of a bungalow when one had been waiting for my occupation for weeks. Yes, chorused the others, why had I not moved there before? That is how I came to take Bing's house. We moved in reluctantly after this Cabinet meeting about Easter of 1966. Until June 1972 when we moved from there to our own house at Ablenkpe, it remained and still remains in our identification of our various abodes in conversation, "the Bing house" to us. On the second Sunday after the coup, all members of the NLC and their advisers and assistants, as well as those who had unofficially contributed to the success of the coup, were invited to a lunch by John Harley at his bungalow. It was a day for reminiscences by those who had been involved in the preparation and execution of the coup. Brigadier Ocran, who had been in charge of the troops in Burma Camp, Accra and who, according to the coup plan, was to rendezvous with the troops led by Kotoka from Kumasi before they made a putsch on Flagstaff House told of the reason why he had not moved that day. In the early hours of the coup day, a short while before the critical time for movement, he had been visited by Air Vice Marshall Michael Otu, General Steve Otu's younger brother, who had come to find out what was happening. Apparently, the Air Vice Marshall, who did not know about the coup, felt that something funny was in the air and he wanted to find out from Ocran what the latter knew. Ocran prevaricated. Otu remained, although Ocran made it clear to him that his presence was not welcome. Ocran became restless but, for some time, he thought there was nothing he could do except wait out Mike Otu's stay. Just about the time that he thought he should lock up Otu in the toilet and leave for his rendezvous, Otu decided to leave. But by then, Ocran was too late for his meeting with Kotoka.

Various people, some known, others unknown recounted their experiences. The question which is often asked is who organised the coup? In answering this question, many confuse the organisation of the coup with its execution. Those who were seen as acting openly on February 24 to overthrow Nkrumah are taken as the masterminds behind the coup. So Kotoka and, later on, Afrifa, have been taken, whether individually or jointly, as masterminding the coup. The claim that Afrifa masterminded the coup can be dismissed more easily. On the day of the coup, and for some time thereafter, there was no question to all of us present at the Police Headquarters Conference Room about Afrifa being the leader of the coup. Indeed, Afrifa behaved all through the day of the coup and until Kotoka died as if Kotoka was his lord and master. On that day, Afrifa came to the Police Headquarters Conference Room from time to time for instructions, which he went away to execute. To me, he always spoke of the leadership of Kotoka. I was surprised to hear that in his book, published after Kotoka's death, he claimed to have been the originator of the coup. I always remember the comment made by Dr. Boi-Doku about him when he described Afrifa as the man who organised the coup after Kotoka died. Nothing could be more apt. Kotoka, on the other hand, did not behave as if he was the originator or leader of the coup on the day. He more and more as-

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sumed that role, when it became obvious to him that the public regarded him as the hero. The public adulation became irresistible. One could see this development in him at meetings as time progressed; he found dissent difficult to tolerate. I often wonder what would have been the course of Ghana's history if he had not been, unfortunately, killed during the abortive coup of Lieutenants Arthur and Yeboah. But it is quite clear that he could not have organised any joint military action involving the movement of troops commanded by Ocran. He did not know Ocran before the day of the coup and could not have entrusted his life to him. He met Ocran for the first time on the day of the coup. The man who knew them both and who co-ordinated the whole putsch was Harley, the quiet and enigmatic police chief, who was obviously the man in authority on the day, sharing his position by choice with Ankrah.

Harley had led a self-effacing life. He did not have a high education. He had risen through the ranks in the Police. Most of his life in the senior service until he was made the IGP a year or two before the coup, was in Special Branch. He could have made himself the Head of State in Ghana on the day of the coup. Perhaps he calculated that he would not have had the undivided support of the Military. I think he would have had the support of Kotoka, anyway. But this possible reservation apart, it was his natural shyness which suggested him that they should go for Ankrah. The opportunity arose again when Ankrah was later relieved of the leadership for trying to find out, with the assistance of the notorious Nigerian, Nzeribe, about his chances of becoming President of Ghana. But Harley declined the Chairmanship of the NLC which, because of the previous death of Kotoka, then went to Afrifa. I often pressed him to write about his life. I did not realise that his lack of writing skills was such a handicap. He submitted a twenty page manuscript to me once as his life story. I told him that it was not adequate as it lacked detail. Unfortunately, that was the last conversation we had about his autobiography. Many years later, I heard from Fred Apaloo that he had written a more extensive and, indeed, an excellent, biography. At the time of writing, I had not managed to see it.

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That he was subject like most of us to the human frailty of ambition was demonstrated shortly after the coup when the structure of the Police, hitherto a Force, but now renamed a Service, was altered. The head of the Police Service became the Inspector General of Police. That position he assumed. Under him were several Commissioners in charge of various functions. The head of the Criminal Investigation Department, for example, became Commissioner of Police, CID. That was Deku. All the Police members of the NLC became Commissioners.

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For a man of such few words, he talked to me from time to time about the antecedents of the coup. It was not long after the coup that stories started circulating about its organisation by the American CIA. Of course, the loudest charges of CIA organisation of the coup came from Nkrumah's supporters, both at home and abroad. I got Harley talking by his relations with foreign intelligence organisations when I took to him a complaint from his old friend, John Thompson, the MI5 representative in Ghana for nine years before he left some time after the rumours of an aborted coup which led to the retirement of Generals Otu and Ankrah from the army. John Thompson was a very nice and mild-mannered Englishman who sang madrigals with a choir. He was attached

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to the British High Commission for his period of assignment to Ghana but his ostensible task was the training of Special Branch Officers. He was so knowledgeable about Ghana that in diplomatic circles it was taken for granted that what he did not know was not worth knowing. When he left Ghana after his nine years' service, the top echelon of the Police Service gave him a terrific but sentimental farewell party. My understanding of why he left at the time was that he had served long enough in Ghana that his superiors in Britain thought it was time for a change. But John Thompson reappeared on the scene soon after the coup. Some time later, he complained to me that he was not being made use of by the NLC; that he came expecting to help but so far he had been used only as a post office for carrying messages to and from the British Government. He was frustrated, because he complained that Howard Bane of the American Embassy was being selfish and doing everything to keep him, John Thompson, out of the picture. This was the complaint that I took to John Harley.

Upon hearing me out, Harley, with some emotion denounced the British Government, almost accusing it of perfidiousness. The British Government had nearly given him away to Nkrumah in 1964. That was the time of the rumours of a planned coup by the army while Nkrumah was away at the Commonwealth Heads of States Government conference. According to Harley, he had advised Generals Steve Otu and Ankrah to overthrow Nkrumah while he was away. But the Generals were unwilling. Harley had told them how foolish they were because they were going to be arrested anyway when Nkrumah got back. As it turned out, they were not arrested but suddenly retired from the army without any official explanation. But the news of the planned coup, with the involvement of Harley, got to the British Prime Minister, who nearly passed it on to Nkrumah. The British, he thought, were prepared to betray him. Obviously, the news got to the British Prime Minister through John Thompson, because Harley said he had approached the British Government through him for assistance, described by Harley as the supply of equipment like listening aids. The request was turned down. John Thompson was withdrawn at that stage. But immediately the British saw that there had been a successful coup against Nkrumah organised by him, Harley said, they hastily sent back his (Harley's) friend to Ghana with the expectation of picking up relations from where they were. That was the reason why he was refusing to see John Thompson. 459

I returned to John Thompson with Harley's reasoning and asked him whether it was correct. John Thompson treated it rather lightly and said the news got to Prime Minister Home while he was about to receive his Commonwealth colleagues for the Heads of State Conference. The Prime Minister asked whether it was not right and proper for him to pass on the information to his Commonwealth colleague that his Chief of Police was plotting a coup against him. But as John Thompson said, "We soon dissuaded him from doing that". He went on to ask me whether I could imagine Harold Macmillan even thinking of doing what Douglas Home thought should be done. Home, he thought, was such a religious man. John Thompson stayed on without having much to do and he left, being replaced by John Lawrence. 460

Apart from Harley's annoyance at the closeness of the risk he had run, the reason why John Thompson did not have more to do was the presence of the CIA station chief 461



in Ghana, Howard Bane. As Harlley said, when the British Government refused his request, he turned to the Americans for the equipment he needed and he got it. Howard Bane must have then occupied the position with Harlley as John Thompson previously did. As John Thompson found out, Howard Bane was a man who did not want no help nor would he brook any interference. He was a tallish but round and jolly looking man, who occupied no obvious position of importance at the American Embassy. He entertained quite a lot. Not knowing who he was, I once asked a diplomatic friend at the Embassy who this man was? The friend cautioned that I should not underestimate him, he was a very important man. When the claims of CIA involvement in the coup were made, attention was not focused on Bane as the man responsible, it was focused on the American Ambassador, Franklin Williams, the first black person appointed Ambassador to Ghana by the U.S Government, who took his position a few months before the coup. Accusations against him continued long after he had left his position as Ambassador. He had continued to visit Ghana after his mission from time to time but he was always worried by these accusations. He stopped coming to Ghana after a visit during which he went to a curio shop and, upon being identified, the shopkeeper said, "so you are the one who overthrew Nkrumah". He thought he had had enough.

With what I had seen on the day of the coup and what I had heard later, especially from Harlley, I could hardly credit claims that Kotoka or Afrifa organised the overthrow of Nkrumah. Two accounts of an incidental nature, which I later read, confirmed me in my view that Harlley was the strategist behind the coup. The first is Richard D. Mahoney's JFK: Ordeal in Africa, published by Oxford University Press in 1983. Richard Mahoney was a son of American Ambassador Mahoney who preceded Franklin Williams. At pages 235-6 he said this: "For all the political fury in Ghana, work on the Volta Dam proceeded smoothly. In January 1966 the dam was dedicated - a year ahead of schedule. At the dedication ceremony, Nkrumah was gracious to those assembled but it was clear that his mind was elsewhere. He told Mahoney that he wanted to fly to Beijing and Hanoi to put a stop to the Vietnam War. He needed American endorsement of the peace effort. Washington responded that it was not interested in his mediation. The Americans now knew through their covert sources that it was simply a matter of time before the conspirators - chiefly, General J. A. Ankrah, Colonel E. K. Kotoka and Police Commissioner, J. W. K. Harlley - made a move against Nkrumah. Nkrumah's advisors urged him to postpone the trip to Asia. The rumours of a plot had the ring of authenticity, they said. Nkrumah told his trusted aide, Michael Dei-Anang, that he had never allowed such 'small things' to stop him. If he had, where would Ghana be today. He spent the remaining days before the trip in his study reading histories of Vietnam and preparing for his talks with Mao Zedong and Ho Chi Minh. On February 18, 1966, he composed his final will. The following day, he left Ghana for the last time. He was deposed on February 24, 1966."

This passage names three people as the conspirators: Ankrah, Kotoka and Harlley, who were planning the move against Nkrumah. I have mentioned the limitation of Kotoka as having the overall view of the movement against Nkrumah. Ankrah's position of a civilian without command of troops and the ease with which he was later removed, made him an unlikely candidate for the position of chief strategist. There is no mention of Afrifa. That leaves Harlley as the strategist. The passage which gives unequivocal

confirmation of this comes from Tom Bower's biography of Dick White, the Englishman who at different times headed both MI5 and MI6, the Secret Intelligence Service. John Thompson had always spoken of him with pride as the man who recruited him, and the man who broke the spy ring consisting of Burgess, Maclean, Philby and Blunt. In *The Perfect English Spy - Sir Dick White and the Secret War 1935-90* published in 1995, at page 346, Tom Bower says this:

"In the same month, another embarrassment in West Africa was unfolding. John Thompson, the MI5 officer in Accra, Ghana, signalled London that John Harlley(sic), the commissioner of police, had asked for assistance to overthrow Kwame Nkrumah. The Marxist's policies had plunged the country into dictatorship and financial disaster. The ideal date, Thompson reported, was during Nkrumah's visit to China in February. Martin Furnival Jones, Hollis's successor, echoing the Commonwealth Relations Office, vetoed any involvement, Harlley was told by Thompson to consult Howard Bane, the CIA station chief. On 26 February, Nkrumah, with the CIA help, was deposed." 464

This, though not identical in detail, confirms Harlley's story of his seeking assistance from the British Government. What exactly the assistance which he required was, I have only his word for it. I have no confirmation of that. But then neither do I have confirmation or even the details of CIA action of those claiming that the coup was organised by the CIA. 465

One exercise that he ordered which was disapproved by the public was to put Boye Moses, a security officer in Nkrumah's regime who was caught sneaking back to Ghana, into a cage and had him paraded round Accra being dragged behind a vehicle. Harlley felt strongly that Moses had been sent by Nkrumah in Conakry to kill him and, at first, appeared unrepentant when reports of the disapproval were being conveyed to him. People, however, felt that whatever he had done, Moses should not have been treated like an animal. I am sure Harlley eventually accepted that the procedure he ordered was wrong. 466

His fortunes declined dramatically after the handing over to civilian rule in 1969. He was divorced from his wife, Aggie, to whom he was prepared to leave his personal fortune on the day of the coup and had, indeed, made a holograph will bequeathing everything, in case the coup failed and he was arrested and executed. I had to tell him that I thought the will would not have been accepted as valid. Aggie had, while they were married become a lawyer, and some thought that he could not bear the competition of a working wife. He had to sell his properties in Accra and moved back to the Keta area with his new wife. Reports about him thereafter were increasingly of an unhappy nature until he died. 467

Many appointments fell to made by the NLC. It had, for example, to appoint persons to replace all the Ministers that had been dismissed and been taken into custody. Omaboe was put in charge of Finance and Economic Affairs. There had been a view expressed that as Dr. Busia and his followers had openly opposed Nkrumah, now that Nkrumah had been overthrown, the spoils of office should be handed over to them to show what they could do. Afrifa, who was impressed by people holding high educational degrees was of this opinion. I was opposed to the idea. The argument that a critic necessarily 468

is the proper substitute for the person he criticises, did not impress me. As the NLC had promised to return the country to a democratically elected government, I took the view that it ought not to be partial to one political group at this stage. Busia and his group, I argued, should not be handed the government on a plate; they should wait and contest the elections. The majority view in the NLC at this stage was that the persons appointed should be independent of any known political party. So people like Sylvan Amegashie, the economist and businessman; Patrick Anin, the lawyer practising in Sunyani; Anthony Wood, the former trade union official and activist in the cause of the CPP but, by now, a respected businessman heading the Ghana Insurance Corporation, were made the Commissioners in charge of the Ministries. Later events were to make me realise that my eventual leaving of the Government must have dated from the time of this advice. I continued to oppose the conferment of political power or influence on Busia. But he had powerful friends in Afrifa and Kotoka in the NLC and a number of the rest were not as unsympathetic towards him as I appeared to be. A Commission for Civic Education, to educate the people on their constitutional and civic rights, was constituted and Busia, being an academician, was put at the head of it. The organisation seemed innocuous enough but it was sufficient to give Busia a platform for politicking at a time when party politics were banned.

Two of the most important appointments on which I advised during the time I was acting as Attorney General showed that the NLC was sensitive to the advice I had given on the first day that the NLC should not be seen to be concentrating its top appointments to a small part of the country. The first was the appointment of the Chief Executive of the Volta River Authority (VRA). The term of office of the incumbent, Frank Dobson, who was a Canadian, having come to an end, the NLC was determined that appointment of his successor should go to a Ghanaian. The position of Chief Executive of VRA was highly prized by the candidates because it must have been the supreme professional management position in the country. Its importance lay in the fact that it was the first time when a black African was to be asked to manage a multi-million dollar project like the VRA. The African south of the Sahara had won his political spurs when Ghana became independent, and achieved, in Nkrumah's words, the right to manage or mismanage his own affairs. The management of an engineering and quasi-commercial project of the size of the VRA, was another matter. It demanded a competence which no Ghanaian had previously demonstrated that he had. Many must have doubted the wisdom of promoting an African to this position at the time. There were two eminently suitable candidates, both of them distinguished engineers with some administrative experience. The first was Lawrence Apaloo, known affectionately as "Uncle Lawrence", who was then a Principal Secretary in one of the Ministries. The second was Emmanuel (Nii) Quartey, who was in charge of Electricity Corporation of Ghana. By length of service with Government, I believe Uncle Lawrence was the senior of the two. He came from the same part of the country as Harlley, Kotoka and Deku. Nii Quartey was a Ga from Accra. I had expected that Uncle Lawrence's origins would give him an edge. But to my surprise, the strongest supporter of Nii Quartey was John Harlley. As he normally spoke little, when he did, what he said carried great weight and he could be a good advocate of the causes in which he believed. I stayed out of the argument because Nii was my cousin, in the Ghanaian sense, his mother and my father being first cousins

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in the English sense. In any case, I could not compare the two candidates as I did not know Uncle Lawrence at all at the time. The contest was very close but, in the end, Nii was appointed. The appointment proved to be inspired, because Nii Quartey's tenure as Chief Executive continued for over a decade, thus giving confidence to the African in his management ability and stability to the VRA. As a consolation prize, Uncle Lawrence was made the Secretary of the NLC. In that position, he was extremely kind to me, remembering me in many ways even after I had left advising the NLC.

The other appointment made was that of Chief Justice. The incumbent Chief Justice was Justice Sarkodie Adoo. He was seen as Nkrumah's man, when he was appointed Chief Justice after Chief Justice Korsah was dismissed. That reputation probably even preceded this event as he was the judge appointed in times of great contest between the CPP and the NLM in Ashanti in the 1950s to enquire into the affairs of the Asanteman Council. Political opponents of Nkrumah had taken the view that the Commission of Enquiry was appointed to see to the break up of the Asantehene's power. Even before that, when the sensitivities of some of the old judges had been bruised by the appointment of Justice Van Lare to the Court of Appeal, in preference to Justice Quashie Idun, which led to the departure of the latter from the Bench, Justice Manyo Plange decided to move on to Nigeria because he suspected that the next appointment to the Court of Appeal would be Justice Sarkodie Adoo, who was his junior, over and above him. When Chief Justice Sarkodie Adoo was appointed, his first case was the retrial of the Second Treason Trial accused, including Tawia Adamafo, Ako Adjei and Coffie Crabbe. Although power to convict at the Special Criminal Court over which he presided was taken away from the judge and left entirely with the specially selected jury, this was not an auspicious way of commencing a non-controversial tenure as Chief Justice. He seldom sat in Court after that, preferring the quietness of his Chambers where he did administrative work. As a result, no great decisions can be attributed to him as Chief Justice.

The Superior Courts which he led had, of late, had some dubious appointments made to it. Besides, some claimed that some of the judges were corrupt or otherwise incapable of performing their functions satisfactorily. In the circumstances, the NLC took the decision that the Superior Courts should be restructured, and that in this exercise, Chief Justice Sarkodie Adoo must go. It was in these circumstances that the appointment of a new Chief Justice came under consideration by the NLC. The new Chief Justice was expected to work with me on the restructuring of the Courts. Two candidates were considered for the appointment. One of them was Justice Van Lare, who was the most senior judge after Chief Justice Korsah, and had resigned after the political storm created by the acquittals in the Second Treason Trials. His reputation and experience as a judge was a matter of record. The other candidate was Justice Akufo Addo, who was the third judge on the bench which acquitted the accused in the Second Treason Trial. His judicial experience by comparison with Justice Van Lare was limited but he had been one of the greatest advocates of his age. He was also a politician, being one of the Big Six, the others being Danquah, Obetsebi Lamptey, Ako Adjei, Willie Ofori Atta and Nkrumah, who were detained by the British colonial authorities after the February 28, 1948 riots in Accra. Justice Van Lare had one further quality. He, like Uncle Lawrence, came from the same part of the country as Harlley, Kotoka and Deku of the NLC. Justice

Akufo Addo, on the other hand, was an Akan from Akwapim. I am of the view that it was this quality which made the NLC send him to Canada as High Commissioner rather than give him the Chief Justiceship. Justice Akufo Addo emerged from this contest the winner. He, in turn, proposed Alex Kwapong as the Vice-Chancellor of the University to replace Nana Kobina Nketia.

Justice Akufo Addo and I worked closely on the restructuring of the Courts. To assist us, we had appointed a committee consisting of distinguished members of the Bar like Victor Owusu and Bernard da Rocha to review each of the judges and to make recommendations as to their retention or otherwise. The hierarchy of the Courts at the time consisted of the High Court and the Supreme Court. A question which we had to consider was whether to retain this or to change it. Akufo Addo had always held the view that the quality of our law was founded upon the final appeals to the Privy Council. He obviously thought that the abolition of appeals to Her Majesty's Judicial Committee of the Privy Council was a mistake and he wanted a top court which could take its place. That, in his view, was the way to revive the courts to their former glory. I held, and still hold, the view that despite the long tradition of legal practitioners, we did not have many lawyers to man all the tiers of courts which would then be established, and that to establish a further tier of the Courts would be spreading our resources too thinly on the ground. A strong judiciary did not depend on the number of tiers of courts through which the appeal process went. It depended on the quality of the judges who adjudicated on cases. I was dead against his idea. We continued discussing this matter but could not resolve it ourselves. It was finally decided when we took the proposals for the restructuring and reconstitution of the Courts to the NLC for its final approval. Meanwhile, the committee reviewing the judges was going through the incumbent judges and I turned to other matters. 472

There was the case of the Frenchman and the Austrian who claimed when they were arrested that they had accidentally strayed across Ghana's borders. Nkrumah, on the other hand suspected that they were some agents of foreign powers up to no good and had had them detained, had the legislation on the penalty for illegal entry into Ghana changed from deportation to a minimum of ten years' imprisonment and had had the detainees tried, convicted and given a sentence according to the amended law. They were freed and sent away. A German doctor by the name of Horst Schumann, who was accused of being a war criminal who had experimented with the heads of Jews, had been in Ghana living and practising medicine in the Kete-Krachi area for years. The West German Government had requested his surrender without success during the Nkrumah era. The ground for refusal was that we had no extradition treaty with the West German Government. The West German Government now approached the NLC and requested his surrender. I was asked to negotiate a special agreement with the West German Government which would enable Ghana to surrender Schumann, which I did with the German Ambassador. Upon the presentation of the appropriate documentation showing a prima facie case against him, the undertaking to give him a trial on his return and, after following the usual practice for deportations, Horst Schumann was surrendered to the West German Government. 473

A major assignment was a case of extradition in reverse. The NLC wanted Kwesi Armah, 474

former High Commissioner to Britain and, at the time of the coup, the Minister for External Trade, to be returned from Britain to Ghana to face trial for corruption charges. Extradition from Britain generally depends on the establishment of a prima facie case, which is placed before a Magistrate to consider. Thereafter, the matter went through the appeal processes, if put in motion. At the time, Britain drew a distinction between extraditions requested by Commonwealth countries, which were governed by the \*\*\* [\* missing ] Act, which covered a larger number of offences including political crimes and did not accept a defence that the motive for pursuing the offence was political rather than purely criminal, as would be the case in extraditions requested by countries outside the Commonwealth. They were governed by the Extradition Act, \*\*\*. [\* year missing ] I personally drafted and swore to the affidavit of the law of Ghana on the subject. I had had some experience of the type of affidavit required as I did the one for the extradition of Henry K. Djaba, which proved unnecessary as Djaba eventually agreed to return without going through the court process. The case went all the way up to the House of Lords. Ghana, at first, briefed Maurice Finer Q.C., to present its case. Unfortunately, a misunderstanding arose between Ghana's representatives and Mr. Finer and he withdrew. The case was thereafter handled by Robin Dunn Q.C., who later on became a judge of the High Court. Kwesi Armah was represented by my old pupil-master, Tom Kellock, now a Q.C. He saw it as a battle between the two of us. The English Court of Appeal had ruled in Ghana's favour. But Tom won in the end because although the law, as it stood at the time, was on our side, the House of Lords made history in the course of the case by issuing a practice direction that it was no more bound, as it had previously been, by its own previous decisions and then used the opportunity to decide by majority against the surrender of Kwesi Armah. Having worked so hard on the case, I felt terribly disappointed.

In Ghana, however, the old law which I had crafted with the help of Kofi Tetteh, years before, on corruption cases was revived. That was the legislation which modified Minister Aaron Ofori Atta's original Public Property (Protection) and Corrupt Practices (Prevention) Act against the dissipation of public property and corruption. It will be recalled that the reconstructed Act required that first there should be a commission of enquiry which, upon its making findings of fact against a person, resulted in a subsequent prosecution in which the prosecution would not be required to commence all over again to call witnesses against the accused but the findings of the commission together with the facts upon which they were based were taken as the prima facie evidence. The accused would then be called upon to make his defence on that basis. With the proliferation of commissions of enquiry into all aspects of the Nkrumah administration, the \*\*\*\* [\* missing ] Act, was brought into play. Indeed some of the enquiry findings fell foul of my suspicions that they would be made against persons without their being heard or given an opportunity to be heard. There were, as was to be expected, all grades of quality in the reports produced. Those written by our leading judges, such as Justices Ollenu, Azu Crabbe and Apaloo, were of the high quality that judicial experience determined. At the other end of the scale were a number of indifferent quality. Several prosecutions were brought under the Act. Lawyers whose clients were affected complained of the injustice in the Act which deprived the accused of his right to plead. When it was pointed out to them that the clients suffered no prejudice as they were all treated as if they had

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pleaded not guilty, one advanced the argument that it was nevertheless prejudicial in that it deprived the accused of his right formally to plead guilty. But nothing could be simpler than the accused, in his statement to the trial court, saying that he accepted the findings of the enquiry. Other lawyers said that it was prejudicial because it had a limited number of defences, which were stated in the Act. Again, a careful reading of the Act, would show that the defences therein stated were by way of examples and in no way limiting of the rights of the accused. Akufo Addo, when Chief Justice, thought that it was one of the most brilliant procedural statutes crafted. But having regard to Chief Justice Akufo Addo's political stance and the fact that the prosecutions after the coup were of his political opponents, the compliment cannot be accepted without qualification. A more unbiased compliment was paid to it some thirty years after the coup by the former Chief Justice Apaloo, who in the course of preparing a lecture on criminal procedure, without being solicited, repeated the compliment. He did not know that I had given the instruction and the guidance for it to be prepared. He thought it was one of Geoffrey Bing's better efforts, until I disabused his mind of that belief.

By the time the use of the Act seriously took effect, I was no more in the Attorney General's Office. But one of the persons affected by the Act was Mrs. Akainyah, the wife of Justice Akainyah. A finding was made by one of the enquiries that she had been the middle-person taking bribes on behalf of Kwesi Armah, the Minister of External Trade, whom the British House of Lords refused to extradite and that she used the bungalow of her husband for this purpose. It was tragic for Justice Akainyah because he was put under all kinds of pressure to resign when the news broke. Brother judges spoke to him. They came away under the impression that he would. But he continued to refuse to resign. He remained on the Bench to the embarrassment of his brother judges until he was removed in the general exercise of reconstitution of the Courts. 476

The committee appointed to review all judges duly reported with their observations on each of the Judges of the Superior Courts and of the Circuit Courts. From the Supreme Court, they recommended the removal of Chief Justice Sarkodie Adoo, Justices Bruce Lyle and Prempeh. From the High Court, it recommended the removal of a number, including Justice Okyere Darko. [\* [Author's note] "check on others in The Contribution" ] The removal was for different reasons. A number of places became vacant, and Akufo Addo and I had to consider who to recommend for appointment to fill the vacancies. He consulted widely among the lawyers at the Bar whom he knew. I wanted to see good lawyers like Joe Reindorf, Victor Owusu, Bernard da Rocha, David Effah and Tom Totoe appointed to the Bench. Except in the case of Victor Owusu, Akufo Addo found it difficult to persuade them to leave the Bar. Akufo Addo also tried, unsuccessfully, to persuade Justice Kofi Adumuah Bossman, in my opinion, one of the most learned judges Ghana had produced, who was removed from the Bench during the changes made after Nkrumah had secured the power to remove judges for whatever reason he deemed fit, to return to the Bench. I also spoke to Justice Adumuah Bossman, who was my father's good friend. But he said that once he had come off the Bench, he thought it better to stay off. On the Bench, he had tended to write lengthy judgements but they always showed scholarship and industry. His loss was a serious blow. He, however, accepted appointment as the Chairman of the Chieftaincy Commission. 477

With regard to Victor, Akufo Addo put to me the curious proposition that Victor had not decided what to do. There were two options open to him, either to become the Attorney General or to be in the top court planned. If he chose to be Attorney General, I could either be his deputy or come to the courts as a judge. Like a flash, I realised that both Akufo Addo and Victor Owusu wanted me out as Attorney General. From their point of view, I was a stumbling block in their efforts to gain control of the advisory instruments available to the NLC. I had been my own master for the past six months and I did not want to be deputy to Victor Owusu, a politician to his fingertips, who was coming to the Office for the first time in a situation where party politics were supposed to be banned. I must have also felt that after my period of service with the NLC, if I were to be asked to step down, that was a vote of no confidence. At the beginning, Afrifa has always said that I must be confirmed as Attorney General, but I had noticed that he now appeared to have forgotten about it. I told Akufo Addo that if Victor became Attorney General, I would rather become a judge than serve under him as deputy. But I added that I would like to keep Bing's house. In his most impressively ostentatious voice, he said with a look of disbelief, "Do you mean that you would like to keep the Attorney General's house?" I simply answered yes. I did not want to move house again after only four months. I did mention to Ankrah that if they intended to make Victor Owusu Attorney General, then I did not want to stay on as his deputy. But I said I would like to continue in the bungalow to which I had moved only a few months previously. Ankrah readily said that what they had intended all along for me was that I join the top court. My future had been decided behind my back.

It was with this understanding that I continued working with Akufo Addo on the restructuring and reconstitution of the Courts. I remember making a recommendation that Dan Annan, then a Circuit Court judge, should be promoted to the High Court. He thought not. His reason was put in a question, how could Nee Odoi's brother be straight? I replied that I did not know Nee Odoi but I knew Dan well and had worked with him and I thought he would in every way be suitable as a High Court judge. He left me unconvinced. But he returned several days later to say that I must be right because everybody he had asked said Dan was excellent material. Dan was put on the list for the High Court. We managed to put down enough recommendations for the top court and the High Court to be able to present a reconstituted Judiciary to the NLC. I had thought that with the difficulty we had in finding enough suitable people who agreed to go on the Bench, Akufo Addo would forget about his design for a further court like the Privy Council. He did not. In the Council he made his plea. But my argument was accepted. As Harley asked, "Where are the bodies to fill these courts?" The court system was reorganised. Once more, we had a Supreme Court consisting of a Court of Appeal and a High Court. These were the Superior Courts of the land. Below were the Circuit and Magistrates Courts. We did not have time to deal comprehensively with the staffing of the Circuit Courts. But we thought that the new Supreme Court would bring some inspiration to the subordinate courts. As it turned out, my victory over Akufo Addo was temporary. It lasted only through the remainder of the NLC regime. Akufo Addo later became the Chairman of the Constitutional Commission and managed to secure enough support for his top court idea. As a result, under constitutional governments we have had the High Court, the Court of Appeal and a Supreme Court. I have



always found it amazing that people seem to prefer the glory and ceremonial aspect of things to their functional efficiency. I still cannot find a satisfactory answer to how the mere multiplication of tiers of courts improves the administration or quality of justice. Justice does not depend on the multiplicity of opinions or courts to which a case is submitted. The risk of having decisions made by the concurrence of the weakest minds is rather enlarged by that process. In a way, the lowering of the standards of judicial thought in the country and the dissatisfaction with the delays in the final disposition of cases by the courts can be attributed to some extent to this desire for several appellate courts.

Another issue over which I fought with Akufo Addo was whether the minimum qualification period for judges of the High Court and the Court of Appeal should be the same or different. Akufo Addo took the view that there should be a difference. My view was that as the requirement was a minimum specification there was no need to differentiate. A minimum requirement does not mean that a candidate ought to be appointed to the office once he had attained that requirement. Akufo Addo was quite adamant on this point. Starting on a requirement that High Court judges should have a minimum qualification requirement of ten years and Court of Appeal judges, fifteen years, we compromised on the Court of Appeal judges having a minimum qualification of twelve years. 480

The NLC went through the recommendations for the Court of Appeal and High Court. The Court of Appeal was to consist of Akufo Addo as Chief Justice, then Ollennu, Azu-Crabbe, Apaloo, Lassey and, as Victor Owusu wanted to be Attorney General, myself, as the other Justices. Thus Akufo Addo had come back to the Courts from which Nkrumah sacked him with an enhanced position. The order of seniority which put Ollennu before Azu-Crabbe meant that their positions were reversed. Azu-Crabbe was promoted to the Supreme Court during the Nkrumah regime before Ollennu and, thereby, acquired a more senior position. But from seniority at the Bar and, appointment first on the Bench, Ollennu was by far the senior. He had much more legal experience than Azu-Crabbe. Indeed, Ollennu was one of our ancient pillars of the law. He wrote a great deal on customary law and although some found his ideas controversial, he was nevertheless regarded as an authority in the field. He worked extraordinarily long hours. In court, he expected and exacted the greatest effort and preparation from the members of the Bar who appeared before him. When Ollennu was left in the High Court, a number of us thought that the treatment of him was an undeserved slight. The NLC thought the same and it was felt justified that he should assume a rank next to Akufo Addo, who was of the same vintage as himself. Apaloo and Lassey were serving judges. The choice of Apaloo was a happy one. His record before and after that appointment shows that he ranks among the greatest judges Ghana has ever produced. He subsequently became Chief Justice of Ghana and, after retirement, Chief Justice of Kenya. Lassey had a reasonable record as a judge and lawyer. But he turned to be a disappointment after he had gone through a bout of illness. He found it most difficult after that to take a decision or to write judgments. I was by far the baby of the Court. Because I had appeared a number of times in prosecutions and criminal appeals and also because of my tenure as DPP, many, even among the profession, considered me just a criminal lawyer. Even with that apparent weakness and, the absence of Justice Adumua Bossman, the Court was 481

considered a strong Court.

Our recommendations for the High Court were accepted, except in the case of Akilano Akiwumi. He was then seconded to the East African Community and the recommendation was that he be kept on in that capacity to continue his judicial role upon his return. For reasons which had nothing to do with his judicial capability or his integrity as a judge, the NLC would not have him continue as a judge and no amount of argument could sway them. 482

I had the task of writing the justification for the reconstruction and reorganisation of the Courts, for publication contemporaneously with the announcement of new judges and retirement of so many judges. Not wanting to deal with the reasons for each individual judge, I wrote a general statement stating that some were unsuitable or unfit for the positions they held, others were corrupt. There were some, who the NLC was prepared to re-deploy into other jobs. One such example was my uncle, William Bruce Lyle, who was on the dissolved Supreme Court. He suffered from his eyes and he gave the impression that he was unable to cope with the amount of reading required for his position. He would sit for days with his brothers through a complicated case and never ask a question relating to the issues of the case. At the end of it, he would simply agree with the view of his brother judge who wrote the judgment. This put strong judges like Ollennu into powerful positions because they always had a point of view and were prepared to write it. It was thought by the review committee and Akufo Addo, and I agreed, that the function of a judge of the highest court of the land was not simply to make up numbers but to also have an opinion, sometimes different from the others, which he could defend. But he was a likeable person with positive qualities and the NLC was prepared to offer him a high ranking appointment in compensation. I understand that he refused. He left later for Zambia, where he found a position on their Courts which he occupied for quite a long time, and later became their Chairman for Law Reform. 483

Personally, his case had repercussions in the family. I had a public cursing and dressing down in the Kingsway Stores from his wife. His mother, Lady Julia McCarthy, who was my mother's aunt, stopped talking to me from the day of the announcement. Her husband, Sir Leslie McCarthy, was always fun to visit. He had been Solicitor General and later a judge of the High Court in the Gold Coast. After retirement, he had been Chairman of the newly established Ghana Commercial Bank, a position which he held for a considerable time. Above all, he was a scholar, a historian who liked to talk about his special subject, the Middle East. He had tutored in this subject in England after his graduation. In Stella and myself, he had willing, almost mesmerised listeners. We soon discovered that we could continue visiting and hearing him talk, with my great aunt retired in some part of their substantial house at Farrar Avenue. Akilano Akiwumi, with whom relations had become strained after I had succeeded him as Crown Counsel in Kumasi, must have thought that this was my final act of treachery. But I could not save him. 484

On 1st October, 1966, that is three days before I turned 36, I left the Attorney General's Office and became a judge of the Court of Appeal in Ghana. At the time the announcement was made, I fell short of the minimum qualification requirement for appointment 485

to the Court of Appeal of twelve years' practice by some eight months. I thought the appointment was going to be announced as an acting one. But it was not. Many must have wondered why a young person like me should be put in the highest Court of the land. Two years before the event, Justice Akainyah had asked me why I did not want to come on the High Court, then after serving a few years, I could be appointed to the then Supreme Court. I told him that I was not interested in the High Court. Justice Apaloo, who was my closest friend in the Court of Appeal, always said that I came on the Court too young. With hindsight I came to agree with him. But there were some who were happy at my appointment and wrote to congratulate me. Among the congratulatory letters was one from K. G. Konuah, Chairman of the Civil Service Commission, which said:

"The members and staff of the Civil Service Commission join me in sending our heartiest congratulations to you on your merited appointment as Judge of the Court of Appeal." 486

There was also one from A. J. Prah, the Accountant General, which said: 487

"The news of your appointment as a Judge of the Court of Appeal has given me great pleasure. Somehow I know that it was bound to come in due course, irrespective of whichever Government was in power." 488

He must have had great faith in me, because my mind shot back to the days when, as a young State Attorney, I had given him advice which he thought wrong and he had walked over to see me to argue his point which, to my embarrassment, I accepted as correct. I remembered that when I asked him then whether I should write to him reversing my advice, he had merely produced my letter and said you have this back and write me the correct advice. A kind man, I thought. 489

Justice Van Lare, who had lost the contest for Chief Justice, sent congratulations from New York. My old teacher, Mike Ribeiro, then Ambassador in Rome sent me congratulations. There were also messages from old school friends, lawyer friends, my father's friends regretting that my father did not live to see me that day, police officers I had worked with, and some friends in the diplomatic service in Accra. One of them sent a letter with just one word, "Whoopee!" I had no reason to feel sorry for myself. 490

## 9. Judge in Ghana

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From the spacious offices in the Attorney General's Office, I moved into tiny chambers opposite the Chief Justice at the top of the Supreme Court building. I became the most junior of the judges of the Court of Appeal. I had, for example, as Director of Public Prosecutions and Acting Attorney General been for several years a member of the General Legal Council, the body which regulated the affairs of the legal profession. I lost that position on becoming the junior judge of the Court of Appeal. There were many who thought that my position as a judge was unmerited. There must have also been many who thought that I would fall flat on my face once I was confronted with a civil case. The Attorney General's Office is often mistaken, by lawyers and some senior lawyers at that, as a home of prosecutors. My position was not improved by the fact that I had been Director of Public Prosecutions. I had always believed that the function of an appellate judge was different from that of a trial judge and, indeed, I had thought that the system of invariable promotion of judges right to the appellate court stage from earlier service as magistrates was a mistake. But despite the fact that the Public Services Act enacted early in the Republic expressly stated that promotion shall be on merit, Ghana is a country which strongly believes in age and seniority that not much attention was paid by ordinary citizens to this warning. I was in a Court with at least two people whose legal knowledge I admired tremendously. In Akufo Addo, I thought we had a worthy Chief Justice, and in Apaloo, I thought we had a brilliant legal mind.

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Perhaps to forestall criticism and to familiarise me with the work of the High Court, Chief Justice Akufo Addo decided to send me down to the High Court to deal with certain matters. I enjoyed seeing counsel, some recognised as senior, coming before me with bogus applications and hoping that in my innocence, I would grant them. Some spoke at length. I always got the gist of what they were about in the first few minutes. While they continued haranguing me, I wrote my ruling. As soon as they finished speaking, I gave my ruling. They must have been shocked. They soon stopped putting bogus applications before me. Then Akufo Addo asked me to deal with the case of Chief Adrakpanya against Chief Dzisam. This was a case of very long standing. Akufo Addo selected me to do it because practically every judge of consequence had had something to do with it, either as judge or counsel. The Chief Justice's instruction was that I should sit on the case from day to day until it was finished. When I had the case called for the first time, I realised immediately why judges had fought shy of it over the years. The case was a dispute over land ownership. But it was not a dispute over a plot or even a tract of land, it involved several villages. When I asked the plaintiff, Chief Adrakpanya, how many witnesses he had to call, he said about eighty. Chief Dzisam, the defendant, did not have as many witnesses; he wanted to call only forty. I understood immediately why judges had avoided starting to hear it. I told them I had all the time in the world for the case and asked Chief Adrakpanya to open and start calling his witnesses. He did not manage as many as the eighty witnesses which he had threatened. Nor did Chief Dzisam call as many as the forty which he at first thought. It took me several weeks but at last I managed to hear all the evidence the parties preferred. Without counting heads, the evidence seemed strongly to favour the plaintiff and I gave a judgment in his favour. I understand that there was an appeal which was dismissed. Unfortunately,

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as the case depended solely on my assessment of the facts, it found no place in the Law Reports.

I enjoyed hearing the case because it involved some Ewe history, especially about the people of southern Eweland. The folklore of how the Ewes came into existence and incidental information about people's ordinary names and "drinking names", the latter of which no one except drinking friends knew about. The comment of my friend, Justice Apaloo, when the case was over was that, if the plaintiff had known at the time that he brought his action that the judge to hear it had not even been born, he would have thought twice about bringing the action. 494

I also sat in the High Court on the cases involving the Italians Carlo de Cocci and Mario Chiavelli. They had gone into business together but, later on, with one trying to outsmart the other, they fell apart and started using the courts to secure advantages over each other. I gave a series of judgments or rulings in these matters. Some twenty years later, after I had retired from the Ghana bench and joined the Botswana Court of Appeal, the President of the Botswana Court of Appeal, the great South African advocate, Israel (Isie) [\* Issie?, please check, Uncle Roger notes ] Maisels, mentioned casually to me that he was advising in a case involving an Italian millionaire, Chiavelli, whom he thought was a crook and that he understood that the man had passed through Ghana before. He had apparently made his money helping break the oil sanctions against South Africa, where he now had a huge and much talked about mansion. Isie needed material which could discredit him. I told Isie that the man came before me in Ghana at a time when he was not such a wealthy man. Of course, my judgments were just what he needed, and I was able to send him photocopies. I later heard that the case had been settled to the satisfaction of Isie's client. Isie paid me a small fee for my help. 495

The first time I sat with my brothers of the Court of Appeal, was on a case to decide between two competing earlier decisions of the highest Courts of the land. It was the case of \*\*\*. [\* provide date ] The Court was constituted by five judges, including the Chief Justice. The Chief Justice wrote a judgment which was concurred in by the majority of the Court. Apaloo and I wrote separate short judgments expressing our disquiet at the reasoning but we, eventually, caved in and concurred. I have often been told that from the tenor of my contribution, I should have had the courage of my convictions and dissented. That may be right. But the decision set the tone of the Court. It was not going to be a Court in which judges just concurred; different views would be expressed. That was exciting. 496

A case which came up on appeal but with which I was not involved in the Court was the Henry K. Djaba and James Quartey case. It will be recalled that I had prosecuted in that case before Justice Akainyah who had convicted the accused. The original Court which heard the appeal was made up of Justices Azu Crabbe, Apaloo and Lassey. The case took an unusual course because, after the hearing, a conference of the judges was held in which it was clear the Justice Azu Crabbe favoured allowing the appeal and Justice Apaloo favoured dismissing it. Asked his opinion, Justice Lassey said he agreed with Apaloo that the appeal be dismissed. Azu Crabbe, whether by calculation or accident, then invited Lassey to write the judgment of the majority for their consideration. I am 497

not sure that he had this privilege as the senior judge presiding in a case where he was in a minority. But in the choice of Lassey seemed to have been by some divine providence because Lassey was unable to write the judgment for months. The silence of the Court became a scandal. Peter Adjete, one of the Counsel for Djaba, wrote an article in the University publication, Legon Observer, on justice delayed amounting to justice denied. Peter was threatened with contempt proceedings. Chief Justice Akufo Addo has asked Justice Azu Crabbe why judgment could not be given. Was the panel unable to arrive at a decision? Azu Crabbe said that the Court had come to a decision: it was split and he had asked Justice Lassey to write the majority judgment which they were all waiting for. Akufo Addo called George Lassey and asked what was causing the delay. George's answer was that he had agreed with Apaloo but, since then, whenever he started to express his view of the matter, he began to have doubts. Akufo Addo thereupon decided to empanel a Court of five judges, with the three original judges forming the core and two more judges being invited to join them to rehear the case. Justices Ollenu and Edusei were invited to join the others. Upon the rehearing, both of the new judges sided with Azu Crabbe and he formed the majority. Apaloo wrote a powerful dissenting judgement, which could have been the majority decision of the original Court. But it was too late. Djaba and Quartey had their convictions set aside. Dan Annan had done a lot of work for Government, recovering from Germany, part of the moneys paid by the Emmerich brothers to Djaba from Germany for Government. Later on, I heard that Djaba was threatening to sue both Dan and me. But he was obviously advised against it because I heard no more.

Soon, appeals from convictions under the Corrupt (Practices) Prevention Act, the famous or infamous Act 230, depending on one's point of view, started to come to the Court of Appeal. They arose out of convictions arising from the enquiry and report of Justice Ollenu's Commission into Irregularities and Malpractices in the grant of Import Licences. The report came out in 1968. I think I was involved in the hearing of at least two of them. One was the case of Mrs. Akainyah and the other was a case involving Minister Jantuah. In both, the appeals were dismissed. The Court of Appeal for Mrs. Akainyah case was composed of Apaloo, Lassey and myself. The old head of Chambers in London in which I had served as a pupil in 1955-56, now Sir Dingle Foot Q.C., as he had in the interim been a Solicitor General of a Labour Government in England, represented Mrs. Akainyah before us. Joe Reindorf was with him. Dingle practically addressed all his submissions to me, the most junior on the Bench. He had started coming to Ghana as far back as the Watson Commission days after the Osu riots in 1948. He then represented the Big Six of the United Gold Coast Convention. He set up a fashion of advocacy at the Commission which made even ordinary people think of the style with which a lawyer should present his case. He, however, lost his practice in the Gold Coast when Nkrumah broke away from the UGCC and formed the Convention People's Party (CPP) and took on Geoffrey Bing as his Constitutional Adviser. It was because the Gold Coast Government wanted him to take me on as a pupil in 1955, which as a silk he could not under the rules do at the time, that I was taken in by his Chambers as Tom Kellock's first pupil. I had then followed Dingle, when he was appearing with Tom as his junior, especially in the Privy Council, to hear him do cases. He was, in my view, a great advocate on appeals before the Privy Council. But his advocacy did not help him

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this time. The appeal of Mrs. Akainyah, which he argued entirely on the constitutional ground that the Act violated the Constitution of 1960 and was, therefore, unconstitutional when passed. According to his submission, the judicial power of the State was by the Constitution conferred on the courts; no body other than a court could legally exercise the judicial power of the State. By Act 230, judicial power of the State, vested in the Courts, was improperly broken up into the Commission of Enquiry stage, which had no power to exercise any part of the judicial and a truncated court process. This was, according to the argument, impermissible under the Constitution. The appeal was dismissed. Justice Apaloo wrote a learned opinion for the Court. Years later, when I met him at dinner at the home of Tom Kellock, my pupil-master, I asked him when he last visited Ghana. With a wry smile, he said, "when you turned me down".

I was also on the Court of Appeal panel which dealt with the case against F.A. Jantuah, a Minister of Agriculture in the Nkrumah regime. That we also dismissed. The case of corruption brought against Dr. Bossman under the same process, however, went in the appellant's favour. 499

I became a more regular member of the Court of Appeal panels. A large number of the civil cases we did were land cases, in which I had little interest. Apart from that, the other heavy component of the appellate work was criminal. That was easier for me to cope with but presented very little excitement. Cases of contract, or some abstruse legal point commercial law which I would have enjoyed, were rare. I remember once sitting with Fred Apaloo presiding over the panel on a land case. Within the first few minutes, I had got the hang of the appellant's argument and I started writing something unconnected with the case. Fred suddenly asked me to pay more attention to the case. He knew what had happened and he whispered to me that, to the parties before us, this may be the most important moment of their lives. I felt sufficiently chastised and payed paid more attention to the rambling and boring arguments from then on. 500

Naturally, before the NLC handed over to a civilian government in 1969, the courts did not have constitutional cases to deal with. An interesting case which came before us, however, was the representative action taken by three leading members of the legal profession against the Chief Justice. In order to ensure that lawyers paid for and obtained their annual practising certificates before practising, the General Legal Council, which had responsibility for the issue of annual solicitor's licences prescribed, decided, and the Chief Justice approved, that no lawyer was to be granted audience in any court unless he produced his solicitor's licence in court. The Chief Justice's circular issued pursuant to this decision reminded lawyers that the prohibition extended to all forms of a lawyer's normal work and not only to appearances in court. The lawyers who brought the action, no doubt with the support of a large section of the profession, were J.B. Quashie-Idun, B.J. da Rocha and Joe Reindorf against the Chief Justice, the Judicial Secretary, Ebenezer Aidoo and the General Legal Council to test the validity of the Chief Justice's instruction. The plaintiffs obtained an interim injunction against the defendants from Justice Anterkyi, a judge with a reputation for cantankerousness. In the course of his ruling, he made some derogatory remarks about the Chief Justice. He was, in the opinion of Anterkyi J., a very bad man. The Chief Justice and the other defendants then appealed to the Court of Appeal. The preliminary question was whether 501

Akufo Addo as Chief Justice could constitute the panel to hear the appeal. Chief Justice Akufo Addo asked me to preside over the case. He had very little choice of appellate court judges because, I believe, apart from George Lassey and myself, all the other Justices of Appeal were members of the General Legal Council. The Court constituted for the appeal, therefore, had only me as a Justice of Appeal; the other judges on the panel were, Justices Kingsley-Nyinah, Archer, Baidoo and Annan, all of whom were then judges of the High Court. Apart from Justice Baidoo, who unfortunately died early, the others later became judges of the Court of Appeal and had distinguished careers. Justice Kingsley-Nyinah also served later as Electoral Commissioner; Justice Archer who was a good lawyer but also a bit deaf, eventually rose, in spite of his handicap, to become Chief Justice, and; Justice Annan, whom I had worked closely with in Kumasi, from which office he retired some time after I had taken the same course. He was a naturally gifted lawyer but his judgments, even in cases where he had the answer on the bench, were slow in appearing. He eventually became the acceptable face of Rawlings's regime and, from there, became Speaker of Parliament. It was quite proper for a judge of the High Court to be invited to sit in the Court of Appeal. But objection was taken to the fact that, in this case, the majority of the judges were from the High Court. I wrote a judgment upholding the right of the Chief Justice to constitute the Court on the ground of necessity. No one else had the power while he was available and able to act for him. The judgment also dismissed the objection to the High Court judges sitting on the case, there being no limitation on the number of High Court judges who could be invited to sit on a case in the Court of Appeal. Anterkyi's judgment itself was easy to dispose of because, apart from the abuse that he heaped on the Chief Justice, there was nothing to justify it. I ended my judgment with a homily, perhaps a bit ostentatious, in the following words:

— [see *Akufo Addo and Others v. Quashie-Idun and Others* [1968] G.L.R.667 [\* missing insert ] 502

When I later met Anterkyi, he went out of his way to assure me that he had no quarrel with me. He told me he had known my father, whom he liked, and had, unbeknown to me, even once worked with him. But Akufo Addo, he insisted, was a very bad man. I do not know what the Chief Justice did to him to deserve such detestation. 503

The fact that the Chief Justice had to constitute an overwhelming proportion of the panel of the Court of Appeal from the High Court demonstrated the limitations of the five of us then serving as the Court. The Constituent Assembly which was fashioning the new constitution took notice of it. This deficiency was rectified soon after the hand-over to civilian rule by the appointment of five more judges of the Court of Appeal on 1 October 1969. [J.B. Siriboe, a judge before the purge of October 1966, who had succeeded Adumua-Bossman as Chairman of the Chieftaincy Secretariat, when A-B died in 1967, Annie Jagge, E.N.P. Sowah, P.E.N.K. Archer and P.D. Anin, from private practice - p.269 of *Contribution of the Courts*] 504

I soon began to tire of judging cases. The challenge I had enjoyed in the Attorney General's Office was to devise ways by which a desired end could be legally achieved. Beside that, the exercise of listening to two parties in order to decide which side was right paled into an old man's job. Fred Apaloo always said that I became a judge too 505



early. The first time he mentioned this I was a bit irritated by it but I soon had to accept that he was right. I was, however, taken away from purely judicial work by appointment to sit on Commissions of Enquiry. The first one I had was as a Sole Commissioner to enquire into allegations of corruption against Commissioner Sylvan Amegashie. Apparently, accusations had been made against him by Afrifa in Cabinet that he was receiving and giving favours to one Templesman, an important player in the World diamond market. I sat in camera at the State House. I found that there was no evidence to support the charge and exonerated Amegashie.

The other was more difficult. It involved an allegation of subversion against Air Vice Marshall Michael Otu and his ADC, Lieutenant Kwapong. They were charged with conduct which was intended to restore Kwame Nkrumah. This time, I was Chairman of the Commission. My colleagues being, Charlie Coussey, who was a judge of the High Court and Charles Kwesi Zwennes, a Legal Practitioner. In the course of the proceedings, evidence was led of suspicious activities of certain Russian trawlers which were supposed to be in support of the objective. By this time, I must have read quite a lot about State intelligence activities and I probably saw more in the various threads that Counsel for the Commission, Kobina Taylor, was trying to weave than my colleagues did. I wanted to hear more. Above all, I wanted to hear the evidence of the persons against whom the allegations had been made. Each of them refused to give evidence. My colleagues had some sympathy with Otu's and Kwapong's position. I took the view that they could not refuse generally to give evidence in answer to our summons but that they could object to answering specific questions if they tended to incriminate them. Upon their refusal to give evidence, I managed to persuade my colleagues to commit them to the High Court for contempt as we did not have the power ourselves to commit them. The case came before Justice Archer who found that Otu and Kwapong had committed no contempt. Thereafter, the proceedings more or less fizzled out and we were asked by the National Liberation Council to write a report of the proceedings up till then. My colleagues wrote one report giving Otu and Kwapong a clean bill of health, from which I differed. But there was no more to be done with that enquiry and it was terminated. 506

For me, the most poignant aspect of this enquiry was when my brother, Jack, told me that he was going to marry Lydia, the daughter of Mike Otu's sister. I found it difficult to appear the impartial inquirer which I wanted to be. But there was nothing else that I could do. The marriage arrangements went ahead while I was conducting the enquiry. Eventually, everything turned out as well as one could expect. Lydia has become a most valued sister-in-law but we have never discussed the enquiry. 507

I also became the first Chairman of the Ghana Law Reform Commission in 1968. It was an experience I really enjoyed. We had as other members, Justice Archer; Justice (before that Professor) Kwamena Bentsi-Enchill, a lawyer, law teacher and later a Judge of the Supreme Court of Ghana; David Effah, a legal practitioner whom I had known since I was in Kumasi and with whom I had travelled to Australia in 1965; Kofi Date-Bah, a law lecturer at the University of Ghana; Kofi Tetteh, a former legal draughtsman of the Attorney General's Office and now Editor of the Ghana Law Reports; and Rebecca Senayah-Sosu (nee Elimah) one of the most brilliant women lawyers I have had the 508

privilege of teaching. It was a serious group and a very good one. Kwamena Bentsi-Enchill, who had written a thesis on land law which had inspired others to follow, was a prickly character; of immense learning, he turned the smallest discussion of a legal point into a doctrinal debate. Rebecca Elimah was the perfect foil in these debates. She was sharp, irreverent and devastating and capable of puncturing any inflated argument with her rapier wit. For research assistance, we had Jeffrey Newman, a recently qualified American lawyer, who had come to Ghana on one of the many American programmes for legal research and teaching. He was based at the University but devoted a substantial part of his time with the Commission. Our Secretary was Ofori-Boateng, who later was elevated to the bench. Together with my colleagues on the Commission, I devised our own programme. When the proceedings of the Commission were opened, the Principal Secretary of the Ministry of Justice, M.A.B. Sarpong, had come with the usual anodyne welcoming speech and was surprised but pleased to find that I had a well-planned agenda and method of operation which I proceeded to disclose in my speech. There were lacunae in the law or areas where the English law which governed our affairs in Ghana were too old or difficult to access. Among these were possible statutes on wills, matrimonial causes, mortgages and conveyancing. There were areas where we thought we should have our own law anyway. Some of these needed in-depth research, like the law of evidence, land reform and succession. Those which we could deal with without much trouble we started with right away. When they started coming out as decrees or Acts, they kept us in the public eye as a serious law reform body. Thus, we had a constant stream of statutes like the Wills Act, Matrimonial Causes Decree, Mortgages Decree and Conveyancing Decree being enacted on a more or less regular basis, once we had an Attorney General who was interested in our work. The other problem areas which needed substantial research, we page to the persons whom we thought could help with the research to do. Thus, Jeffrey Newman took on the research and preparation of the Evidence Decree and we gave the land reform problem to Gordon Woodman, an expert on land law in the University Law Faculty, to research and report on. We took the view that in order to concentrate our minds and avoid rambling discussions we should as much as possible try to discuss some draft of a proposed statute. When the report of Gordon Woodman was presented necessarily without a draft statute, apart of the inherent difficulty of the problem itself, we found it also difficult to discuss the report itself. It was, therefore, good that Jeffrey Newman had some drafting skills. When he left, his place was taken over by another American, Dickey, who continued producing drafts for our discussions. It was also good to present the Attorney General's Office with a draft, because it liberated its draftsmen from the construction of a basic draft statute and therefore expedited the preparation of legislation.

Implementation of our recommendations depended very much on the support of the incumbent Attorney General. As long as Nicholas Yaw B. Adade, later Supreme Court Judge, was Attorney General, we found that our reports were shelved. My relations with Adade were not such as to make me want to plead with or chivvy him to take action, which he was disinclined from doing, to ensure that the recommendations became law. But when Victor Owusu became Attorney General, our fortunes took a different turn and our recommendations were adopted. One other observation I must make is

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that it was much easier to have our reform recommendations translated into law by a military regime than by Parliament under a constitutional government. The latter always had more interesting legislation to enact than the pure lawyers' law which we were interested in, that our type of reform legislation tended to find itself on the back-burner.

But by far the most interesting experience connected with any of our recommendations was easily that which the Evidence Decree went through. It was a very good piece of work which Jeffrey Newman did on that subject. It had such interesting reforms as the general admission of hearsay evidence, with the weight to attach to it being left for the Court to decide. We sent the draft for review by Professor (later Sir) Rupert Cross, who was then the leading authority on the law of Evidence in England. He sent us his comments and a general glowing report saying that he had decided to use some of the material for his lectures at Oxford. Practising lawyers in Ghana, however, were opposed to its enactment, primarily, I believe, because it would necessitate them learning something new which they would rather not. The most astonishing reaction, however, came from the Military Government of the time. It was by now Acheampong's regime, and Earnest Arku, the Policeman, had become the Commissioner for the Interior. Of the over two hundred sections of the proposed statute, there was one sub-section which deeply offended him. This was a proposal that confession statements made to Policemen on enquiry into a case should be inadmissible in evidence unless confirmed before a judicial officer, like a magistrate. This is a provision which operates in India, and since my association with the Botswana Courts, I have found that it operates happily in Botswana and other jurisdictions. The object of our adopting the provision was to put an end to the perpetual argument before Court that a confession statement had been obtained from the accused by the Police under duress or other form of improper inducement. To Arku, this would bring an end to the proper investigation of cases. I understand to get his way in Cabinet, he went as far as to portray me as a subversive for proposing that law. As a result the enactment of the statute was postponed. Other jurisdictions, like Sudan, I understand, adopted the legislation without the home-country where it was developed enacting it. Eventually, after many years, the statute was enacted with the offensive provision excised. 510

One appointment which I got, much to the puzzlement of Chief Justice Akufo Addo, was as representative of the United Nations (ECOSOC) Committee on Tax Treaties between Developed and Developing Countries. A letter was directed to him asking him to release me for this appointment. I did not know anything about the letter before hand. I shared Akufo Addo's bewilderment as to why I had been nominated because I did not know anything about tax treaties as such. I later on deduced that the recommendation for the appointment had come from my friend, J. H. Mensah, who was then working for the Economic Commission of Africa of the UN. Later on, he did confirm that it was he who had put forward my name when the officers constituting the Group asked him for names. He had no doubt that I would be able to mug up the subject, whatever it was, if I was not previously acquainted with it. Not surprisingly, I had asked Akufo Addo to approve the release on the same ground that I would have to study the subject anyway. I took it as a brief on a subject I did not know about which had been placed before me and which I had to master. In any case, as I told Akufo Addo, it would not involve my 511

being away for any length of time. With some obvious reluctance, he agreed. I duly appeared at the first meeting of the Group in Geneva.

I met a completely different set of inhabitants of this world in this tax treaty Group: people who had devoted their lives mainly to the intricacies of direct taxation. It was a small Group of about fifteen or so experts, selected according to the tax systems from which they came. Most of them were heads of their direct taxation administrations. From the developed countries, the United States was on the first occasion represented by Professor Stanley Surrey, who was then the outgoing Assistant Secretary of their Treasury, and Mr. Nathan Gordon, one of the most senior Treasury Officials; the United Kingdom was represented by Mr. Johnston, the head of direct taxation who shared his country's tax administration with his wife who was at the time the head of the indirect taxation; France was represented by Monsieur Kerlan, the head of direct taxation; Germany, by Debatin; Switzerland by Dr. Locher, shortly thereafter to be replaced by Mr. Widmer; and Japan by Mr. \*\*\*. [\* name missing ] From the developing countries, India was represented first by Mr. Sundera Rajan but was shortly thereafter replaced by Mr. Shah as the latter replaced him as the head of direct taxation; Brazil by Mr. Donerllis, the head of direct taxation, who for a brief period was to become Minister of Finance; Israel by Mr. Simcha Gafney, who had been once the head of the direct taxation department but was retired at the time and was the head of one of the Israeli commercial banks, which resulted in him being one of the longest lasting members of the Group; Philippines by Mr. Linna, who always brought special Filipino cigars for distribution among his colleagues at every session; Turkey by Mr. Kafaoglu; Argentina by Madam Casanegra, who shortly afterwards got a permanent job with one of the international organisations; Sudan by Mr. Merghani, a former Minister of Finance; and I represented Ghana. The observers from the IMF, were at first Professor Leif Muten, the youngest Professor of Law which Sweden had produced, and Mr. Olav Snellingen, who became deputy General Counsel of the IMF and its sole representative at the meetings. Some of the personnel changed with changes in their home departments; additions were made, like Mr. Sittampalam of Sri Lanka, who joined us as a member of the developing countries group. Pakistan also became a member. Nigeria was also given observer status which was usually taken by the head of Income Tax. Lesotho also sent an observer at a later stage. When Stanley Surrey ceased to be Assistant Secretary of the U. S. Treasury, he was made the rapporteur and stayed in that capacity until I lost touch with the Committee after it had been reorganised. Nathan Gordon continued to represent the US until he died several years later. Merghani was elected Chairman and Karol Krcmery of Czechoslovakia was the most senior UN official looking after the Committee.

We met at first on an annual basis for about two weeks each time. When at a later stage, the UN finances became strained, we were made to meet once every two years. I was on the Committee for some ten years. It is amazing how those, deeply steeped in a subject, manage to make it alive for others. We at first discussed the problem areas in double taxation between the developed countries which based their system of taxation on the residence of the taxpayer, on the one hand, and the developing countries which based their system on the source of the income, on the other. The whole exercise turned into whether and how the taxes arising on income could be shared by the respective

interested governments so as to avoid a double taxation on the income. Later on, we actually developed a model tax treaty with principles which could be acceptable to parties from developed and developing countries negotiating an agreement. I tackled this subject, which had otherwise appeared to me so dry, with interest immediately. I contributed a paper on direct taxation in Ghana. I made a few relevant comments during the discussions. After the first two meetings, I arrived on the morning of the third meeting to find several of my colleagues asking where I had been. They knew I had arrived in Geneva but did not know which hotel I was staying in as I thought the Intercontinental where most of them stayed, appeared a bit too expensive for me. My usual practice was to take a room in one of the cheaper hotels in town, like the Hotel Derby or Longchamps Drake, where I had cooking facilities, and then go out to buy my supplies for my own meals. I was happy to find on one of my outings later that the American delegate, Nathan Gordon, did the same. The only difference between us was that with food and other shortages in Ghana during these years, I tended to overbuy while he bought what he really needed. The Group members who had been looking for me on the earlier occasion, who incidentally were led by Nathan Gordon, said they had been looking for me to find out whether I would like to be Chairman of the Group, as they wanted to change Merghani. I lost the opportunity that time. But the following year I was selected as the Chairman. Stanley Surrey, the great exponent of direct taxation, whom his old students around the conference table like Kerlan of France, Debatin of Germany, Casanegra of Argentina and Dornellis of Brazil, enjoyed crossing swords with, once paid me the highest compliment. After listening to a long-winded debate patiently for some time, he turned to me on the stage and said if this matter were left to the two of us, we would finish it in no time at all.

I remained the Chairman of the Group until it was reorganised in about 1979. By then, we had developed a model tax treaty with commentary which was published under the auspices of the UN, which could be used as a guide in treaty negotiations between parties from developed and developing nations. As Chairman, I had seen my task to be to ensure that the discussions were conducted in an orderly manner, were kept moving and to sum up the major differences in opinion or to distil such consensus as could be seen from the plethora of positions put forward, where such consensus can be divined and would help to move discussions further. With the original mandate of the Group completed, there was the need to turn to other taxation issues between developed and developing nations. I had word that the UN would now like to have Nigeria as a member and, if Nigeria came in, there would be no room for Ghana. I was therefore dropped. A few years later, I was approached again through Olav Snellingen, the IMF representative, who told me that the Group would like to see me back because the experiment with Nigeria had not been a success. To pave the way for my return, I was asked to write a paper on double taxation for the Group which I did and which was circulated. When Olav told me that all was set for my return, I told him that I could not because, by that time, I had become a member of the Botswana Court of Appeal which met in December each year, and that would have conflicted with the December meetings of the Group. 514

I do not recall any objection from the Chief Justice when, in 1968, I was invited by Patrick Anin, then Commissioner for Foreign Affairs to join his delegation to the OAU Heads 515

of States Meeting in Algiers. There was a question of refugees which had bedevilled the OAU for some time coming up and Patrick thought I could be helpful to him on the subject. Neither General Afrifa, who was the Head of State at the time, nor any other member of the NLC was attending as the Head of State. So that Patrick was spending the first week in Algiers at the preparatory meeting of Foreign Ministers and following that up for the scheduled few days of the following week in place of the Head of State of Ghana at the meeting of the Heads. Harry Amonoo was the senior political adviser of the Ghana delegation. Our journey there and back was a sufficient adverse commentary on communications between African States at the time which had not been redressed thirty years later. To get to Algiers on time, we had to travel through Rome. I stayed with Patrick at a hotel in the centre of Rome. Our good Canadian friend, Jean Steckle, was there working for the FAO and this gave me the opportunity to visit her. We had either to return the same way or to travel via Paris. As Patrick had to inspect the Ghana Embassy in Paris on the return journey, we were booked through Paris. In Algeria, we stayed at the Club du Pins, a beautiful enclave near Algiers, which was supposed to be a high class holiday resort but well suited for conferences of this nature. The Acting Ambassador, \*\*\*, [\* name missing ] and his wife entertained us well. Patrick was very kind to me. He asked me to share the house which he was allocated as Foreign Minister and we ate, discussed and went about together. We found that the Algerians ate a lot of mutton. The food prepared for us, almost invariably, was mutton either with couscous or rice washed down with some Algerian red wine. The wine we found quite good. We ate so much mutton that we got a bit fed up with it. I remember an occasion when we went round the neighbouring villages, looking for sardines which we, Achimotans, were quite fond of. I believe it was in the village of Stauli, where we also got some Algerian shirts, that we bought the sardines. When the staff who served us our meals appeared that day, we told them that they need not bring us anything with our rice, we would provide our own accompaniment. They were astonished to find us eating rice with sardines which they must have considered far inferior to the mutton sauce they had prepared for us. We were quite happy, like old school children to eat our sardines for a change. For the few days that Patrick stayed in the Head of State's allocated accommodation, I continued to stay at the Foreign Minister's. The Algerians, I found were fond of horse riding and gun-fire. We were entertained to a tattoo which had a series of horsemen and gun-firing that I got a bit tired of them.

The conference itself concentrated on political matters. The refugee problem was briefly mentioned and then adjourned to the next meeting of Heads of States. 516

As we were going back to Ghana through Paris, I thought this would be a wonderful opportunity to visit Stella's mother and Nora. So I paid the extra air fare for this extension. I had an experience which at the time was most frustrating but which probably would have been amusing if I was not the person affected. I was to part from Patrick in Paris and to continue my journey to Finland. When we got to Paris, I bade Patrick good-bye but, as a member of his delegation, I found that I had been ushered together with the rest of the delegation to the VIP lounge. I was assured that some protocol man would take care of my transfer problem to the Finnish airline, and my ticket was collected for the purpose. We arrived in Paris about mid-day and the Finnair plane was leaving at 3 p.m. so I thought there was a lot of time. No change of airport or terminal was involved. 517

So after the customary champagne, Patrick and his delegation stopping in Paris left me in the VIP lounge to await my onward flight. By 1.30 pm., the man who collected my ticket had not returned with it. I started getting anxious. By 2 pm., I thought I should do something about finding him. I left the lounge and started asking about where one would go if one had to check in with Finnair. But there was no airline agent within the departure lounge. I was advised to go outside to see the various airlines. That I did. There was no obvious agent dealing with Finnair. As I went from airline to airline trying to find out the one with which I had been checked in, I became aware of the scepticism with which they all regarded me. They treated me as if I was trying to get a free ride to Helsinki. I was rushing around with increasing desperation to find the man who had my ticket until I heard the Finnair flight leave. My luggage was no doubt on it. These were times when I knew nothing about credit or charge cards. I continued looking around for my prospective help who still had my ticket. At 4 pm., I saw him walk into the Airport. I went to him, in some fury, and asked what he had done with my ticket. In some surprise, he started fumbling in his jacket pocket until he found my ticket. He apologised explaining that he had gone to lunch and had forgotten about my ticket. I did not think that he could provide me with any comfort. I seized my ticket and went back to where he directed me to be the Finnair agent. Fortunately, I had my flight changed to the following day. I had no French money as I examined my options. I thought that the best course was to try to get to the Ghana Embassy and seek some assistance from there. Fortunately, I was rescued by a Ghanaian journalist who had attended the OAU Conference. He paid for me to get to the Embassy. When I got there, Patrick Anin was on an inspection tour with Patrick Seddoh, the Ambassador. Both of them burst out laughing at my plight. I did not see the funny side of it. I asked Patrick Seddoh for a loan to get a change of underwear and a shirt and for my hotel accommodation. He said I need not worry, I could stay with him for the night. He and Patrick Anin were having dinner that evening, obviously to discuss business; his wife, Charity, was not included. I could take Charity out for dinner, for which he would pay. He gave me money for pyjamas, a shirt and a change of underwear. I was lucky I knew the Seddohs. The evening passed pleasantly. Next day I continued to Finland, where I spent some happy days staying with Momma and Nora for a few days before returning to Ghana.

These diversions from judicial work helped relieve me of its boredom. But I was soon to be given a longer period of absence from it. The Dean of the Law Faculty of the University of Ghana at this time was Brian Simpson who was a contemporary of mine at Oxford. He had the reputation of having topped our year in the jurisprudence examination. He had come to Legon under an arrangement between the University and the Law Faculty of Oxford University for the exchange of staff and general co-operation programme. Brian came to see me in Chambers one day to ask me whether I would like to come to the Law Faculty as the Professor and Dean. He explained that as soon as he took up the appointment, he realised that it was not a job for an expatriate. He thought the job required someone who knew people in Ghana and who could interact with them to produce the best opportunities for the Faculty. Besides, he gave me the impression that he would like to be back at Oxford. I later learnt that, when the incumbent Professor of Jurisprudence was about to retire, Rupert Cross had proposed Brian as a successor but, not being around, his "campaign" for election to the chair

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could not develop the required momentum. Ronald Dworkin became the next Professor of Jurisprudence. I later also had a chat with Alex Kwapong, who told me that there was a certain amount of uncertainty in the Faculty about who should succeed Brian because there were a few lecturers of the same standing who were laying claims to the office. He himself preferred George Kofi Ansah Ofosu-Amaah. But George had not, at the time, done more than the others to establish his supremacy. Kwapong wanted me to hold the fort temporarily to stabilise the Faculty while George produced a few more papers which he was sure would make him the unchallenged claimant and then I could go back to the bench. Kwapong's plan was that while I held the position of Dean, George Ofosu-Amaah would go abroad, preferably to either Oxford, with which Legon had a relationship, or Cambridge and, there, do work which would result in a publication or publications which would clearly lift him above his apparent competitors like Ekow Daniels, Thomas Mensah and Sam Gyandoh. Then he would be appointed the next Dean. But that was not to be. With the advent of the Busia government after the 1969 election, George was appointed, also on secondment, as the head of Special Branch. He did not return to the University until long after I had left the Deanship in 1973. I was attracted by Kwapong-Simpson proposal.

Having secured my consent, Alex and Brian approached Chief Justice Akufo Addo, who agreed with the arrangement. I was told that I would be called upon from time to time to sit on cases. But my time would be primarily devoted to the University. Some time later, after everything appeared to have been arranged, a formal letter came from Alex Kwapong, as Vice-Chancellor to Chief Justice Akufo Addo, asking about my suitability for the appointment as Professor and Dean. I am sure this was just to keep the University books in order. But Akufo Addo exploded. If the University had any doubts at all about my suitability, he was going to cancel the arrangement and take me back full time on my judicial duties. He refused to write me a testimonial and I agreed with him. He had not initiated this secondment. It was initiated by the University itself. I do not think the University ever got its required formal letter for its books. 519

Constitutional changes took place in Ghana during this time. The Constitutional Commission set up under Chief Justice Akufo Addo had devised a constitution which had both a President, necessarily of a mainly ceremonial kind, and a Prime Minister. A Supreme Court which Akufo Addo had always cherished as the court to perform the functions of the Judicial Committee of the Privy Council was placed above the Court of Appeal as the final appellate court. Political activity had been allowed for some time and political rallies were held by the new parties for the parliamentary elections which followed. Kofi Abrefa Busia, who had for some time enjoyed the patronage of the NLC Government in carrying on his political programme under the guise of educating the population in their civic rights and obligations, formed a political party of the Danquah-Busia tradition. The CPP, whose name and insignia were prohibited, raised its banner under Komla Agbeli Gbedema, Nkrumah's lieutenant of earlier days who became his mortal enemy in the latter part of his regime and fled the country. The rallies held showed that the support which both leaders had was about equal, although some thought that Gbedema's supporters were, if anything, slightly larger. Busia won the election handsomely. Some explained the inconsistency between the crowds which appeared at Gbedema's rallies and the poor vote his party got on the ground that at 520



the time of the registration of voters, CPP voters were so dispirited and disillusioned by Nkrumah's overthrow and the many commissions of enquiry which had been set into the affairs of the previous regime that they did not bother to vote. Although they showed their enthusiasm for politics when political activity was restored, they could not vote at the elections when they were called. Busia became Prime Minister.

After a brief transition period when Ghana operated a Presidential Commission constituted by Afrifa, Harlley and Ocran in which the Commission members jointly exercised the functions of President, Akufo Addo was chosen as the President. I was terribly upset by this appointment. I had a firm belief in the development of the law through a strong judicial system and I, perhaps unreasonably, thought that he was the person to lead such a system. As a result, his choice for the presidency seemed to me to be a betrayal. For several months, I refused to see him. On later reflection, I had to admit that my attitude towards Akufo Addo was churlish. He had always been a politician and, obviously, aspired to the highest office in the land which he could attain. He had never given me an indication that the Chief Justiceship was the limit of his ambitions. I therefore had no real cause to criticise him, however much I regretted his departure. 521

Upon the new Constitution establishing the Supreme Court as the top court, the first judges were appointed in 1970. New judges were appointed to it. E. A. L. Bannerman, who was at the time in charge of the Law School was eventually appointed Chief Justice. My childhood memory of him was of a lawyer dressed immaculately in his white shirt and tabs, and trouser-line [\* word "trouseline" replaced ] and black jacket walking regularly down the Boundary Road (now Kojo Thompson Avenue) from Adabraka to the Courts. I recall that he had, before I went to England to study, done some work for the then Attorney General's Office and had been a good Senior Magistrate. I had appeared before him once when Kow Swanzy and I were prosecuting a case of illegal possession of diamonds. The diamonds in question were a number of small, dirty off-white stones (almost like pieces from a broken bottle) in a small medicine bottle. He made no mistake that I could complain of in that case. He had subsequently been sent to Tanzania upon the recommendation of Chief Justice Sarkodie Adoo when Tanzania requested a High Court judge from Ghana. The matter had come before the General Legal Council, of which I was then a member, and the Chief Justice had made it clear that Bannerman was the only person he could spare. I heard reports of Tanzania's displeasure at Ghana sending them someone who had never been a High Court judge when they asked for such a judge. Justice E. A. L. Bannerman was, no doubt, a very senior lawyer. He was called to the English Bar on 26 January 1939 and enrolled as a practitioner in the Gold Coast on 20 July 1939. He was indeed senior in the profession to Mr. Koi Larbi, who was called to the English Bar on 25 January, 1942 and was enrolled in the Gold Coast on 28 June 1946; to Justice Siriboe, who was called to the English Bar on 17 November 1949 and enrolled with the Gold Coast Bar on 3 February 1950; and to Justice V. C. R. A. C. Crabbe, who was called to the English Bar on 8 February 1955 and enrolled in Ghana on 3 June 1955. Some may argue from the basis that the very fact that he had not achieved preferment on the Superior Court benches in Ghana before must have been due to prejudice against him. I, however, knew little more about his ability to hold the high office to which he was shortly to be appointed. The 1969 Constitution came into force on or about 29 August 1969. The first appointments to the new Supreme Court, 522

were made on 5 August 1970. The only member of the existing Court of Appeal, then the highest Court in the land, who found favour with the appointing authorities was Justice J. B. Siriboe. The other appointments were Justices Bannerman, Koi Larbi and VCRAC Crabbe. There were questions asked about the omission of three members of the Court of Appeal, namely, Justices Ollenu, Azu Crabbe and Fred Apaloo. Personally, I would consider any of those three a better lawyer and judge than any of the appointees. Justice Bannerman was made to act as Chief Justice from the group of judges appointed and on 26 March 1971, he was confirmed as Chief Justice. Thereafter, on 5 April 1971, other appointments to the Court were announced: Justices H. K. Prempeh, was brought in from retirement imposed on 1 March 1964, to join the Court, and Justices Azu Crabbe and Fred Apaloo were promoted from the Court of Appeal bench. The final appointments to the Supreme Court were Justices K. Bentsi-Enchill and P. D. Anin. For some reason, Justice Ollenu continued to be shunned. With the promotions from the Court of Appeal, fresh appointments were made to that Court, including E.P.L. (Sonny) Sowah, Archer and Annie Jiaggie.

I did not expect any promotion from the Busia Government and so I was not disappointed by being left out. I think the Busia Government was aware of the fact that I had been a stumbling block to its ambitions while I acted as Attorney General in the NLC Government. In any case, my controversial appointment to the highest Court in the land in October 1966 was to some more than enough recognition of whatever talent I had for the time being. Besides, I was happily preoccupied as the Dean of the Legon Law Faculty. 523

The Supreme Court did not do much work before it was abolished. It did not last long. An examination of the Ghana Law Reports will not yield many cases elucidating or laying down legal principles which would mould legal thought in Ghana. After Acheampong's coup in January, 1972, it was announced on the radio on 12 September, 1972 that the Court had been abolished by the National Redemption Council. Those of the judges of the Court who had reached retiring age were asked to retire. Those not of retiring age who held previous office were asked to revert to those offices. Those Supreme Court judges who did not hold such office were invited to apply to the Judicial Service Commission for appointment. But now I have jumped a few years in my narrative of events and must return to my years at the University. 524

At the University, Alex Kwapong's well-laid plans of getting George Ofosu-Amaah to produce more legal papers to establish his ascendancy in the race for the Deanship was postponed by George's appointment for a year to head the Special Branch of the Police. Harlley and Deku who had been members of the NLC Government retired and had nothing more to do officially with the Police. The remaining old top echelon of Special Branch consisting of Deegbe, Mawuenyegah and Habib were removed. It is my belief, perhaps misguided, that in this reorganisation of Special Branch, the seeds of the apparent lack of forewarning of the Branch of the impending coup of 1972 were sown. When the first year ended, Busia made a plea to Alex Kwapong that George was needed in the position as head of Special Branch and George's term was extended for another year. 525

George's acceptance of the appointment as head of Special Branch in Busia's govern- 526

ment, changed the course of this simple academic plan. I recall attending a party in London given by John Thompson while I was Dean, at which I met quite a number of officers of MI5 who had previously served in the British High Commission in Ghana. Some of the invitees were obviously embarrassed to see me there because they had behaved, while in Accra, as if they were ordinary diplomats. One of them always gave the story that he was only a temporary cadet in the British diplomatic service wanting to get a permanent appointment but each time he sat an examination or was given an interview, which coincided with the periods when he had to visit London, he failed. Being a very nice person, this story generated a lot of sympathy. John Thompson, on the other hand, did not take it amiss that I was there, because he thought in my position as Director of Public Prosecutions, I had known who all these people really were. I remember that when his other guests were leaving, he asked me to stay behind for a while. At that time, we started discussing his guests and I mentioned the story of the one guest who passed himself off as a temporary cadet of the diplomatic course. John laughed and said he thought I knew all the time that that fellow was one of them. But the point of mentioning this story was that among John Thomson's guests that evening was a Deputy Director of MI5 who talked to me about Ghana. He knew George Ofori Amaah and he knew that he had been seconded from the Law Faculty. So he asked me whether I thought George would come back to the Faculty and when I answered that the Prime Minister obviously wanted him to stay on as long as possible, he replied, "I don't think he would like to come back. He is enjoying himself too much catching Russian spies." This was a reference to a recent expulsion of some Soviet diplomats from Ghana for spying. But George's tenure at Special Branch was involuntarily terminated by the 1972 coup and after the usual unpleasant detention for a period, went abroad and lectured in among other places, the University of Kent at Canterbury where the former Dean at Legon, Brian Simpson, was then a professor. He, eventually, succeeded to the Deanship of the Legon Law Faculty after Ekow Daniels and other temporary holders.

I had difficulties with giving wholehearted support to the Busia administration. It contained most of the intelligentsia of the country. Yet, I was unconvinced that under pressure they would not repeat the same undesirable practices as Nkrumah did. I was prepared to give some allowance for the actions of the CPP; after all, apart from his native wisdom, what sort of knowledge did Krobo Edusei have when he became a Minister? I was, however, not able to give the same latitude to such well educated men like Akufo Addo, Willie Ofori Atta, Victor Owusu and others whom I thought should know better. My suspicion was that the latter group would be quite arrogant about whatever wrongheaded action they chose to take. In short, by background and education, I should belong to the Danquah-Busia tradition. Most of my friends belonged to that group. In fact, I found myself an alien. 527

J.H. Mensah became the Minister of Finance and I immediately withdrew contact with him. Apart from being my very good friend, I had always had a great respect for his intellect, knowledge and power of expression. But I thought of him as an academic. I always said that Pius Okigbo of Nigeria and himself, both of them close friends of mine, were the greatest economists that Africa had produced. I wanted him to make his name in that field and not in politics which, to my mind, demanded too many compromises 528

of conscience. J.H. had always had unusual working hours. One heard that he came to the office late towards evening and expected his Principal Secretary, Amon Nikoi, my old classmate, to be present to work with him. I remember an occasion when he phoned me in the middle of the night and asked me what I was doing. I told him that I was sleeping. I asked him whether anything was wrong and he answered, oh no, he just thought I could come round for a drink. I thanked him but added that I intended to continue sleeping. So it was not difficult for me to believe that his working hours were unusual. I also heard that J.H. and Amon Nikoi were not getting on well. That distressed me as I liked them both. But I did not think I could do anything about it. I kept myself away so much from J.H. that I was surprised that a knowledgeable diplomat like Joris Vos of the Netherlands, later to become his country's Ambassador to the Soviet Union, then Russia and the other States into which the Union was broken, and later to the United States, did not realise, after our long association, that I even knew him.

Joris and Yvonne were with us one evening when, in the course of a conversation, he said that the one person he would very much like to meet was J.H. I was surprised because J.H. had been Minister for quite some time by now, Joris was smart and, I thought, capable of making his own arrangements to meet any political figure of importance. I said I could arrange a meeting with J.H. that very evening if J.H. was at home. He could not believe it. I got on the phone and found J.H. at home, I asked him what he was doing and whether I could bring some friends to meet him. He said, of course. So Joris, Yvonne, Stella and I got into our cars and drove to J.H.'s residence which was quite a short distance from where we lived. J.H. met us at the door. He had some political associates whom I did not want to meet with him, which disappointed me. So I suggested that we would go away and come back another time. I do not know whether J.H. seeing a couple of Europeans in tow thought that I had come to ask a favour on their behalf. He made a curious statement; he was speaking to me in Ga and asked us not to go because I never know but tomorrow he might not be there. I immediately attacked him and asked whether I could not now come and have a drink with him without asking a favour. He was so relieved to hear that that he asked us to go straight upstairs to his bedroom area and wait. We had a very delightful evening with him when he eventually turned up, chatting about anything and nothing, like old times. It probably was the most impressive act that I performed in the view of Joris.

A test which faced Busia's administration was the economy. Ghana was heavily in debt and was finding it difficult to meet its obligations. There was talk of a renunciation of debts. "Kafu didi" (a debtor was entitled to eat) was the slogan which the party in power preached. A measure which Government thought would relieve the economic situation was to expel all aliens, especially the large number of Africans from neighbouring countries who worked on the cocoa farms. The theory was that if these were expelled, jobs would become available for Ghanaians. What Government had not calculated on was whether those jobs done by our brother Africans from neighbouring countries were jobs which Ghanaians were dying to do but could not because of the presence of the aliens. Those from neighbouring countries without residence papers were asked to leave. Those who did not leave were rounded up, herded in camps and deported to their countries in, at times, circumstances of considerable cruelty. All neighbouring Africans in that category were affected and it caused a great deal of re-

sentment. On a visit to Nigeria some ten years later, I was met, whenever I identified myself as a Ghanaian, with sermons by Nigerians on how badly Ghana had treated them. The act of Government was one which inflicted very deep wounds in Ghana's relationships with its neighbours. I do not think it achieved the result which Government expected. When Nigeria retaliated in a similar manner, some years later, expelling Ghanaians without the necessary papers, we must have understood what pain and suffering we had previously caused.

But the tone of the Busia Government was for me set by the case of \*\*\* HERE TAKE IN WRITING IN THE CONTRIBUTION OF THE COURTS [\* HERE TAKE IN WRITING IN THE CONTRIBUTION OF THE COURTS ] 531

## 10. Faculty Dean and Other Activities from 1966 to 1973

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In the last quarter of 1969, therefore, a tour of some of the top American Law Schools was arranged for me by John Bainbridge of the International Legal Center, a Ford Foundation institution for the promotion of legal studies in developing countries. The Law Schools chosen were Columbia, Harvard, Michigan, Stanford and Indiana. The last, I think because, William Burnett Harvey, who was earlier on the Professor and Dean of the Legon Law Faculty, was teaching at the institution at the time. My tour started off from Washington D.C., although there was no particular Law Faculty in the District which I was to visit. But I suppose it was a good thing to start from the seat of the federal government, to understand the doctrine of separation of powers, as practiced in the US, and to see the main institutions of government. Before I went, Bainbridge came back to me that there were a number of people insisting to be my host in Washington. Among these was my old class-mate Kodwo Debrah, who was then the Ghana Ambassador to the US, and John Ryan, the former Australian High Commissioner to Ghana, who had arranged my 1965 visit to Australia. There were also old American diplomatic friends who had asked that I stay with them. With the invitation from our Ambassador, my abode in Washington was settled. I told Bainbridge that I would stay with Kodwo.

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When I left Ghana on my tour in September, 1969, it was not direct to the United States. I passed through England, where I stayed as a guest of my old College. Dr. Habbakuk was then the Principal of the College. I met some of the dons who were in residence at the time, including the West Indian law don, \*\*\*. [\* name missing ] There was a seminar of the English Law Commission being held in All Souls College, to which I had been invited. The seminar was to discuss strict liability in torts. Lords Diplock and Pearce were present, as were the Law Commissioners, like Norman Marsh, who was teaching at Oxford in my student days. Patrick Atiyah was also present, and was at his best in demolishing the arguments of their Lordships. Observing his manner, I understood what Jim Gower said about Patrick's attitude which put interviewers off him when they met. In connection with the seminar, there was a cocktail party at All Souls College in the evening, where I met Professor Rupert Cross. I found that the Oxford-Legon relationship was well known in Oxford. It was during my visit to Oxford at that time that I realised that there was something wrong with my stomach, which after a great deal of trial and error back in Ghana, was eventually diagnosed as hiatus hernia.

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After the Oxford stay, Patrick Atiyah drove me to and back from Durham where a meeting of the Public Teachers of Law was taking place. Christine did not join us on this journey. The principal guest speaker was Lord Wilberforce, who had already gained a formidable reputation as one of the best Law Lords in the country. I stayed at Hatfield College which was my friend, Roger Korsah's College in his Durham days. I found Durham very beautiful. I visited Newcastle briefly to get the atmosphere of the city where old Achimotans and friends like Nee Lante Heward Mills, Simon Sotomey, Sylvan Amegashie and Klu Adjetey had had their University training. Patrick dropped me on the way back at Ashford near Derby, where our friends, Robert and Margaret Landor, lived at "the Mount". I was staying with them on my way out of England to the US. The

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Landors had been in Ghana where Bob worked in the probation sector. We then saw them quite often. Their last child, Rennie, was born shortly after our son, Ralph.

I arrived in Washington D.C. to stay with Kodwo Debrah over a week end, [\* check sequence, un-accounted for discrete mark made by Uncle Roger ] and he took me to see the Washington Redskins win a game of American football. It was during the heyday of the Redskins when they had people like Jurgensen playing for them. Kodwo Debrah had a difficult assignment in the US at this time, especially with American blacks. Kwame Nkrumah was their hero and his overthrow was not taken kindly by them. Where most Ghanaians would avoid debates with them over the overthrow, Debrah gained a lot of respect for taking them on, meeting and discussing matters with them. In New York, I had a permanent invitation to stay with Franklin and Shirley Williams. They were in their West 69th(?) [\* any way to check address and remove question mark? ] Street home the redecoration of which Shirley had spent months away from Accra supervising. The result was very good. The Williamses [\* changed from Franklin home ] home was not only convenient because one was with friends, it was also convenient because it was only a few blocks away from Columbia Law School where I was to spend practically the whole of my working visit to New York. The Williamses took me to Lincoln Centre for a musical evening and introduced me to Broadway by taking me to a show there.

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The selected Law Schools were most impressive. At each law School, I had a host who looked after me and ensured that I met the Dean of the School and all those who could talk to me about the administration and teaching machinery in a Law School. I met a number of distinguished law teachers. At Columbia, I met Walter Gellhorn, a generous host, who acted as a nerve centre from which I developed other contacts and with whom I communicated for many years afterwards. I also met John Hazard who introduced me to the legal systems of the Soviet Union and China as well as a number of African countries which had adopted or profess to have adopted a form of socialist legal system on whom the learned Professor had written. He gave me copies of a number of his publications on the socialist systems of law which I was later to rely on heavily when writing my book on the contribution of the courts to government. He recommended to me Harold Berman's book on Justice in the U.S.S.R. whom I later met at Harvard. I was happy to supplement my collection of materials on socialist legal systems by Professor Hazard's own book on Communists and Their Law. Gerald Gunther, normally holding a chair at Stanford, was at that time at Harvard Law School. He had just been to Ghana where he had as part of the effort to promote the return and practice of constitutional government delivered a series of lectures on constitutionalism. I enjoyed meeting him again. I had the same experience with Louis Loss, the great authority on corporations and securities law, whom I had met before on his visit to Ghana and, who then paid the highest compliment to Professor Gower. Jim Gower was still spending a lot of time in Ghana on company law matters and I repeated to Louis Loss an anxiety expressed by Gower on what this prolonged stay away from the LSE did to his position there. Loss said quite dispositively, "If LSE won't have him, Harvard will have him any day." I also met Lon Fuller, the great jurist on the morality of law, who had been doing battle with H. L. A. Hart of Oxford University on the meaning of law. At Harvard, I was looked after by David Smith, then the Secretary of the International Studies programme at Harvard

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Law School, but later to become the Vice-Dean of the School. David had worked in Nigeria before and knew West Africa well. He had in his position also travelled widely internationally. He introduced the young Dean, Professor Derek Bok, with whom I had a discussion. I got the impression that the School had so many books and materials on law in its library that it did not have sufficient space to store them and compared this with the almost total poverty of the Legon Law Library.

By a stroke of good luck, the Graysons had returned from Ghana by this time and I had the opportunity of visiting with them at Harvard. This was the time of student protests over the Vietnam war and we spent some time discussing the problem of student protests and their significance with respect to the American involvement in Vietnam. Beverly Pooley, who was before on the Ghana Law Faculty, was my host at the University of Michigan Law School at Ann Arbor. He was by this time in charge of the Faculty Law Library. He took me round the Faculty. He was at the time supervising Kwesi Botchwey, who was at the Law School to do his doctorate. As the new Dean at Legon, Bev expressed to me his concern about the time that Kwesi spent on radical black politics and the possible effect that this would have on the completion of his degree work. Fortunately, there was no adverse effect. I remember that although it was September, the weather at Ann Arbor was the coldest I had ever experienced in the US. I was looked after by the Vice-Dean at Stanford Law School and I stayed at the Faculty Club. I had the opportunity of visiting not only Stanford but also other Law Schools in the San Francisco area. One was Boalt Hall, University of California and the other was the practical institution where Dean Prosser, the great authority on the Law of Torts, was then teaching. I had the pleasure of once more visiting and having dinner with the Quinbys who had entertained me so well some four years before. In the Bay Area, I also met with a number of friends from the Kaiser Corporation, whom I had met while they were in Ghana in connection with Valco. I was entertained by Ralph and Irene Knight, Dick and Noll Davis as well as Jess and Gloria Taylor. From San Francisco, I took the train on the journey over the Rocky Mountains and the Grand Canyon to Denver, Colorado. It was a two to three day journey and was a spectacular experience. From Denver, I continued to Bloomington, Indiana. Of course, Brian Harvey was my host at the University of Indiana at Bloomington. There, I gave a lecture on Ghana and why Nkrumah fell. The reception from the students was kinder than I had expected and, though unrelated, I got the Freedom of the City conferred on me by Mayor, now Senator, Luger. The whole tour provided me with a wonderful opportunity for me to collect a number of American legal literature. I came back as the Professor and Dean of the Faculty of Law at the University of Ghana. The arrangement was that I was seconded by the Courts, from which I continued to receive my salary, to the University.

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For most of the events during the Busia regime, I was only an interested observer from the Law Faculty of the University. Chief Justice Bannerman occasionally, but not often, called upon me to add to a panel of the Court of Appeal. But I, unexpectedly, had a call from J.H. one day and he asked me whether I would like to chair a Committee of Enquiry into the State Insurance Corporation. I told him that I was a borrower from the SIC for our house at the Airport Residential Area. He thought this would present no problem. Indeed, his reaction was that the fact that that I had a loan from them would make

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me a good investigator of their affairs. With me on the Committee was Ussher, an old school friend at Achimota, who was a year behind me and was by then an accountant, and a third member. The enquiry was mainly into the general administration of the SIC, which at this time was also the administrator of the Social Security and National Insurance. Apparently, there had been some dissatisfaction with the control exercised by the SIC over the Social Security Administration. The complaint was that the whole administration was unwieldy. Kobina Wood who was the head of the SIC at the time, thought that the object of the enquiry by the Busia Government was directed against him. Having regard to his early activities as a staunch CPP trade unionist, he could well have entertained such suspicions. We did look at the books of the SIC; that was mainly Ussher's work, but there was nothing improper. The major deficiency in the SIC administration related to the fact that though they had been appointed by Government to look after the infant social security scheme, that aspect had grown so large that it threatened to overwhelm the nurse. Delays to claims for social security, caused mainly by the fact that the SIC did not have adequate staff to deal with them, a fact which Wood himself admitted, were interpreted as acts of deliberate maladministration. In the event, we recommended that the social security administration should be separated from the SIC. After our recommendation had gone to Government we heard nothing, not even by way of thanks for the work we had done. This tended to confirm to some that what Government had hoped for had not come out of the report. Months later, Richard Taylor, who was with the Organisation and Methods section of Government at the time rang me on something else and in the course of it mentioned what a useful report we had presented. I was quite surprised that anybody had been paying any attention to what we had said. Presumably, that recommendation was the beginning of the existence of the Social Security and National Insurance Trust, which later turned out to be the richest single public organisation in income receipts and investments in Ghana.

Otherwise, I was left to get on with the administration of the Law Faculty. I found University life most congenial. I had some excellent colleagues. Tommy Mensah, who in later life was to become the President of the International Maritime Tribunal based in Hamburg, was away during the time that I was Dean. Among my colleagues was Kwamena Bentsi-Enchil, who had been in active private practice until the early 1960s, when he left to pursue an academic life which took him to the Universities of Chicago and Harvard(?), [\* how to check, author's question mark ] and subsequently became Dean of the Law Faculty of the University of Zambia. He returned to Ghana in 1970 and was attached to the Law Faculty as Research Professor. Other colleagues who were in the Faculty during my tenure included Kofi Date-Bah, who specialised in Contracts and Torts, and eventually found himself in the Commonwealth Secretariat as a Senior Adviser in commercial legal matters; Albert Fiadjoe, who specialised in Company Law and left in the 1980s for the University of the West Indies, at one time becoming the Dean of the Law Faculty operating from the Barbados campus; Kofi Dei-Anang, who specialised in Contracts and was for many years later the General Counsel of the African Development Bank; Kwame Afreh, who specialised in Criminal Law and Procedure and after a spate of service in the Attorney General's Office became a judge, at the time of writing of the Court of Appeal dealing with commercial matters in the Courts; Ekow Daniels,

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the constitutional lawyer who is now in private practice in Accra; Sam Gyandoh, also a specialist in Constitutional Law, who left later Legon for the American Temple University; the late Ago Simmonds, the specialist in International Law, who later spent some time in the diplomatic service and later in the Attorney General's Office in Zimbabwe; Aki Sawyerr, son of my father's contemporary, Akilapka Sawyerr and one of the lawyer fraternity which lived in Tudu in Accra, an all rounder who later on became Vice-Chancellor of the University; Kludze, who was for a brief period teaching Land Law in the Faculty but later transferred his services to the United States; Ekua Kuenyehia, who later became the Dean of the Faculty and has remained in the Faculty to keep Police Officers to their proper duties; Turkson, who later went to East Africa to work; and Kwesi Botchwey, who was for many years the Minister of Finance of the Rawlings Administration and now a pundit at Harvard University.

Some of my colleagues were more difficult to deal with than others. Professor Bentsi-Enchill was often prickly to deal with. He at times argued as if his Zambian experience ought necessarily to be replicated at Legon. Simmonds, who I understand had once asked his International Law Professor at Cambridge to call on him whenever the Professor had intractable problems to deal with, was a colleague with whom I found it impossible to be level on the same wavelength. From the grapevine, I was always hearing of his snipings at my shortcomings which he never put to me directly. Kofi Dei Anang made it difficult to keep to an organised schedule. He had a number of overseas commitments and required permission to re-arrange his lectures or get others to substitute for him while he was away. But he never kept to the dates he gave for his return. As a result, the rescheduled lectures had to be further rescheduled or the substitute's time had to be extended or another substitute found. There came the time when the Vice-Chancellor, Alex Kwapong, refused, as a matter of course, any application by him to travel. But I knew Kofi was good at his subject and I wanted him to develop as much as he could. So I had to go begging Alex each time to relent and permit his travel, knowing full well that I would have to do some fancy footwork to keep his classes happy during his extended absence. I suspected that those who felt that I was an intrusion, delaying their advancement to higher things would if not overtly, be influenced by an undercurrent of resentment to some degree towards my presence as Dean. As a result, I was to some extent reactive in my relations. But, by and large, I found my colleagues an excellent group to work with.

We had rich resources in Ghanaian law teachers, which was supplemented by teachers from abroad who visited from time to time to enliven and bring fresh perspectives to the local scene. Several institutions abroad helped us in this endeavour. Because of the Oxford-Legon relationship in law which had been established before I go there as the Dean and which continued to flourish during my time, we had law teachers from Oxford visiting Legon to teach for various periods. Naturally, being an old boy of Oxford, I was very pleased with the relationship. Teachers like Ian Brownlie, now the Professor of International Law and a well-known figure in the international litigation field, served as a Senior Lecturer in Legon for one term; Dyson Heydon, the Australian teacher on Evidence also visited Legon on the same programme. So did David Bentley, who later left Oxford to join the legal staff of the British Home Office. A number of Oxford law dons were also connected with Legon in various capacities. Peter Carter of

Wadham College who, with Alex Kwapong, had been instrumental in the establishment of the relationship continued to visit Ghana to test the pulse of the relationship. Brian Simpson, upon leaving the Deanship, continued for a while as an external examiner. Later, it was Reynolds of Worcester College, later on a Reader at Oxford University. Ekelaar was a supporter of the relationship from the sidelines. I tried my best to get Professor Rupert Cross to visit Legon during my stewardship. He had been one of my lecturers at Oxford in the early 1950s. He was the remarkable man who, because of his blindness, was helped into the lecture hall, with new students feeling sorry for him, but who in ten minutes or less managed to turn this atmosphere of pity into genuine excitement. He was the one teacher who maintained, if not increased the number of his student audience over the whole academic year, including the summer term. I thought he would be an inspirational teacher for Legon. At one time, I thought I had got him fixed. He had returned to Oxford from a lecture tour of Australia when I wrote asking him whether he could then make his visit to Ghana. He replied enthusiastically that he would. He had not calculated with his wife who had always been the person watching his health. She vetoed the idea of an immediate visit. As a result, he came later to Legon but at a time when I had left for the United States. From all accounts, he fulfilled my expectations and to my regret, I was not there to enjoy it. He was later knighted and, in my congratulatory letter, I made the impish suggestion that I had given some help in his attaining this honour. He replied with characteristic humour that, no doubt, I had.

We, in Legon, also benefited by being able to send some of our brilliant students to Oxford to take further degrees. Tsatsu Tsikata, who at the time held the reputation of being the most brilliant student the University of Ghana had ever produced, went to Wadham College for his Bachelor of Civil Law (BCL) and justified his sponsorship by obtaining a first class degree at Oxford. He had got a first in his first degree in Legon, which was a rare event. The Oxford external examiners always said that we were rather stingy with our award of first class degrees. 543

By the time I was leaving for the United States, we had got to a point where we had sent Date-Bah to Oxford, not as a student but as a teacher of law. We had thought that, from that time onward, we would from time to time be reciprocating the flow of teachers from Oxford to Legon by a counter-flow from Legon. Alas! Date-Bah was not only the first, he was also the last of Legon's contribution to this co-operative endeavour. Whether because of lack of funds or of enthusiasm in my successor to continue the relationship, it ended while I was in the US. Temple University in the US, which had been using the facilities of the Faculty for its summer courses, seems to have supplied a needed external relationship after the Oxford connection ended. 544

Help for the Legon Law Faculty also came from the International Legal Center (ILC) of New York in the form of books and lecturers. I had always thought that American law courses were much broader than the English courses we knew. Law is, after all, a gloss on many basic disciplines. A knowledge of economics and sociology will definitely be helpful to a study of Contract and Torts. The English training totally divorced the study of law from the basic studies on which it depends. By the same token, there were subjects which American Law Schools taught their students and which as a result 545

made their students specialise in that area of study which the English training did not care about. One such area was taxation, which had become in England a field of specialisation of accountants, with the majority of lawyers totally innocent of its effect or impact on the society. I thought that this should be corrected. We got Robert Halliwell, the American tax law teacher, to visit Legon over a period of time to interest students in the subject. I am not sure how successful he was. He was followed by Professor Speight(?), [\* author indicates name needs to be checked ] of Stanford Law School. He, at least managed to inspire one student who went to Stanford and did his doctorate there. He returned to Legon to teach tax law, not during the time I was Dean but while I was still teaching there. Later, he became a Professor, then combined his teaching duties with an appointment as the Commissioner of Internal Revenue. Now he is Vice President of Ghana. He is Atta Mills. But I had a problem with the help of organisations like the ILC. They often offered money for programmes that they thought should be pursued at the Faculty and not programmes that I or the Faculty really wanted. Population studies, for example, were the in-thing with Americans at about this time. There was a lot of money available for that. I was keener on a programme of a comparative study in the laws of Ghana and our neighbouring States. I asked the ILC for money for this. No, there was no money available; but if I wanted money for a population study, there was some available. I said no thanks to that. I did not want the ILC or any other American institution to determine the agenda or priorities for the Faculty.

We also established a relationship with the University of Leiden in Holland. From Leiden we had Cees Flinterman(?) [\* author indicates name needs to be checked ] who worked with Sam Gyandoh on Constitutional Law matters. A mission was sent from Leiden headed by Professor \*\*\*, [\* name missing ] who subsequently became a judge of the European Court to study the Faculty's needs and the best mode of co-operation. 546

My job as Dean, as I saw it, was to organise the teaching of the Faculty, to attend to the problems of both teachers and students within the Faculty's concerns, to see to the maintenance and building up of the law library and other Faculty facilities, to organise and effect the admission of students, their examination and graduation, and the generally to ensure that the objectives of legal training in the Faculty and the country generally are advanced. It was not easy to get more funds from our own University for the law library. But books and journals from countries with an analogous system of law could be obtained as donations through some of the diplomatic missions. Thus, we were always after the United Kingdom, the United States, the Australian and the Canadian missions for such books. Of course, these countries were quite proud to propagate their systems and, therefore, happy to donate books, if they can. There was a time when book gifts were easier to obtain than later. But as law books are a very expensive commodity, with the cutting of budgets, this was bound to affect the desire to give. 547

As Dean, I once more became a member of the General Legal Council, the body which regulated the affairs of lawyers, on which I had served for many years while I was Director of Public Prosecutions and Acting Attorney General, but from which I had stepped down when I became the most junior judge of the Court of Appeal. I was concerned that the legal educational system in Ghana was turning out new lawyers who had no ex- 548

perience at all of the practical side of legal practice. I thought this deficiency could be met by a course which provided for assignment to a selected set of practising lawyers who could impart something of the work of the profession to the students. The system when I returned to the Gold Coast as a qualified lawyer was that as the country had an undivided legal profession and as practically all of us qualified as barristers in England before returning to Ghana, we could be admitted to practise as advocates right away. But we had to be attached to a practising lawyer, then described as Barrister and Solicitor, later in the Legal Profession Act 1960 (Act 32) as legal practitioner, for a period of a year before we could undertake the solicitor's or attorney's side of the lawyer's work. This system may have worked well with some. But generally, it was inefficient because many newly qualified lawyers merely registered as "pupils" of the established lawyer and started working unsupervised. They never saw their supposed "pupil masters" again until they were ready for their certificate to show that they had carried out their apprenticeship. Any established lawyer of a certain number of years standing could take on a "pupil". The system was otherwise uncontrolled. When the Law School was established near Makola Market, it at first acted as a rival body to the University Law Faculty which had just previously been established to train lawyers for Ghana. So the position was unchanged. The system I was thinking of was that there should be two law qualifications, the academic, which would be pursued at Legon, followed by a practical course at the Law School, during which the apprenticeship to the selected lawyers would be carried out. That latter course should lead to the qualification to practise at the Bar. I was prepared to allow two years for the post degree practical course. But the majority opinion was that two years were too long, so a year was adopted. The practical course could be taken by a student who had done the law degree course leading to an LL.B degree. But it could also be taken by any other graduate who, after his first degree, had taken a year to do a course in the core subjects of Constitutional Law, Contract, Tort and Land Law. The problem with the course I had now proposed was that the number of practising lawyers with whom I was prepared to entrust the training of the students in the practical course was so limited. I had some difficulty listing a dozen lawyers. As a result, instead of having one or two students assigned to one practising lawyer, several had to be. That turned the exercise into a permanent tutorial course for the practising lawyers who must have found it hard, in all good conscience, to discharge their responsibilities to the students. Nevertheless, the course was adopted and persisted with for a while.

Dealing with the students was challenging. The intellectual stimulation from exchanges with them and with the law teachers was wonderful. The part of Faculty administration which I did not like too much is the number of meetings with other University authorities that one had to attend. But by comparison with meetings in other societies, these were quite business-like and intellectually high. I still taught Criminal Procedure and Evidence. Criminal Procedure I had taught for a number of years and, while I did criminal work in the Attorney General's Office, it complemented my work. The mutual benefit derived from teaching continued when I became a judge. Evidence was a subject I started teaching later but which, like Criminal Procedure, complemented my work in other capacities. As such both were less demanding than any other subject I could have chosen to teach. The competition to get into the Law Faculty was probably the

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keenest to any University course. The job of selection of students was as a result very onerous. As Dean, I operated a kind of affirmative action with respect to applicants from Northern Ghana. As they had, since the colonial period, been denied education comparable with that provided for people from the south, they had produced the least number of lawyers. The affirmative action that I took was that whenever there had to be a choice between two students, both with more or less the same qualifications, I chose the student from the north in preference to the student from the south. As a result, we had a number of law students also from the North. This private affirmative action may have caused prejudice to the student from the south who lost but someone had to lose out in the selection exercise and, to my mind, the system that I applied was better than tossing a coin. I felt gratified when it was justified by some brilliant students from the north who did so well as the late S. Tierwul, who later went to Harvard and worked with the United Nations system, quickly attaining a very high position, and Kaburise, who landed eventually teaching law in Papua New Guinea and later in New Zealand, making good from the system. It was touching that many years later when I was living in London, I should, out of the blue, get a telephone call. Upon picking the receiver up, the caller shouted, "This is Kaburise, I am speaking from Papua New Guinea. We need a judge here and I have given the authorities your name." He was wondering whether I was interested. I thought Papua New Guinea was rather far out of my travel plans, so I did not accept. That is not to say that we did not admit good students from the southern Ghana. Tsegah, later diplomat and Legal Adviser to the Ministry of Foreign Affairs, was always competing with Tierwul for honours in their examinations. Patti Ofosu-Amaah, George's younger brother who became a senior Counsel at the World Bank, was also one of the brilliant students who passed through the Law Faculty during my time. Both of them came from the south.

The criticism I had of the students was that they had mainly come from their secondary school "A" level courses, where the normal teaching procedure was spoon-feeding students with notes. They were, therefore, quite unprepared for independent pursuit of subjects at University. They expected the feeding method to continue. I thought this limited their independent growth and favoured too much uniformity. I tried to introduce the American system of discussion of cases at one time but I found that the inspiration of the class ran into the ground every time. So I gave up and went back to the straight forward lecturing procedure, allowing them to take notes from my preparations. They were also somewhat blinkered, focusing their attention almost entirely on the law examinations that they had to pass. Once, I arranged a lecture for them by Aron Broches, then General Counsel of the World Bank. Broches had been visiting Ghana from time to time and he asked to meet with and speak to the law students. A time, at about 4 pm., was arranged for this lecture and notice of it was given to the students. By 3.50 pm. that day, there were no students around the Faculty premises. I was anxious that our distinguished lecturer would find that he had no audience when he came. In desperation, I went round collecting all lecturers around at the time to come to my office for a discussion with Broches. The discussion session went off well but, I am sure, Broches noticed that those present were not the students whom he had asked to meet. I was quite put out by this apparent boycott. At lectures next day, I asked the class whether they did not know of the lecture. They did. Then, why did no one come? This was an

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important international lawyer who had something to share with students and they had deliberately ignored him. Their answer was that the lecture was "not relevant". I was puzzled by the answer. "Relevant to what?", I asked. Relevant to their exams, they unanimously replied. I was shattered.

One problem which I met but which kept me occupied during my tenure was whether and how much private practice to allow the lecturers to have. This problem had ramifications which affected lecturers in other Faculties and Departments and, generally, affected University administration. As I was not faced with the problem of having to supplement either my pay or experience from law practice, I was not personally affected by the result and I, therefore, thought I could bring a more impartial mind to the resolution of the question. The pay levels of University lecturers have always be terribly low. Lecturers can supplement their official salaries by consulting, which had not developed to any high degree during my time or doing permitted work during free time, including the vacations, or publishing books which bring an income. For most lecturers, the opportunities for such supplementation were rare, if ever available. Lawyers, however, have an obvious avenue: to do private practice. In general University circles, including the administration, this avenue was to be discouraged. The position of the lecturers who did not have the lawyers' option was easy to explain: they did not see why lawyers should be given this very lucrative privilege which they themselves did not have. University administrators had a further difficulty, which unfortunately was created by the law lecturers themselves. Once permitted a limited private practice, they soon became so involved that they missed their lectures or the content of the lectures otherwise suffered. I understood these concerns; but I could also see that private practice, if in the areas of the lecturer's teaching interest, enriched the content of lectures, as it gave him practical issues and illustrations of the theories that he taught. There was also a countervailing benefit to the practice of law: a good law teacher could raise the level of legal practice by his knowledge. The debate went on over the period while I was Dean. Sometimes there was a yielding of the administration position. Then it became a question of the negotiation of the limits of the privilege. Private chambers practice could be allowed during a lecturer's free time, provided it was limited in time to allow the lecturer to prepare his lectures, seminars and tutorials properly. Should this include advocacy in the Courts? This was the most difficult aspect to approve. Although advocacy also improved the substance of lectures and could be raised by the practice of the lecturer, it was notorious in being uncertain in time. The courts determine the time; the length of time taken cannot be controlled by the lecturer. All these factors could interfere with the lecturer's work at the University. The parameters for private practice after all the arguments in its favour had to be adjusted from time to time to meet the requirements of the University. But I am glad that private practice was allowed during my time.

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Two appointments that I had during this period which gave me much pleasure were the membership of the Academic Committee of the University of Cape Coast and the trusteeship of the Valco Trust. Cape Coast had been a University College attached to the University of Ghana since its establishment. It had been regarded as an institution where teachers were trained. There was now the feeling that it should become a fully fledged University and should be more ambitious in its programmes. To assure

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sceptics that its standards, which were before supervised by the University of Ghana, would be maintained, an Academic Committee was formed to oversee the new University's performance. The Chairman was Justice Azu Crabbe. Justice Hayfron-Benjamin and myself were the other academically inclined judges put on the Committee. Then there was the Vice-Chancellor of Cape Coast, who was originally, Professor E. Amanor Boateng but later was Professor Dickson, the geographer, not his divinity elder brother. Also included among the membership was one Professor from the University of Cardiff in Wales, then some other dons from the University of Cape Coast, like Dr. Djangma. The letter inviting my participation was written by my old teacher friend, Dr. Modjaben Dowuona, who was then the Commissioner for Education in the NLC Government. He asked whether I would like to serve on the Committee. I replied that, if appointed, I would be happy to serve. When he next saw me, he upbraided me: he said he had asked me a straight forward question and, instead of giving him a straight forward answer, I had given him a lawyer's reply. I found Azu's chairmanship somewhat oppressive to bear. He could never start a meeting on time and was often argumentative and confrontational in his approach. Otherwise, I enjoyed serving on the Committee because it made me feel good that I was participating in the creation of something new.

I was consulted by Nii Quartey, the Chief Executive of the VRA, when he and the Valco representative were engaged in the constitution of the membership of the Valco Fund and I hope I was useful to him. The name of the Fund was a misnomer. I was not a charity established by Valco for the benefit of Ghanaians. But there was nothing we could do when the first membership was determined. The Fund was already so named in the agreements between the Ghana Government and Valco for the establishment of the smelter as the largest consumer of electricity from the Akosombo Dam. In the course of the negotiations, Nkrumah had wanted a share of the aluminium production plant for the people of Ghana. But, being the capitalist that he was, Government participation in the project was the last thing that Edgar Kaiser wanted. He did not want Government to interfere in the management of the plant. So what Edgar Kaiser did was to suggest the alternative of a Fund for the development of education, health, the advancement of science and knowledge generally for the people of Ghana, into which a certain portion of the profits from the plant would be paid. Government was not to be the distributor of the fund but an independent trust appointed by VRA and Valco. The determination of the amount to be paid to the Trust depended on a complicated formula. The Trust was to get a percentage of the profits when the profits of Valco had reached a certain level, which was also a matter dependent on a complicated formula. Pending the attainment of the level, Valco was to advance against the ultimate profit share of the Trust, the sum of \$200,000 a year to the Trust, which the Trust would distribute. This, it was thought, would give the trustees some experience in their work, especially as the expected future sums to come to the Trust were to be substantial.

The Trust was constituted, I believe in 1969, but the trust document back dated it to 1968. The idea was to have a rotation of Trustees so that initially some were appointed to a full three year term; others to two year; and yet others to one year. The appointments were renewable. Nene Azzu Mate Korle was the first chairman of the Trust. Among the other trustees were Dr. Modjaben Dowuona, the educationist; Owura

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Ephraim Amu, the great musicologist; Dr. Susan de Graft Johnson (nee Ofori Atta), the well known doctor dealing a lot with children; Saki Scheck, a lawyer and politician; Isifu Ali, an economist and politician, and myself. Nii Quartey, the VRA Chief Executive, and Ward Saunders, the Kaiser official responsible at headquarters in Oakland, California, for the affairs of Valco, were present at our meetings as advisers. Laryea, a senior VRA official, was secretary of the Trust. I was on the Trust until about 1970. By then, Nii Quartey and Ward Saunders had been replaced by Louis Caseley-Hayford, who was then Chief Executive of VRA, and Jimmy Phillips, who was the Valco representative responsible for relations with Government, as advisers. Modjaben Dowuona, being the head of the committee dealing with disbursements, was the hardest working member of the Trustees. Upon guidelines developed by the Trust and in accordance with his committee's recommendations, the Fund's money was judiciously distributed to deserving schools, health projects, academics in need of support to attend conferences and many other worthy causes. A financial statement of Valco's operations was submitted to us annually to show that Valco had not, according to the agreed formula, reached the time when the profits of the company would be shared with the Trust. That meant that the advance of \$200,000, instead of a share of the actual profits was payable to the Trust. Studying these statements, I discovered that there were items in them which were doubly charged by Valco i.e. the expenditure appeared to be to be charged at least to two different heads. I brought this up at a Trust meeting. That led to very long arguments with Ward Saunders, who was a formidable opponent as he was both a qualified lawyer and an engineer and he had the Valco operations at his finger tips. At several meetings over a period of time, during which I held my own ground, it came to be accepted that my position was correct. This hastened the time for the sharing of the profits which placed the Trust Fund in substantial funds. But by the time the large injections of money were made to the Fund, my term of service as Trustee had been ended. Perhaps this was the greatest service I did for the Trust Fund. I did not know at the time but some ten years later, when I visited the VRA premises looking for the Chief Executive, Louis Caseley-Hayford, I saw Laryea, who was still connected with the Trust Fund. He told me that the Trustees were meeting and pleaded with me to step into the conference hall to greet them. I obliged, and I found Dr. Mirinda Greenstreet, the current chairperson, and the Trustees in session. Dr. Greenstreet greeted me with such warmth, it was most heart-warming. She announced proudly who I was and asked the Trustees if they knew me. She then told them that but for me, the Trust would not have had the money at its disposal. The Trust had had such funds that it had even used part in building the imposing Valco Trust House in Accra.

A project which I was keen on promoting was on contemporary history. I had always regretted that our great men were passing away without leaving anything of their lives for posterity. After they died nobody was able to recapture the richness and variety of their lives any more. In my own life-time, people like Sir Emmanuel Quist, Sir Henley Coussey, Sir Arku Korsah, Nana Sir Osei Agyemang Prempeh, the Asantehene, Nana Sir Ofori Atta, Okyenhene, Justice J.S. Manyo Plange, A.L. Adu, Justice Akufo Addo and many others, whose recounting of their life would add much to the knowledge of our recent history, had passed away without record. Even among our own Trustees, there were people, like Nene Azzu Mate Korle, an important Chief who had started as a policeman

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and had contributed to the administration of the country in the colonial days through the Joint Provincial Council of Chiefs; Owura Amu, the musicologist who had written so many tunes in different languages of the country; and Dr. Susan de Graft Johnson, were candidates for this project. By a narration of their life stories, they would tell of the development of the country through the years in various spheres. It appeared to me that the problem was that most of our people found themselves unable or unwilling to write. Even those who could write doubted whether there was anybody who would be interested in the history of their lives. We tried to persuade Valco, to obtain appropriate equipment for us from the US and the Trust to establish an organisation whereby identified personalities would be approached to tell their own stories in their own way. After recording it, the person in charge of the project would edit it and check corrections with the narrator. These stories could, at the option of the narrator, be published or put in an archive for anybody writing a history of contemporary Ghana to consult. Valco duly provided the equipment. Henry Ofori, "Carl Mutt", the humorous journalist, was appointed editor. I was told that he had visited some personalities to record their life stories. Somehow, the project ran into the ground. As this book shows in its small way, I still think it is a good project.

But my years after 1966 were not all work. I was attached to Mensa Sarah Hall at Legon. I thought, how appropriate. John Mensah Sarbah was the first indigene to qualify in Britain as a lawyer and was, no doubt, a learned man who left behind a tome on Fanti Customary Law. I enjoyed the dinners that I attended there. We saw friends, especially Frank (Kojo), who was Professor of Chemistry; Iris (Naawaa) Torto; my sister, Mildred and; her husband, my old classmate, Ebenezer (Yosi) Laing, who was Professor of Botany. Through Ralph, we met Judy Grayson who was at the Ghana International School with him. Through Judy, we met her family, the Graysons. Leslie Grayson was a member of the Harvard Group of academics who were advising the Ministry of Finance on economic matters. They worked with Nii Noi Omaboe. We saw a lot of the four Graysons: that is Leslie, wife and mother, Olivia, and Judy's elder sister, Carol and Judy. Les has a dry sense of humour, which threw me into fits of laughter. They derived a great deal of fun from Rafiu, the little son of their cook-steward, whom they spoilt terribly. Ghanaians are fond of the expression "Let's go". This, Rafiu turned into "Les go", which he repeated any time he was waiting for the family to take him to the beach. Les was always looking forward to the time some sixteen years ahead when Rafiu would become a "campus militant" at University. The Graysons became regular members of our Saturday "club". That was the arrangement which we started with Mungo Franklin from the days that he used to visit us in Kumasi. Our greatest event during this period, however, occurred before I became Dean. That was the birth of our third child, Juliet on 16 February, 1968. I remember that Stella had, as gynecologist at the time, my old School Senior Prefect and later room-mate and benefactor at Hans Crescent in London, K. K. Korsah. When Stella was admitted into Korle Bu Hospital on the 16 February, she was seen by K. K. who said that she was not going to have the baby before the next morning. I then went off to Legon to have dinner with the Tortos. I came home that evening to hear that there had been a call from Korle Bu that Stella had had the baby. I rushed there. But it was not the same as being available when Stella wanted me. Juliet was so different from \_Tossan.\_ [\* pointed out that Tossan's name is spelt differently

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earlier, explain ] Juliet had practically no hair for a long time, and she was so serious. Because of this sombre look, Les Grayson named her "the Bishop".

The other major event of the period was the building of our house at Ablenkpe. I supervised the building which is the one practical achievement in my life. The fact that I was working at Legon and had to go there every day, from Cantonments in Accra, helped my supervision of the building. I had bought the land in Ablenkpe in 1960 from Auntie Martha, Naawaa Torto's mother. It was supposed to be a very long term investment. From 1960 until I started doing anything about the building in 1971, I went through quite a number of phases when I was the owner or not the owner of the land. Auntie Martha, who derived her title from the Swaniker family, went through a long drawn out spate of litigation with a man called Sali, who had been selling the lands in the Ablenkpe area simultaneously. As I was never intellectually interested in land matters, I did not follow the course of the case too closely. But I recall that a High Court decided that Sali had the title to sell the lands. As a result, I accepted that the land no more belonged to me. Later, on appeal, this decision was reversed. Then I knew that the land once more belonged to me. I am sure there was further litigation during which my fortunes as owner of the land swung like a pendulum. 557

Some ten years after I had bought the land, on an occasion when the Court's decision was in our favour, I visited the site with our driver, Ebenezer. I was pointing out to him in his wilderness where this elusive land lay. The only house in the area was the new one which Fred Apaloo had moved into. I found that our land was just a few yards from Fred's. When Fred found out that I had land in the area, he started advising me to build on it. Of course, we would be neighbours, which would be nice for both of us. The site at the time had the ideal advantage of being close to the centre of Accra and yet being in a lovely fresh rural atmosphere. I told Fred I did not have any money to build at the time, which was true. He asked me a very pointed question: he asked me where I was going to take Stella if I were sacked from office as a judge the next day. To this question he answered by a further question: "to the family house?" My vulnerable position suddenly became crystal clear. I told him that if I started building right then I would have to proceed slowly and in stages whenever I had the money to do so. He laughed and said that house building, once started takes a momentum of its own. I suggested that I used the building supervisor that he had used for his. As an experienced property man, he advised me to go see my bank manager. The only bank manager I knew at the time was Patrick's younger brother, Theo Anin, who was in charge of the High Street branch of Ghana Commercial Bank. I went to see Theo and told him that I needed money to build a house. The statement did not come as a surprise to him. He asked me whether I had an account at his bank. I did not. He asked me to open an account at the bank. The next question was how much I wanted. I had no idea but I thought I should at least build the house to platform level and then wait until my finances improved before proceeding to the next stage. So I said 2,000 cedis. Theo laughed at me, and suggested that he would give me credit for 10,000 cedis and when it was finished I should come back to see him. The arrangement was that the development of the house would be the security for the loan. But of course, we had the Airport House which the lender could resort to where there is a default. 558

It is amazing what help friends offer and give at such times. We were helped a great deal by them. Apart from Fred, who passed by from time to time to see how matters were progressing, once the building started, and Theo, who gave me the required credit, our Estonian born friend, Arno Janimaggi, who was then manager of the building company, A. Lang, was a tower of strength. He first told us that A. Lang had a number of plans of old houses that they had built for clients. He did not think that I needed to use an architect to draw up a plan for a house. We should first come and look at A. Lang's old plans, if we found any which was of interest to us, he could modify it to suit our purposes. We knew the type of house we wanted: it had to be on a single floor; this was because we hoped that Stella's invalid sister would be able one day to visit us in Ghana and, being in a wheel-chair, a two-storey house without a bedroom downstairs would be a disadvantage. Besides, this was the house that we intended to live in in our old age and we thought a single floor house would be much better for us at that time. As to the shape of the house, as we did not like air-conditioning much, we thought we should have a bungalow type where there could be a through breeze. The house, therefore had to be well sited to catch the breeze. Our old friend, Mungo Franklin, the lawyer, who had continued to see us practically every Saturday for tea, gave good practical advice on the positioning of the house in that respect. We had lived in the two-bedroomed type of Government bungalow known as the "A49" type in Kumasi, which fulfilled this condition and which we had liked very much. So when we visited Arno's office at A. Lang to look through their old plans, it was a bungalow of the A49 type, perhaps extended to accommodate our family and to provide me with a study, was what we needed. It did not take us long looking at the old plans to identify a house we liked. It was a two-bedroomed bungalow. When we pointed this out to Arno, he laughed and asked whether we knew whom they had built that bungalow for. It was Komla Agbeli Gbedema's guesthouse. We asked Arno whether this could be modified to provide four bedrooms, which would include a guest room and to include a study. Arno thought that was easy and started making rough sketches which would cater for our request. Because of the lie of the land, the front of the house had to be raised. Arno thought that the stoep in front ought to be widened. As he said at the time, you would not understand this now but you will later appreciate it. His prediction has turned out to be correct. It is one of my most enjoyable pastimes to sit on the extended part of the stoep and gaze for hours at the world pass by. In the course of the construction, Arno would provide incidental help like supplying cement mixers when needed, advising on the finish and actually seeing to the fixing of the tongue-in-groove timber, of the stoep ceiling as well as supplying the expert artisans to fix the wooden floor. But otherwise we used Fred's supervisor, Mamattah, and the workmen that he provided. But I was there practically every day on my way to or from Legon, or both.

We finished the building with finance under 30,000 cedis of the money of those days. Of course, that meant that I had to return to Theo Anin for an extension of my credit. I cannot thank friends and other helpers enough for what they did for us in the building of the house. I was quite exhausted by the supervision which I provided and took my bed for some days when it was completed.

To my way of thinking, we were going to bring our things slowly from the Bing house to the new house and then move to the latter when we had put all our things there.

I was in for a shock. I was working at my desk during the early days of movement of our things one day in June 1972 when our children came to tell me that they were going to move some more things to the house. I thought that was a good idea. Then they added, "And Daddy, when we go today, we are not coming back." I had been upstaged, I thought Stella had put them to this. I left my desk and joined in our final move from Government accommodation to our own house. From that day, we stayed at our own house and continued moving the rest of our belongings from the Bing house until completed. Living at Ablenkpe at that time was idyllic. Fred's and ours were now the only two houses on the hill-top. Our house faced a slight valley, so we could see from the stoep down to the railway station and the Police Station at Tesano, as well as the development of Tesano across the Nsawam Road some distance away. On a misty morning, the sight was divine. How was I going to pay for the house? The instalments were not unmanageable. But I did not then know that I would have the means for an accelerated payment of the outstanding capital, which was shortly to present itself.

We had kept in touch with Franklin Williams. He had become the head of the Phelps-Stokes Foundation on his return to the US. The Foundation was set up some time before to support black education both within and outside the US. I had discussed the possibility of a sabbatical while I was at the University with Alex Kwapong and he was quite positive to the idea. Franklin suggested that I apply to the newly established Woodrow Wilson Center for Scholars in Washington DC. The Center had been established by the American Congress as a memorial to their former scholarly President. Woodrow Wilson, the Congress thought, would not want to be immortalised by the usual statue that famous men are remembered by. Congress thought he could best be remembered by the establishment of the Center as a place where scholars could collect and pursue their academic or intellectual interests. The Center established had a system of awarding fellowships for up to a year, sometimes renewable, to enable the scholars to work there. The scholar had to give some idea of the interest which he wanted to pursue. If acceptable, he was given a stipend, usually related to his earnings of the previous year, given secretarial assistance and backdrop support which meant that he could obtain any publication that he wished from either the Library of Congress or any other library with which that library had an exchange arrangement. The scholar was then left alone to pursue his interest. The only institutional obligation of the Center was that about once a week, the fellow should join his colleagues during a sherry hour and discuss with them and during his term there to present a paper to the colleagues at the sherry hour. I applied. My interest which I presented in my application was to research and write on the contribution which the courts make to the governance of a nation. The doctrine of the separation of powers and the independence of the judiciary and its incidental imperatives have always given the idea to people that the judiciary was a separate organ of State with little or no connection with the ideas and aims of the other organs of State. I thought this gave a totally wrong impression, as all three recognised arms of government, the executive, the legislature and the judiciary, had at least the community of interest in the preservation and advancement of the State. My interest was in trying to give a correct balance in the organic relationships in the State. I put forward this proposal to the Director of the Woodrow Wilson Center and it

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was accepted. I was given a fellowship, which must have been intended to begin in the fall of 1972. When I turned up at the Center on January 2, 1973 I was greeted with a big, "Where have you been? We have been expecting you for ages."

Before we left for the States, I had an invitation from an organisation in Norway to present a paper to a seminar on development in Africa. I wrote on the air communications, or rather lack of it, in Africa. That took me to Oslo, with the seminar being held at the conference centre in Holmenkollen, just outside Oslo. An invitation came to me at the Holmenkollen conference through Zdenek Cervenka, who served in the Attorney General's Office under Geoffrey Bing during the exciting days of "the World Without the Bomb", and was now in Uppsala, to also visit the University of Uppsala in Sweden. I was met at Stockholm Airport by my sister-in-law, Inger, who took me to her place and later directed me to Uppsala. There, I delivered a paper giving what I thought was a balanced view of Nkrumah's rule. Both papers were published by the respective organisations. In Uppsala, I was invited to dinner at the home of the Dean of the Faculty of Law. That, as Zdenek explained to me, was a great honour, because Swedes did not invite a guest to their home unless they knew him well. A number of the members of the Faculty, including Zdenek, were present. I sat on the left hand side of the hostess, which I understand meant that I was the guest of honour. At an early stage in the course of the dinner, the host made a speech of welcome to me. This was all very good. We had practically gone through the dinner when Zdenek gave me a nudge and suggested that I say something then because, if I did not, all the guests would remain at their seats and not leave the table. That was the Swedish custom. In alarm, I made my extended speech of thanks which I had not originally intended to make formally at the table.

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I took the opportunity to travel further to Finland after Sweden to spend a few days with Momma and Nora in Kimito. All this was in about September of 1972. The opportunity was too great to be missed. I knew I was coming back with the whole family to stay over Christmas with them on our way to the United States. I returned to Ghana to organise the departure of our family for the United States, which I thought would be for a year. We came to Finland for the last three weeks of December 1972. The children expected to see their first snow in Finland. But there was not a drop of snow for the whole of our stay. That made Momma very sad. We left for Washington D.C. on New Year's day of 1973.

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## 11. Extended Visit to the United States and Return to the Judiciary

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We arrived at Dulles Airport, Washington D.C., on 2 January 1973. Washington is 7 hours behind Finland. We had gone from Kimito to Helsinki Airport the same morning, so had started from there at about 5 am. By the time we arrived in the afternoon of 2 January, we had been on the road or in the air for nearly twenty four hours. We were tired but a whole afternoon and evening lay ahead of us in America. We were met at Dulles Airport in Washington D.C. by Bill and Beppy De Pree, who invited us to stay with them for as long as we liked while looking for a place of our own. The second day, after reporting to the Woodrow Wilson Center which is in the old Smithsonian Institution Castle in Jefferson Avenue, we started, with Bill driving us round, looking at likely places for accommodation. They themselves lived in Bethesda, Maryland, but we thought that area would be too expensive for us. Our searches were, however, confined to the Maryland and Virginia suburbs of Washington D.C. This was because of the education of the children. Washington D.C. itself had a reputation for poor quality publicly funded schools; classes were too large and teachers were too few per student. If the children were not to be sent to the publicly funded schools, we would find the private schools too expensive. But in Silver Springs and adjoining counties of Maryland and in Fairfax County of Virginia, the publicly funded education system was supposed to be the best in the country. We had to look for a place in which to reside, which would automatically entitle us to free public school education for the children. We did not find anything suitable on the second day. When Bill suggested that we do the same thing on the third day, I asked him whether he was not going to work. He had taken ten days off at the State Department to help us find accommodation. Leif Muten, our Swedish friend working with the IMF, who had visited us a few times in Accra on IMF missions and who lived in the Lake Barcroft area of Virginia, suggested that we take and look after the house of a friend who was away for a number of months, I believe, in California. We were sceptical about taking on the furnished accommodation of another, especially with our small children. We did not know how we could explain or replace anything that we broke or destroyed. But succumbing to Leif's persuasion, we went with him to see the house. It was, indeed, a beautiful house, large and beautifully furnished with all kinds of personal items. We immediately took fright and told Leif that we could not, under any circumstances, take it. We eventually found an apartment in the newly developed area of Reston in Fairfax County, Virginia to which Bill took us. Reston was then a few years old. It had quite a number of middle ranking government officials working in Washington D.C. The environment reminded us of a Scandinavian countryside. It was quite acceptable. With the help of Leif and \*\*\* [\* ask mum ] Muten, [\* double check Mutein? ] we moved into the apartment.

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We easily put the children in Forest Edge School, a good publicly funded school. We always thought that the Americans made too little noise about their education system than it deserved. Education in the publicly funded schools was free. Reston had the additional advantage that it had been built with the safety of children in mind so that children could walk from their various homes on side- and overhead-walks, through bridges and tunnels to school without having to cross a road. Ralph was twelve by this

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time; Tossan was seven and Juliet was five by this time. We could send them off walking to school about half a mile away without any worry about cars. Although we were in Washington for a year, we knew that Ralph would have to return to Ghana towards September of the year to begin secondary school at Achimota, my alma mater. As our friend, Kwame Kwarteng, who was then working at the IMF, said it was in Ghana where the competition for them in life was going to be. So, he also had a boy who was working towards the same entrance examination to take him to Achimota later that year.

We bought an old blue Volvo from Kwame Kwarteng. But I did not have to drive it to work every day because there was a bus service which took the number of public servants working in Washington D.C. to work in the morning and bringing them back to Reston after work. It was most convenient to take the bus because it stopped in Washington at a few strategic public office points, one of which was near the Smithsonian. By the time we came to live in Reston, the drinking of alcohol in the transit buses had been stopped. It made the users too happy and rowdy. 568

I was welcomed to the Woodrow Wilson Center by Fran Hunter at the reception desk. It was she who had made me aware that I was late in taking up my fellowship by asking me where I had been all this time. She was a gem and we soon became good friends. The Director of the Center was Jim Read, who had worked at some earlier point in life with Franklin Williams. He was a very courteous and sympathetic man whom I was to see from time to time as he was interested in my progress on my project. He, however, did not last very long in that position while I was there and was succeeded by James Billington, whom Stella remembered as a contemporary in Oxford. I was soon introduced to the ways of the Center. I had an office in one of the turrets of the Castle. I was given secretarial assistance, access to the Center's library, which was not large at the time, and to the Library of Congress. If I needed a book or material on a long-term basis, it could be borrowed or photo-copied for me from the Library of Congress or from one of the libraries on the inter-library exchange system, which was of an extensive nature. I was then simply invited to get along with my project. The scholars at the Centre constituted a formidable array of talent, promise and achievement. My neighbour was Dick Smyser, who was later to accompany Henry Kissinger, when the Secretary of State, on his first visit to China. I visited them from time to time to clear my head of befuddlement whenever reading or writing became too difficult. The Center was then quite new. It had about 35 scholars, of whom slightly more than half were American and the remainder from other countries. Some of the foreigners came from Europe, Latin America, Asia; the other African was the Nigerian sociologist, \*\*\*. [\* name? ] There was a mixture of academic and practical people: politicians, both retired and current, lawyers, historians, scientists, journalists and so on. Among the scholars was the great Australian jurist, Dr. Julius Stone. Geoffrey Hodgson, the writer and observer of British contemporary scene and practices, was also there at the time although I did not see much of him at the Center. The fellow appointed to replace me when I left was Elliot Richardson, the former US Attorney General. 569

Thus, I began my researches and writing for my book on The Contribution of the Courts to Government: a West African View which was later on published by the Clarendon Press of Oxford University. It was just like keeping regular working hours of research, 570



writing and discussion. In due course, I gave my presentation on what I was doing to my colleagues at the sherry hour. From time to time, the Center arranged lectures or discussion sessions. At one of these, I met Averell Harriman. He asked me, "You are not going to write another book, are you?" That showed what his view of book writing was. He thought too many books were being written. Probably, his concern was over the quality of the contents and I do not blame him for that. But we have got to a stage where academic merit is judged by production of books or papers. While I was at the Center, Dick Wilson, an acknowledged authority on China and the Far East, visited the US and I got him to make a presentation to my colleagues. He spoke of China which was then of topical interest.

I had the opportunity of visiting Ghana once during my stay in Washington. That was when the Academic Committee of the University of Cape Coast invited me to attend one of our meetings. I was not away for very long. But I did not know then, that absences from Washington during a fellow's tenure were regarded as leave of absence. When I received another invitation from David Smith of Harvard Law School to come and stay for three weeks to participate in a seminar, to which Justice Robert Hayfron-Benjamin had also been invited, and to give a few lectures, I found that obtaining permission for this was very heavy going. It was pointed out to me by the Center authorities that I had been away already once. I was, however, allowed to accept the invitation after I had come to realise that it was the last time during my year that I was going to be away from Washington. The whole family went to Harvard where we were put up at the Faculty Club. Stella and I were rather apprehensive in invading this quiet retreat of academic life with three children aged 11, 7 and 5. How could we disturb the repose of the great, the elderly and the erudite people who frequented here? They were really well behaved as children of their ages but, on one occasion, one or all of them took a ride on the wooden rail on the staircase with us protesting in embarrassment, in vain. There was another occasion when they were being difficult in the dining room and we were admonishing them. One elderly gentleman then dining a few tables away got up and walked slowly to us and said, "Please, remember whenever you feel annoyed by your children that an old man once said that they were lovely children." Stella and I were at once crushed, proud and happy; crushed because we had give an impression that the children were not behaving properly which had been found unacceptable by one of the members of the Club; proud and happy because we were the parents of these children. 571

The seminar on some aspect of criminal law and procedure went off well. So did my three lectures. One of them was on international law. The great Dr. T. O. Elias, the African lawyer whom all revered, had written an article on international law, aspects of which I did not I agree with. My lecture, therefore, was devoted to a view contrary to what the great Dr. Elias had propounded. The lectures were well attended by both black and white students. But there, at the seminar and at other lectures which I attended as well as in the dining canteen, I noticed that the black students all congregated together and the white students together. I had a couple of meetings with the Dean, Professor Albert Sacks. At one of them, I asked the Dean what kind of students Harvard was producing at that time. He was quite apologetic and commended me on my noticing the division. He explained that during his time as a student in Harvard, when there were 572

only a few black students there, there was complete integration among the students. But now that there was a substantial number of black students, when he would have thought that the total integration would continue, they tended to group together. It probably illustrated the fact that the black students thought that they did not need the white students. The white students, on the other hand, after trying on occasion to mix and finding themselves rejected, had apparently given up and were sticking to their own race. The Dean appeared highly disturbed by the phenomenon and promised to see what he could do to effect a change.

I did have a problem with the black students. They obviously had decided that they were going to be segregated from the whites, with whom they had an apparent disagreement. Being black, the black students naturally expected that I would side with them in this disagreement; they expected me to be with them. But I did not think that the problem of the blacks and their attitudes were mine. It seemed to me to be a particularly American problem and the fact that I was black did not mean that I was going to take part in it. That made them suspicious. I discussed the matter with Tierwul, one of our bright Northern Ghana students from Legon, who was then up at Harvard for his postgraduate degree. He found himself having the same difficulty. It was great to see Tierwul at the time. He promised so much. It is a tragedy that he died so young. The suspicion which the black students must have had of me was unfortunately compounded by the fact that they invited me to give an additional lecture to their club. On that day of all days, I had acute laryngitis and could not speak. I had my disability reported to David Smith who had recommended medication which I took. But I do not think that the black students were convinced of my ailment. What I should have done was to send a copy of a prepared speech, if I had had one, to the organisers with a request that it should be read on my behalf. But I did not have such a prepared speech as I had had for my lectures which I had originally been invited to give. I thought I was going to give a short off-the-cuff talk, followed by a discussion with them. I left Harvard feeling distinctly under a cloud with the black students of the Law School. 573

This, however, was not the general impression that I left Harvard with. I had discussions with the one black Law Professor on the Faculty at the time, Derryck Bell. I mentioned my plight to him. He did not think there was anything I could do about it. He knew that there were racial tensions in the School. I met other members of the Faculty, including the famous Professor Louis B. Sohn who, at that time, had temporarily bound sets of volumes on his documents on International Law, one of which he presented to me. 574

The children enjoyed the Cambridge, Massachusetts area. They visited their first large aquarium there. Stella's very good friend, Daily, was living in the area and we visited her and her family. 575

After we had returned from Harvard to Washington D.C., life followed a predictable pattern. I made my intellectual contribution to the Center by presenting my work there to a Sherry Hour arranged for the purpose. By and large, it went off well although I discovered during question time that most of the interest in my work was concentrated on the contribution of customary tribunals to the governance of African States. That, unfortunately, was not the thrust of my researches. I had been dealing with the contribution of the courts which, as a result of our colonial heritage, had become recognised 576

in post-colonial Africa as the regular and constitutionally accepted courts of the countries. This reception was somewhat disappointing. It seemed to me that my fellow members of the Center were only interested in an African if he was discussing customary institutions and their achievements in the process of governance. I dealt with their enquiries as best as I could. These questions, however, did not affect the direction of my research, which were in the relations between the judicial systems of various systems and the executive and legislative organs of State; how independent courts and their judges were; the mechanisms developed for the protection of that independence, if such exists; the ability or inability of the courts to decide disputes between State powers and the individual impartially. I researched for examples from the United Kingdom, the United States, the Soviet Union, China, some former colonial territories of Britain and some francophone African countries. The relations and interactions of the executive, legislature and the judiciary of Ghana since independence were used as a case study. I had got the idea of the case study from Marshall's book on Parliamentary Sovereignty where the learned writer illustrated his theme from a case study of the protracted proceedings for the removal of the coloured voters of South Africa from the common voters' roll.

Ralph duly passed his entrance exam to Achimota and we packed him off to Ghana in time for the school year starting in September 1973. He stayed with the Korsahs who acted in loco parentis. He came back to Washington for his holidays at Christmas. By a freak, Washington had some snow that winter. The city is so unused to snow that whenever any falls, which stays on the ground for any length of time, the affairs of the whole city are dislocated. People stayed at home from work. The city authorities did not have the equipment to remove the snow from the roads to make them passable. Ralph came in time to meet the snow that year, and it was lovely to see him and the girls rolling down slopes in their first snow. 577

I have already described the delight which I felt from working at the Woodrow Wilson Center. Being in the Washington D.C. area itself was an advantage. I was able to visit the Library of Congress and the Supreme Court of the United States. We had some old friends around. Among the Americans who had once served in Ghana were of course the De Prees, whom I have already mentioned. There were also Jack Foley, Deputy to Franklin Williams at the US Embassy in the 60s and his wife, Barbara, and Moeen Qureshie, the Pakistani aristocrat, and his German wife, Lilo. Moeen, who had been the IMF Representative in Accra about in the middle 60s was a Senior Vice-President at the World Bank. The Matlocks, Jack, later to serve as Ambassador to the Soviet Union and on the U.S. National Security Council during the time of President Nixon, were there. Robert (Bobby) Freeman, who started the Ghana Insurance Company in the 1960s with his friend, Vertner Tandy and became a consultant to the company when taken over by the Ghana Government and redesignated State Insurance Corporation, and his wife, Mary, were now back from their African travels which they undertook after leaving Ghana and were ensconced in the heart of Washington D.C. Stella Davis, who was with the USIS in Accra but was now living within striking distance from Washington, invited us to join the Sloans who lived in a penthouse at Watergate apartments for an evening at the Kennedy Center to listen to Mozart's *Così fan tutte*. Jill Funk had lost her husband who served in the US Embassy in Ghana. I have mentioned Kwame Kwarteng at the IMF. 578

He and Letitia were hosts to us many times. We were all very proud of Eddie Ayensu, who was then in charge of the Department of Botany at the Smithsonian Institution. For a young Ghanaian to have achieved such high recognition at the Smithsonian was a thing which raised the spirits of all Ghanaians. Dinah Ayensu was then very busy publishing colourful and tasteful books on African cuisine. I have also mentioned Leif and Dagmar Muten who were most helpful to us throughout our stay. Across the street from the Bank was Olav Snellingen, Deputy Legal Counsel at the IMF. It will be recalled that I met both Leif and Olav while I was serving on the UN Committee for Double Taxation Treaties.

It was difficult not to enjoy Washington with these friends around. We saw much of them. They often entertained us. Occasionally, but not often, we managed to return this generosity. I am not very good at sight-seeing or going to museums or undertaking other educational ventures, like visiting exhibitions. I find that after seeing a few of the art pieces at an exhibition, I am overburdened by the weight and magnificence of the whole atmosphere and become listless thereafter. Nevertheless, we also took in a few of the Washington scenes. We visited Wolf Trap Center with the De Prees to listen to a delightful performance of Donizetti's Don Pasquale. By the grace of the last De Pree child's second birthday, I joined the family and the De Prees to Washington Zoo. 579

The Graysons had, by now, moved to Charlottesville, the home of the University of Virginia. Les was a Professor in the School of Business. We visited and stayed with them on a few weekends. Unbeknown to me, the Graysons started working on friends in the prestigious University of Virginia Law School to invite me to join the Faculty for a semester. I received an unexpected invitation from the Faculty to lunch one day, which I duly accepted. It turned out to be an interview with Peter Low the Associate Dean of the Faculty and one or two of its members. After that, I was invited to join the Faculty from January 1974 for a semester. I knew that it would be extending the leave of absence from the Ghana judiciary and the University Law Faculty which I had obtained but I could not resist it. I accepted. 580

For the transfer from Washington D.C. to Charlottesville, we hired [\* rented? ] a self-drive van and packed our things into it. Bill De Pree, characteristically, offered help. So I drove the U-Haul van with him sitting by me. Just coming into Charlottesville, we had a scary moment when we were descending a hill and as we came to a curve I found that I could not reach the foot-brake to slow down the van. It was frightening. Fortunately, I managed to connect with the foot-brake in the nick of time to save us from going over the edge. It was the sort of moment to be treasured in the memory rather than talked about. People become closer to each other after such an experience. Bill helped us with the unpacking of the many things we had managed to accumulate during the year in Washington. 581

The Law School had found us accommodation in a very comfortable rambling two-storey house set in woodland of some five acres but still within walking distance from the School. The owners were the Bradbeers. He was a science teacher at the University and by a stroke of fortune, had taken his sabbatical leave and was going, I believe, the University of Leicester to spend at least the year there. Wilma Bradbeer was a well-known potter in town with many fine specimens of her works about the house. We 582

felt uncomfortable at first when she said we could use the items of pottery whenever we felt like it. When we told her about being afraid of breaking anything, she merely laughed and said that she would just replace it by making another one. We became more relaxed after that. They were such sweet people. Clive Bradbeer who was an excellent bread-baker, had welcomed us with a specially baked loaf.

When I joined the Faculty of the Law School of the University of Virginia (UVA), the Dean was John Paulsen. I was given the room of John Norton Moore, the international lawyer. He was then on leave of absence advising the State Department. I had the company of another international lawyer of some distinction, Richard ("Dick) Lillich, on the Faculty. From time to time, he invited me to assess foreign students who had applied to come up to UVA. Students from some countries were made to take entrance exams, as a matter of routine while others were automatically exempted. I was happy to find that the Law Faculty of the University of Ghana was among the second list. I was struck by the distinctly different relationship between black and white students from those that I had observed at Harvard. The students at Charlottesville easily mixed amongst [\* "between" replaced ] themselves both in classes and social events. This difference intrigued me, especially as Virginia was regarded as a southern State, where segregation was bound to be more distinct. Once, when I had indicated in Legon that I might do research in Virginia, I was strongly advised by John Griffiths, an American lecturing at Legon at the time, whether I could not find some University in the northern part of the US to do the research in. Our black friends, Bobby Freeman, were in Washington D.C. at the time. I mentioned the difference I had noticed to Bobby Freeman and asked him for an explanation. He thought that whites in the northern States in the US were theoretical liberates. They loudly preached liberalism but when it came to the practice of it, they were quite intolerant. The whites of the southern States, on the other hand, had lived with blacks for a long time. They kept them segregated because they thought it was ordained by law. Once they were made to accept that the law did not support segregation, the majority were prepared to mix more with the blacks than was done by the "liberal" whites in the north. This may have been a simplistic explanation but it, at least, gives a reason for the phenomena that I observed between black and white students at Harvard and at the University of Virginia.

I taught two courses on a comparative basis at Charlottesville. One was on Criminal Procedure and the other was on Constitutions. The Criminal Procedure course compared procedures and protections as developed in England and as modified by current American and Ghanaian practices. The class was most interesting. It had a number of mature students from both American and foreign backgrounds. Among the Americans, one was a former New York policeman; another was a lady who had been a judge in Vietnam. Among the foreigners were an Austrian, an Australian and two New Zealanders. There were also a few younger. But the blend of maturity with youth of different backgrounds and experiences meant that I merely had to mention a subject to invite a wealth of different viewpoints and practices. It was fun because I learnt as much from them as they did from me. There was an easy informality and friendship between teacher and students. We invited them to our home as one did in Legon. But we were surprised when invitations started to come from them to have dinner with them in their homes. The class on comparative constitutions was a larger and more even class of

young students. I enjoyed that also but not as much as the class on Criminal Procedure. The contrast between UVA courses and courses that I taught at Legon was that while the Virginia courses evoked more pre-lecture reading and discussions at the lectures, the Legon courses involved more spoon-feeding. I tried introducing the American system on my return to Ghana but did not get very far. Whether the students read the material I gave them beforehand or not, I never really knew. They were not forthcoming with opinions or responses which showed that they had profited from the reading. The classes invariably run dry in a matter of minutes. Eventually, I gave up and reverted to the system of instruction which they all preferred.

While I taught, I continued my research on the contribution of the courts to government. Of course the Law School library had abundant material on the American perspective, which I took advantage of. We also learnt about the area of Virginia where we lived. The influence and fame of Jefferson hung heavily around everything. He had founded the University. His learning must have been simply profound. We visited his home in Monticello and were intrigued by the practices of his age, such as sitting up in bed to sleep. One could not stretch full-length on the beds. 585

We saw a great deal of the Graysons during our stay in Charlottesville. It was always a delight to see their daughters, Carol, whom we named Madonna, and Judy, who was Joodles to us. We had lunches together, visited each other for dinners, whether alone or to parties. They introduced us to friends and we went to concerts together. Charlottesville seemed to be an oasis of culture. There, we discovered the renowned Austrian pianist, Alfred Brendel, and the Hungarian couple, Goerg Pauk and Frankel. I remember that, after the Pauk and Frankel concert we attended a party with the performers to which the Graysons invited us. They were then less known musicians and it later gave us a feeling of contributing to their discovery as great performers. Pauk and Frankel played a Beethoven sonata which I, forever after, associated with them. 586

The semester soon passed. We attended the graduation ceremony which followed. Thus, we ended our stay in the United States with the end of the semester at the University of Virginia Law School on May 30, 1994. Then we started on our way back to Ghana through Finland. Kwamena Otoo was then Ambassador to West Germany and I thought I could get him to buy an export model car for me. He advised that cars were cheaper in Belgium and he would ask Jack Wilmot, the Ambassador there, to help. So I arranged with Jack to organise that Stella, the girls and myself would pick up the car in Brussels and drive on to Finland for a holiday. I had given ample time for the car to be ready to proceed by the time we got to Brussels. I had sent the money for it which he had duly paid over to Toyota months before the end of our stay in the US and we had been assured by the company that the car would be ready for our collection on arrival in Brussels. When we got to Brussels, Jack gave me the news that the car, a Toyota Crown, had been ordered and paid for but the Toyota agency had told him that the car was on the high seas and would not be getting to Brussels the following day and ready for collection the day after that. Meanwhile, Jack himself was travelling on business away from Brussels that evening. This was all very upsetting but Harriet, his wife, made us welcome and put us up for the couple of days. As my original intention 587

was to collect the car and move on immediately, I wondered what unexpected cost I would have been put to if the Wilmots had not offered us hospitality. On the second day, we were told that the car was still on the high seas but would be arriving the following day. When, on that day, we were told that the car had not arrived but would take a few days, I became really desperate. The agency manager then made us a proposition. He had a Toyota Crown which had been used as a demonstration car for interested persons. It was still new but if I was interested he could give it to me at ten per cent rebate. At that time, I was furious but I would have taken anything just to move on. So I agreed to take it and we were off within a few hours.

Our holiday in Finland was the usual relaxed and enjoyable affair. I was feeling a bit guilty because I had stayed away longer than the original one year granted me. I was therefore anxious to get back to Accra. I arranged, therefore, to start for Ghana by the end of June, leaving Stella and the girls to continue on their holidays. I would on my way back meet Ralph who was coming to join them in Finland in London, see him off and then get back to the continent to have the car shipped to Accra from Rotterdam, then fly to Accra. That arrangement was more successfully implemented. I met Ralph in London; we stayed with Dick and Sally Wilson overnight; then I saw Ralph off to Finland and drove the car to Rotterdam according to plan. 588

\_We planned a holiday in Finland.\_ But as I had extended my stay in the US already by five months, I thought my holiday would be short, however much longer Stella and the girls [\* "children" replaced ] intended to stay in Finland. Jack Wilmot was in charge at the Ghana Mission in Brussels, and as advised by Kwamena Otoo, then Ambassador in Bonn, that the best place for the purchase of duty free cars in Europe was Brussels I had asked him to order and pay for a Toyota Corolla for my collection in Brussels. Stella, the girls and I would then drive to Finland. [\* paragraph repeated, around 582 - 583 numbers have changed, with new heading ] 589

\_We arrived\_ to find Jack Wilmot on his way on some mission somewhere else and to hear the news that the car was still on the high seas, although the company promised that it would be in a couple of days. So we were welcome to stay at the residence with his wife, Ewura Esie, until the car arrived. This totally upset our calculations. But we were grateful to Jack for inviting us to stay at his residence. The two days passed with Toyota still saying that the car was on the high seas. Where, they either did not know or were reluctant to tell. They offered us other cars in their showroom. But none of them was large enough to take a family of four moving with luggage back home after a year and a half stay abroad. In desperation we came to an agreement to take a Toyota Crown, a larger car than I had bargained for which was used by their directors as advertisement for something short of the money I had deposited. We were happy to be on our way in Europe at last, driving through Germany, Denmark, Sweden to Finland. I stayed in Finland for about a couple of weeks, still conscience-stricken at my having overstayed my intended one year abroad, and started on my way back, this time driving alone through Hamburg, where I arranged for the shipment of the car from Rotterdam, and London, where I picked up Ralph on holiday after his first year in Achimota and to put him on a flight for Finland to join Stella and the girls, deposited the car in Rotterdam, and flew back to Ghana. [\* (paragraph) repetition with a few additional tidbits, see 590

around 582 - 583 numbers have changed, with new heading ]

While I was away, Dr. Ekow Daniels had been elected Dean of the Law Faculty. Some of my friends at the Faculty spoke as if I had been stabbed in the back by certain other of my colleagues. But whether this was so or not, I never bothered to find out the details. As a result, I never knew who had said what against me at any meeting leading to the election or of the actual election of Ekow Daniels as the new Dean. I knew the terms on which I had accepted to be seconded to the Faculty. That was to hold the place until one of the permanent Faculty lecturers had gained sufficient stature to be appointed Dean. The candidate favoured by Alex Kwapong, the Vice-Chancellor, was George Ofosu-Amaah. But as I have explained in an earlier Chapter, this was not to be until much later. His acceptance of the appointment as head of Special Branch in Busia's government, changed the course of this simple academic plan. \_I recall attending a party in London given by John Thompson, \_ [\* repetition (from here till end of paragraph) almost verbatim from an earlier chapter ] at which I met quite a number of officers of MI5 who had previously served in the British High Commission in Ghana. Some of the invitees were obviously embarrassed to see me there because they had behaved while in Accra as if they were ordinary diplomats. One of them always gave the story that he was only a temporary cadet in the British diplomatic service wanting to get a permanent appointment, but each time he sat an examination or was given an interview, which coincided with the periods when he had to visit London, he failed. Being a very nice person, this story generated a lot of sympathy. John Thompson, on the other hand did not take it amiss that I was there, because he thought in my position as Director of Public Prosecutions, I had known who all these people really were. I remember that when his other guests were leaving, he asked me to stay behind for a while. At that time we started discussing his guests and I mentioned the story of the one guest who passed himself off as a temporary cadet of the diplomatic course. John laughed and said he thought I knew all the time that that fellow was one of them. But the point of mentioning this story was that among John Thomson's guests that evening was a Deputy Director of MI5 who talked to me about Ghana. He knew George Ofosu-Amaah, and he knew he had been seconded from the Law Faculty, so he asked me whether I thought George would come back to the Faculty, and when I answered that the Prime Minister obviously wanted him to stay on as long as possible, he replied, "I don't think he would like to come back. He is enjoying himself too much catching Russian spies." This was a reference to a recent expulsion of some Soviet diplomats from Ghana for spying. But George's tenure at Special Branch was involuntarily terminated by the 1972 coup, and after the usual unpleasant detention for a period went abroad and lectured in, among other places, the University of Kent at Canterbury, where the former Dean at Legon, Brian Simpson, was then a professor. He eventually, succeeded to the Deanship of the Legon Law Faculty after Ekow Daniels and other temporary holders.

In my case, after my return from the United States, I decided that there was no more point in my continuing a secondment to the Faculty away from the Bench. I, therefore, joined my brothers on the Court of Appeal on a full time basis. I still continued to lecture at the Law Faculty of the University, where I held the title of Professor but I reverted to the part-time lecturing which I had done before my secondment in 1969.



Ghana was still under a military regime when we returned from the United States. It will be recalled that Acheampong, who overthrew the Busia administration in 1972, began with a government which appeared to want to practise economy and modesty in practices they adopted. They were reputed to have used smaller cars rather than the huge gas-guzzlers which members of governments enjoyed displaying as conspicuous symbols of their power and importance. But, by the time we returned, this apparent modesty had been pushed aside. Already, there were complaints about corruption and cronyism in high places. Cocoa, the main export crop on which Ghana depended for its foreign exchange earnings, was not doing well at all. Not only was the world price of the product in decline, but the train set by Busia in expelling the alien African workers, which had adversely affected the production of cocoa seriously, continued. With the value of the cedi declining in real terms, though Government stuck to a fixed exchange rate, which had no realistic relation to its real value, for it, there was an thriving black market for hard currencies. Cocoa was reputedly smuggled to Ghana's neighbour, Cote d'Ivoire, which was within the CFA franc zone and therefore had a currency which was considered hard in comparison. Some of the cocoa smuggling was said to be going through Ghana's eastern neighbour, Togo, which, unlike Cote d'Ivoire, did not itself grow any significant amount of cocoa or legally import any but, nevertheless, had a sizeable cocoa export industry. It was during this period when on a visit by Leif Muten on one of the IMF Missions he paid a visit to Amon Nikoi, then the Governor of the Bank of Ghana, with me in tow. After the visit, Amon, in seeing us off, came down from his office and invited us to come to visit the "opposition" to the Bank's exchange control administration. To our surprise, he took us across the road from the Bank building and there pointed at the array of African art dealers sitting by the roadside hawking their wares and said with a chuckle, "Gentlemen, here is the opposition." No one paid any attention to us other than to offer us some of their artefacts as exorbitant prices. But there was no doubt that if we had wanted a deal in other currencies, we could have got it. This, of course, was a depressing turn of events. If Busia's regime did not much improve the economic situation which was one of the main reasons why the Nkrumah regime was toppled, it was clear that Acheampong's reign was not in a position to make any difference.

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My secondment to the Law Faculty in 1969 was approved by Chief Justice Akufo Addo. Under the 1969 Constitution which brought Busia to power, he became the President of Ghana. The Constitution created a new Supreme Court, as Akuffo Addo had always wanted. E.A.L. Bannerman who had acted as a Crown Counsel in the days when Gold Coast nationals were kept as far as possible out of the Attorney General's Department, and a Magistrate in Ghana, and later High Court judge and had returned to teach at the Ghana Law School, succeeded Akuffo Addo as Chief Justice. Azu Crabbe and Apaloo were elevated to this Court. Charlie Crabbe and Patrick Anin were appointed to it. But when the coup of 1972 took place, the Supreme Court was first suspended and then later abolished once more, and the judges of the Court were made to revert to their previous appointments. Azu Crabbe in due course succeeded Bannerman as the Chief Justice. [\* repetition (beginning of paragraph) check ] The Court I rejoined on a full time basis was headed by Azu Crabbe, with Apaloo and George Lassey as my seniors. Other members of the Court were Annie Jiaage, E.N.P. Sowah, Philip Archer, Kingsley Nyinah,

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Dan Annan, Robert Hayfron-Benjamin and George Francois. Chief Justice Bannerman, a good lawyer but one not very popular, had been associated with the Busia regime. His tenure was brought to an end with the suspension and subsequent abolition of the Supreme Court. With the judges of the Supreme Court being required by the Military Regime to revert to their former positions, Chief Justice Bannerman, who had come to his office from private life, via the Law School, went back to private life.

I was still Chairman of the Law Reform Commission. But I did not last very long in that position. Fred Apaloo's term as Chairman of the Council of Law Reporting came to an end some time after my return. Chief Justice Azu Crabbe, with whom Fred's relations had become somewhat strained and who, under the law had the right, by virtue of his office, to nominate the Chairman, did not feel inclined to re-nominate him and nominated me instead. I have often wondered whether part of Azu's design in my nomination as Fred's replacement was to drive a wedge between Fred, with whom I was very close, and myself. I was quite irritated by the nomination because, Azu never spoke to me about it and my becoming the Chairman of the Council gave Dr. S. K. B. Asante, then Solicitor General, or Deputy Attorney General, I forget which, the excuse to propose a new Chairman of the Law Reform Commission, a job I enjoyed immensely and in which I thought I was making a useful contribution. On that account, I even suggested to Asante that I would not mind continuing to serve on the Commission as an ordinary member. But I understood that Justice Archer, who was my successor, felt that my continued presence on the Commission would be an embarrassment to him as he was junior to me on the bench. Thus, suddenly, ended my association with the Commission. [\* a suggestion given to move ended to end of sentence ] One person was quite happy at my return to the Council of Law Reporting: that was my friend Kofi Tetteh, who was the Editor of the Law Reports.

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Kutlu Fuad, the Director of the Legal Division of the Commonwealth Secretariat phoned soon after my return to Ghana to invite me to join a Committee to be appointed by the Secretary-General of the Commonwealth to enquire into the forms of legal co-operation between Commonwealth countries. Kutlu had met me during the period when I served as an Executive Member of the Committee of the Commonwealth Legal Education Association. His father was Judge Fuad, who had served on the High Court Bench in the Gold Coast before independence. The chairman of the Committee was Sir Roy Marshall, the legal educationalist who had, in my time as a student, edited Nathan's Equity Through the Cases, and later became Vice-Chancellor of the University of Sheffield. The third member was Professor John Ll. Edwards, who wrote extensively on Criminal Law, but whose masterpiece was The Law Officers of the Crown. That book gave a comprehensive picture of the different kinds of Attorneys-General in Commonwealth countries, ranging from the civil servant to the politically appointed officer and the roles each played under their respective constitutions. We met in London, where we deliberated and held interviews, several times. But it was clear, and that position was irksome to us, that the legal co-operation in the Commonwealth was wholly Anglocentric and we were inclined to recommend some diversification of centres of activity. So on one occasion, at the instance of John Edwards, who was then teaching in Toronto, we had a meeting in Canada. Apart from recommending diversification of activities, we also thought that the work of the Legal Advisory Service of the British Institute of

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International and Comparative Law, to a large extent, duplicated services provided to Commonwealth governments by the Legal Division of the Commonwealth Secretariat. We recommended, therefore, that the Legal Advisory Service of the Institute should be abolished. That recommendation did not sit very well with the Institute and it refused to implement it. \_An interesting piece of evidence given\_ by the Director of the Advisory Service which stuck in my mind was in connection with his telling us what the Service did. Among the services that the Director stated were sometimes required was advice from some Attorneys-General of Commonwealth countries on what to do when a coup d'état occurred. The picture of an Attorney-General asking, and a public service in London giving, in advance advice on the types of legislation he should have passed to strengthen the position of the insurgents seemed quite odd to us. [\* repetition from underlined section ]

\_ [CHECK] \_ I also was appointed a Sole Commissioner to enquire into a shooting incident on the Dodowa Road, just about the University entrance facing the Police Station. The student shot was not a Ghanaian but a Sudanese. He died as a result of his wounds. The students, as was often the case, were demonstrating because of conditions which they found unacceptable. They had indicated that they were going to hold this demonstration and had been told by the University authorities after some negotiations, to hold it within the campus and not to go outside. Without warning, they came out of the campus on the main road and were marching towards Accra. In panic, the Police were called in. Those at the Legon Police Station were not in a position to deal with serious rioting, so they summoned the flying squad who came on the scene and confronted the students. The Police say that they fired some warning shots in the air. Somehow, a shot hit this Sudanese student who had nothing to do with the demonstration but was returning from Accra after a visit. If the Police story was correct, then they could not have hit this student. However, they maintained their story that the only firing that they did was into the air. Nobody else was found in the vicinity with any guns. The bullet which hit the deceased was a usual Police issue ammunition. There had also been allegations of Police brutality against students when the Police drove the students into the campus and allegedly beat up some of them, including female students, severely. My commission was to find out the circumstances in which the student came to be killed and to make recommendations. It goes without saying that my finding was against the Police. My recommendations, apart from those which were made in respect of University administration, were mainly that the Police should as far as possible, stay out of the campus and allow the University authorities to deal with their own problems within the campus. But in cases of emergency, where they are invited in, they should come in sufficient force so that their mere presence without using any weapons should be sufficient to deter over-enthusiastic or over-excited students from carrying out any acts of vandalism or bodily harm. With Ernest Arku, the Head of the Police as part of the Government ruling the country, my criticism of his Force or Service, however one chose to describe it, did not enhance my popularity with the Police. He had, in fact, already branded me, before his colleagues, as a person bent on creating disorder in the country because of the proposal which the Law Reform Commission, of which I was then Chairman, had put forward in the new draft Evidence Code in order to counteract the Police's improper inducements to persons in custody, that confessions made to the

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Police should not be admissible in evidence without their confirmation before a judicial officer.

The Law Reports show that the first reportable case that I gave judgment was in Republic v. Director of Prisons; ex parte Allotey and Another on December 10 1974; a case in which I presided over a full Court of Appeal consisting of myself, Justices Jjagge, Archer, Kingsley-Nyinah and Francois. It was an application for a review of a decision of the ordinary bench of the Court confirming a judgment of the High Court and the Circuit Court that the applicants be returned to the United States for trial on a charge of fraud by false pretences of an Equitorial Guinea company to the tune of over a million US dollars. I wrote the judgment dismissing the application. 598

I continued with my ordinary judicial duties with the part-time lecturing on the side. In 1975, I was invited by the Government of Australia to participate in the ceremonies of the Law Conference being held in Canberra. The invitation was extended to me by David Evans, the Australian High Commissioner with whom we were friendly, as indeed we had been with Australian High Commissioners since the days of B. C. B. Ballard. His wife, Pam, was also a great friend. Besides the participation in the Canberra Law Conference, a tour of Australian State capitals to Sydney, Melbourne and Adelaide was arranged for me. I was accompanied at this conference and on the following tour by a distinguished judge from India, Mr. Justice Khanna. He was an older, more dignified and reserved judge than me. He had just about then become the hero of the traditionalists who believed that the Chief Justice of India must be the most senior judge of the Supreme Court when the post becomes vacant. Mrs. Gandhi, the Prime Minister, had thought otherwise and had appointed a judge junior to Justice Khanna when a vacancy occurred in the Chief Justice's position and Justice Khanna, as the most senior judge was superseded. Later on, he was to write some of the most brilliant constitutional judgments of their Court. But, on this Australian visit, I had the honour of being chosen by the conference organisers to make the speech on behalf of the foreign guests at the dinner. The other speaker was Sir Ninian Stephen, then a judge of the Australian High Court, but later to become the Governor-General. Sir Ninian and I became friends thereafter and we kept up a long correspondence for several years, only to be interrupted at the time that we were relocated to London, when I thought I was giving him too much trouble while so burdened with the duties of his office in continuing an exchange of correspondence with me. 599

At the time of my 1975 Australian visit, the Governor-General was Sir John Kerr, whom I had met ten years earlier when I was in Australia for the Commonwealth Law Conference. He was also at the dinner at which I spoke but was led away a bit inebriate after the dinner. Sir John Kerr was gracious also to include me in a group of about ten guests for luncheon during that week. I was asked to lead Lady Kerr to the table and I nearly made a fool of myself by reminding her that we had met ten years before. But something told me not to bring up that reminder of the past. I later learnt that she was a new wife. 600

The Prime Minister was Mr. Gough Whitlam, the Labour leader, who threw a cocktail party for the judges and lawyers participating in the Law Conference and other guests. There must have been at least five hundred guests. So I was happily surprised during 601

the course of the evening when one of his aides approached me and said that the Prime Minister wanted to talk to me and I was led to where he was. People around him quietly withdrew a distance and he gave me what I considered to be a great deal of his time. Fifteen minutes? But then one's mind exaggerates the time frame of such interviews afterwards. He showed a remarkable grasp of knowledge of affairs of Ghana and other Commonwealth African countries. We were deeply engrossed in this discussion when we were interrupted by his Attorney-General, Mr. Enderby, saying that he had an urgent matter to discuss with the Prime Minister. As Mr. Whitlam was dismissed from office in controversial circumstances shortly after that by Governor-General Kerr, I thought that Enderby's urgent matter, on that occasion must have been connected with the political crisis which was already looming at that stage. I understood that the constitutionality of the dismissal was advised on by Sir Garfield Barwick, whom I had also met when I attended the Commonwealth Law Conference in Sydney ten years before and who later on visited Ghana. Sir Garfield had been an Attorney-General of the Commonwealth of Australia before but was then Chief Justice. Over a couple of decades later, I read in David Leigh's book on The Wilson Plot that Prime Minister Whitlam's dismissal was engineered by the CIA with the assistance of British intelligence because, in August 1974, he had fulfilled an election pledge setting up a Commission of Inquiry under Justice Hope into the Intelligence services of Australia, a move which the writer thought had caused chills among British Intelligence men. He had replaced the heads of the Australian Intelligence services, ASIO and ASIS, with whom British Intelligence services had co-operated. After the change in the headship of the Intelligence services, he threatened not to renew the lease of Pine Gap, allegedly the CIA's most important satellite base. Of course, I am not in the position to judge this allegation. But whatever be the reason for his removal, I was sorry to see Gough Whitlam deprived of office in that summary manner. After all, apart from a natural sympathy for his Party and the obvious interest in African development and progress, no foreign Prime Minister had paid me such undivided attention before. Nor was it likely to happen again.

I remember that when we were leaving the Prime Minister's cocktail party, I was approached by the controversial Justice Lionel Murphy of the Australian High Court. He was with a couple of young ladies and he kindly invited me to come with them to a night club. I had some other engagement and declined. He was controversial because he was known to have strong Labour views and must have expressed that inclination in his judgments. His conduct as a lawyer and a judge may also have appeared scandal prone. But nobody said that he was an incompetent judge. 602

I enjoyed the conference in Canberra very much. Apart from Sir Ninian Stephen and Justice Murhpy, I met the other judges of the High Court, including the longest serving judge who was first appointed in the 1930s, Justice McTiernan, who was acting as Chief Justice at the time in the absence of Sir Garfield Barwick, Justices Mason, later a Chief Justice, and Lloyd. The Australians had a delightful system of allocating foreign guests to their conferences to individual judges or lawyers to host. I was fortunate to have been chosen on this visit by Justice and Mrs. Fox, who had been my hosts when I visited Australia in 1965. It was fun visiting people who had been so kind to me before, once again. Mrs. Fox, who loved embroidering, marked her dinners with foreign guests by making them leave their signatures on the table cloth. She embroidered the signa- 603

tures onto the table cloth later. At the dinner of 1975, she produced the table-cloth which had my signature and those of the other guests then on beautifully embroidered for permanence. We spent some time recalling the other guests. It was a nostalgic evening.

While in Canberra, I was flown up the mountains to a nearby sheep farm at Tumut. In Melbourne, the capital of Victoria, I went round legal education and continuing legal education institutions. I also met Justice Kirby who was then the Chairman of the Australian Law Reform Commission. There I also found my old friends, Jim and Virginia De Friest. The last time I had seen them was in 1965, after I had returned from my first visit to Australia and the United States. The De Friests were then living in Ghana, with Jim working with Mobil Oil. It would be recalled that Virginia had, without my knowledge, written to her parents, the Quinbys in San Francisco, so that I was surprised to be welcomed to the city when I arrived at the Airport by an invitation from her lawyer father to get in touch and to visit them at their home in Palo Alto. Now, Jim had finished with Mobil and was working with some company, I believe producing glass, in Melbourne. They had decided that they were going to retire and continue living in Australia, which they found more congenial than the United States. Jim died in 1995; Quig's [\* ? check ] mother, Catherine, turned 100 in 1996

I next went to Adelaide, the capital of South Australia, where I found the tutor of my Oxford College, Arthur Rogerson, who had succeeded Ian Evans and had informed me of my finals (Schools) results, installed as a Professor.

I returned to Ghana after some three weeks in Australia and was immediately summoned to the Chief Justice's Chambers. Chief Justice Crabbe asked me to sit in the High Court to dispose of a murder case which had come up during my absence and he would like me to preside over it. I had not heard of the case of *The State v. L. Ohene-Djan and Adu Yeboa* before. I was to live with it and its consequences for a long time afterwards. The principal accused in the case, Dr. I. L. Ohene-Djan, was a lawyer. He was from Brong-Ahafo and was in practice there. I had never had anything to do with him, except that during my early years in the Attorney General's Office, papers had passed over my desk to consider whether he was doing anything which compromised his relative, Mr. Yeboah Afari, the then Minister of Health, in whose office he had worked while a student abroad on holiday in Ghana. No prosecution followed this review of the papers. Ohene-Djan had returned to continue his studies and had returned later as a qualified lawyer with a doctorate degree. That was now some fifteen or so years ago. I accepted to do the case.

The trial was, as usual with murder cases, conducted with a jury. The case which the prosecution presented was one of a homicide, the deceased being an unknown man who had tried to burgle the home of Ohene-Djan at night. The deceased was caught and beaten up. He was then tied up and dragged over the rough untarred road with his head on the road by a number of the townspeople over a long distance. Most of the persons involved were not identified at the trial. But the deceased had died in the course of this action. In my book, *Criminal Procedure in Ghana*, I describe the case as one of the most controversial trials of its time. After the case had proceeded against the accused persons upon their plea of not guilty until the prosecution had closed its

case, an application was made by counsel for Ohene-Djan to change his plea to one of not guilty of murder but guilty of manslaughter. Johnny Quashie-Idun represented Ohene-Djan; and Gyeke-Dako, the Director of Public Prosecutions, led Afreh, then a Chief State Counsel and others, for the prosecution. Upon the application to change the plea, Gyeke-Dako sought an adjournment to consult the Attorney-General and upon the next hearing date, informed the court that the course the defence proposed to take was acceptable to the prosecution. The plea of guilty of manslaughter but not guilty of murder was recorded against him and he was accordingly found guilty of manslaughter while being discharged of the offence of murder. Subsequently, his co-accused who had given evidence on his own behalf, decided to follow the course taken by Ohene-Djan and changed his plea. Gyeke-Dako said that his instructions to accept the plea to manslaughter covered not only Ohene-Djan but Adu Yeboa as well. Adu Yeboa's plea having been accepted, he was convicted upon this changed plea. I also withdrew the case against Ohene-Djan from the jury and convicted him on his plea of guilty of manslaughter. The result of this conviction of Ohene-Djan for manslaughter led to an uproar.

The issue debated by lawyers was technical. It was whether it was legally possible for an accused person, who had been arraigned before a court, to afterwards change his plea of not guilty to that of guilty of a lesser offence. There was a section of the Criminal Procedure Code, section 239(3) which provided that upon arraignment the accused person could plead not guilty of the crime of which he was charged but guilty of a lesser offence. The argument against the trial court's conduct of the case was that an accused was permitted to take advantage of this position only "upon arraignment", that arraignment consisted of three parts, namely, calling the accused person to the dock by name, reading to him the substance of the charge, and asking him whether he was guilty of the charge or not. After the accused has gone through this exercise at the commencement of the trial, it was no more possible to take advantage of the section and plead guilty to a lesser charge. In other words, the section opening with the words, "when an accused is arraigned on an indictment ..." meant at the exact point in time when he was called upon to plead at the commencement of the trial and not descriptive of the situation when an accused has been brought before a court for trial by arraignment. As I said, the argument was technical. All through my life as a prosecutor, pleas of guilty of a lesser offence made not only at the opening of the trial but during its course as well had been accepted by me and by other prosecutors in the Attorney-General's Office without complaint by anyone. I, myself, found the argument specious and I set out my reasons why in the book I earlier referred to. I did not know what I was supposed to do in a case prosecuted by the Director of Public Prosecutions himself, who had asked for an adjournment to consult the Attorney General about the acceptance of a plea to manslaughter and had come back with the news that the plea was acceptable to the highest legal adviser to the Government. Apparently, I was supposed to have acted like an English judge who, in an obvious case where a private practitioner had accepted a plea for a lesser offence, had refused to accept the plea and had asked the counsel to proceed on the original charge. I did not feel that the cases were identical.

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The technical legal argument, however, hid the real purpose behind the criticism of the

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trial. That soon emerged in full force. The daily newspapers, the Daily Graphic and the Ghanaian Times, especially the latter, from the latter part of August and throughout September of 1975, carried editorials, comments and letters on the case. A number of the public comments were based on the erroneous impression that the accused persons were charged with conspiracy as well as murder. There was no conspiracy charge. Apparently, some of the papers had before the trial, unbeknown to myself, as I was away on my visit to Australia, given publicity to the fact that this was a ritual murder. That the object of the murder was to obtain parts of the deceased body, especially the tongue and other parts of the head, for purposes of juju in order to enable Ohene Djan supplant Acheampong as the Head of State. That I was told was the explanation, for people like Joe Appiah who was then an adviser to Acheampong, but who was not known as an academic or writer on the Criminal Law or Procedure, to engage in articles in the newspapers vilifying the Director of Public Prosecutions and myself. The allegation was based on some story that when the deceased was found, certain parts of his body, especially the head, had been removed; the assumption being that these missing parts had been used in the preparation of the juju. There was no evidence of this whatsoever throughout the trial. The evidence by the Specialist Pathologist, Dr. Edward (Teddy) Christian, whom both counsel and myself closely questioned, was that part of the jaw of the deceased had broken off, but that this was most probably due to the fact that he had been dragged head down over quite a long distance of rough road, as the eyewitness evidence disclosed. Nobody challenged this evidence. Some of the criticism of both judge and prosecutor attributed the outcome of the case to their desire to protect a member of their profession. These criticisms were voiced on the average once every other day for some six weeks.

All this was painful enough. But the cruellest cut of all was when my own Chief Justice Azu Crabbe, who had asked me to do the case, went public in an address to Ghana Bar Association to say that, in his opinion, the conduct of the case was wrong but that he did not think that I was motivated by corruption. The mere mention of corruption in connection with a case I had done was, I thought, an insult. I heard the news that Saturday just before lunch from a telephone call from the journalists who had been present when the Chief Justice made this profound statement asking me whether I had anything to say in reply. I said I had nothing to say. But inwardly, I was furious. However exalted the Chief Justice was, he was not an appellate Court above any judge of the High Court. He had no right or jurisdiction to officially pronounce any judgment delivered by a High Court judge as wrong. I then wondered what was his interest in making that statement. Soon after the phone call from the journalists, my cousin, Lebrecht Chinery-Hesse, the Chief Legal Draftsman phoned, offering some comfort by saying that Azu had made this unfortunate statement, and that I should not pay any attention to him; Azu was often impetuous like that. 610

From that day, I ceased all social contact with him. I recall that he enjoyed throwing parties in his official capacity to which he invited all his colleagues. I never attended one after that date. 611

I was avenged by the Bar on my birthday that year, which happened to have coincided with the Opening of the Legal Year. Kwesi Zwennes was the representative of the Bar 612



who spoke on its behalf in reply to the speech in Court of the Chief Justice. Kwesi delivered a rebuke to the Chief Justice of such quality for his criticism of me as I myself could never have done. The terms of the Chief Justice's public intervention appear from the wording of Kwesi Zwennes's riposte. Kwesi's rebuke was so elegantly and allusively phrased that I ought to be pardoned for quoting relevant passages extensively. His words were:

"When, however, the public criticises judicial decisions, as they are entitled to do, they tread on less certain ground because, more often than not, some amount of legal expertise is required of the critic. Even Counsel who appear in the Court of Appeal do not always find it easy to falsify legal reasoning contained in court decisions. We have an ancient saying among our profession that 'The law is buried in the breast of the judge' and this to the effect that what a judge says or does in judgment remains the law for all until he is reversed either by a duly constituted appellate court or by legislation. A judge, my Lords, in the firm view of the Bar, owes no duty to the public to answer for his judgment. Nor, can his brother judge, from whom he may freely dissent on a matter of law or fact, defend or decry his judicial conduct or assessments of cases on the public stage. Often has it been said, my Lords, that a judge has no political platform, for otherwise he ceases to be a judge and assumes the mantle of a politician. The duty to answer public criticism of judicial decisions is therefore firmly left in the hands of the political Minister responsible for Justice if, after weighing a situation by his own political judgment, he should think a public explanation politically expedient or desirable. Nor, my Lords, can it ever be said by any critic finally and authoritatively that a judicial decision of a court is in error on a matter of law or fact, except it be by a duly constituted higher appellate court. To hold otherwise, except by legislation, would in the view of the Bar invite disorder and a want of public confidence in the administration of justice. It may be, my Lords, that in this rule we are less fortunate than the ancient Romans whose jurisprudence recognised the institution of the 'Jurisprudentes', or 'Jurisconsulti', a body of men of acclaimed learning in the law whose considered pronouncements of opinion on matters of law, without more, acquired instant judicial authority! In our own peculiar situation, out-of-court pronouncements by our jurists, however eminent or learned they may be, have no authority as a substitute for the opinion of a duly constituted Court of Appeal, even though we may be inclined to treat such opinion with more than ordinary respect. It is for these reasons, and more, and out of our duty of respect and accustomed courtesy to our superior courts, that the Ghana Bar Association has been constrained into silence on the public debate that has surrounded one of our more recent trials in Ghana."

As the Chief Justice, in his public analysis of the case, had criticised not only my handling of it but had also criticised Counsel for Lawyer Ohene-Djan, led by Johnny Quashie-Idun, for putting forward the accused person's offer to plead guilty, not of the murder charged but of manslaughter, after the conclusion of the prosecution case, Kwesi Zwennes then turned to justify the conduct of defence Counsel. He said:

"The conduct of Counsel has also been called into question in recent times from unexpected quarters and for even more unexpected reasons! The Ghana Bar, unanimously, is of the view that from time immemorial, the duties of Counsel engaged

in the conduct of a case included the first and primary duty to represent his client's case as fully, fearlessly and diligently as his abilities permit; withholding nothing he honestly believes will advance his client's case and submitting to nothing that will unfairly compromise it.

The advocate is not permitted by the ethics of his profession to choose who his client shall be, but must avail all and sundry of his service who may wish to employ him. This Counsel's duty to uphold his client's case fully is owed to the public at large and the individual client, however unpopular the cause or ill-fated the client. It is now said that this duty of Counsel is, 'circumscribed by legal, ethical and moral considerations.'"<sup>616</sup>

Kwesi Zwennes then went on to cite pronouncements by Baron Bramwell in *Johnson v. Emerson* (1871) L.R. 6 Exch. 329 at page 367, by Lord Halsbury in an article in the *Law Quarterly Review* (1890, 15 L.Q.R 265, and by Wilkes J. in *Ferguson v. Moore* 39 S.W. 314 in the Supreme Court of Tennessee, in support of his proposition. Then he continued:<sup>617</sup>

"... Apart, my Lords, from the correlative duty of counsel not to mislead the Court by fraud, deceit or active concealment, we of the Ghana Bar know of no legal rule, ancient or modern, which itself restrains a lawyer from advancing for the consideration of a Court legal argument which Counsel honestly believes to be in his client's favour. We know of no rule of ethics or morals diminishing this valiant duty. On the contrary, we are certain that that duty is enjoined upon us even more forcibly by ethics, for a lawyer who is not bound to advance argument he may conceive to be in his client's favour, is thereby licensed to bargain away his client's rights at will, for fear or greed to satisfy his own selfish ends. In the view of the Bar Association and as a universal rule, if a lawyer honestly believes, however erroneously, that a legal rule, provision or section of the law favours his client he commits an unpardonable dereliction of duty if he fails to advance it for the consideration of the court. It will put Counsel in an intolerable position, if he should be called upon to rehearse his client's case to himself beforehand, as judge, jury, and advocate! A court sitting in adjudication of a case, has an overwhelming discretion and is entitled to reject an ill-conceived, insolent or contemptuous [\* CHECK "contemnous" replaced ] application of counsel in fitting terms of rebuke."<sup>618</sup>

It is again said that counsel's argument may, in an instance, embarrass the court. With the greatest respect, that concept is somewhat difficult to grasp! For, in our common experience at the Bar, it is often undoubtedly counsel who, by taking up an uneasy position in argument, embarrasses himself. Again, in the insistent view of the Ghana Bar, it cannot be said, justly and fairly, that an application or argument advanced by counsel before a court, scrutinised and acceded to by the highest legal officer of the state and granted by a judge who, for his legal learning, impartiality and integrity, has earned the unwavering respect of the whole of the legal profession, is either frivolous, vexatious, or unethical."<sup>619</sup>

That was on 3 October 1975. I thought Kwesi's speech was the best birthday present I could ever have. It was brilliant and I felt most grateful to him. Sitting on the side of<sup>620</sup>

Chief Justice Azu Crabbe, I had a feeling that he must have felt himself appropriately chastised.

I do not know whether it was coincidental. But from now on I began thinking more and more of retiring from the Bench. I was now one of the most senior judges on the Bench in Ghana. Apart from the Chief Justice, the only judges who were senior to me were Justices Apaloo and Lassey. The only appointment on the Bench which I could aspire to was that of Chief Justice and I was not interested in it. I had seen enough to realise that dealing with a number of judges, each of them thinking that he was cock of the roost in his own right was not a job I would enjoy. I had in my legal career been with the Attorney General's Department, with the Law Faculty in Legon and on the Bench. I had been involved in Commissions and Committees, sometimes of members who were lawyers by training, and sometimes of lawyers and other disciplines. Of these groups, the level of discussion at meetings which I least enjoyed was that of the judges. Far too often, judges' conferences turned into discussions on privileges and perks. I found that empty. The Courts were often criticised, and I think with justification, for delays in justice. I have seen cases in which judgments have been delayed for months. I have seen judges consistently turn up at work late and break off early, without feeling that they owed the public a duty in putting in some minimum hours of work for their positions. I do not recall any meeting in my time at which the judges have subjected themselves to self-criticism for the faults that the public found with the judiciary.

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It is true that the work facilities which the Courts obtained were of the most rudimentary. Their rooms were often poorly appointed. Their libraries, whether the general Court library or the libraries in the chambers of each of them, were poor. Secretarial and clerical assistance for typing of their judgments and the preservation of their papers was the worst in the public services. Where public officials of much lower rank and responsibility had personal private secretaries to assist them, the only person who could boast of such assistance would be the Chief Justice. In the circumstances, justification for their inability to render prompt judicial service to the public was incontrovertible. That they managed, in the face of these disabilities, to give good judgments, as was often the case, was a remarkable feat. But I had wished they would direct more of their undoubted abilities in correcting these defects which incapacitated them from giving the maximum service to the society they were sworn to serve. That they did not, was a matter which caused me anxiety.

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Apart from my anxiety over my continued service on a Bench which did not give me much inspiration, I realised that with children growing, I needed to make some money for their education. I knew that at the rate that I was going in the public services, I would not be able to meet the educational needs of those children. I thought the only alternative was to leave the Judicial Service and pursue some activity in the law which would provide more money for me and my family.

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There was a provision in the Constitution of 1969 which I thought gave me the opportunity to retire. That Constitution had introduced the most controversial concept of judges retiring on their salaries. It was a condition which Akuffo Addo, as Chief Justice, had fought for. He believed that an impecunious judge was a sure invitation to corruption. But the judge must not only be kept comfortable during his years of ser-

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vice, his retirement comfort should also be assured. Judges in our system, were often appointed late in life to their positions on the Bench. They were, therefore, unable to serve long enough to enable them have a decent pension by the normal process of calculation for the rest of the Public Services. Without the assurance of an old age free of financial worries, it would be impossible to pay judges enough to stop the unscrupulous from adopting dubious means of securing [\* replaced "ensuring" ] that future. Of course, the counter-argument which was used by other Public Servants in the debate preceding the Constitution was that as judges were relatively better paid during their service years, they were better able to put more by for the future than the other Public Servants. All were entitled to retirement free from financial worries, and if the judges' concern over this would be an incentive for corruption, so would the concerns of other Public Servants give rise to the same temptation. On the basis of the judges' argument, therefore, everyone in the Public Service should be entitled to retire on his salary. Perhaps the argument on the shortness of service of judges, some of whom might have come from private practice and the fact that, if judges alone were given this privilege, the exchequer would be better able to bear it than if the privilege were to be extended to every Public Servant, decided the Constituent Assembly in favour of granting the privilege to judges alone. Whatever be the case, the Constitution provided for judges retiring on their salary at the age of 65(?) [\* needs to be checked ] if they had served as judges for a minimum of 10 years.

But that is not all that the Constitution gave to judges. It also provided that persons who had served for 20 years in the Public Service, 10 years of which had been continuously on the Superior Court Bench should be able to retire under the normal conditions of the Public Service. I do not think that the Constitution makers had a person like me in mind when they made that provision. But it struck me that I would be practically the first judge to qualify at the age of 46 under that rule. I had done 11 years as a lawyer in the Attorney General's Department by the time I was appointed a judge in 1966. By October 1976, I would be qualified for retirement under this provision. I decided to take advantage of it as soon as I was able to.

In the middle of 1976, therefore, I sought an interview with the Chief Justice and told him that I intended to retire at the end of the year. He dismissed this statement lightly, saying that I was not entitled to retire. I asked him to look at the relevant provision in the Constitution. He read it silently for a while; paused for further consideration. Then he said, but the provision was not intended for young people like you. I told him that whether I was thought of by the framers of the Constitution or not, it cannot be denied that I fall squarely within its provisions. He conceded that point, then he pleaded with me to postpone my retirement for a while because people would otherwise think that I was retiring because of the atmosphere surrounding the Ohene-Djan Case. It was the first time that mention of that case had passed between us since he invited me to sit on it. I thought it was quite presumptuous of him, having regard to the part that he played in the debate following that case, to make such a request of me. I refused his request. From then on, time began to count towards my retirement at the end of the year.

He was not present in Ghana when the appointed time arrived. Fred Apaloo was acting

as Chief Justice at that time and he organised a farewell ceremony in Court for me. In reply to his touching tribute, I said among other things that there were many challenges facing lawyers in West Africa which I would like to participate in meeting. Among these challenges, I mentioned, just by way of an example, the legal work that I expected would arise in the implementation of the ECOWAS Treaty. The next day, I saw in the newspapers a report of the ceremony saying that I was retiring because I had got a job with ECOWAS. I did not bother to correct them.

On 1st January, 1977, I retired from the Bench and I started practice as a legal consultant. 628

## 12. The Consultant and his Recall to Government

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As stated in the previous Chapter, one of the reasons why I left public service in Ghana was to make a decent enough income to enable me to educate our children. January 1, 1977 found me with little means of doing so. Fortunately, I had managed to supervise the building of the house in which we lived at Ablenkpe. At the time it was built, the cost of the construction was a little over 28,000 cedis. Since then the prices of building materials had been rising fast. The debt we incurred in building it was largely discharged while I was in the United States as a Fellow in the Woodrow Wilson Center in Washington D.C. and a Visiting Professor in the University of Virginia Law School. For persuading and helping me build that house, I have always thanked my colleague and friend, Fred Apaloo, then T. E. (Kweku) Anin, who was the Managing Director of Ghana Commercial Bank, from which I obtained the mortgage loan for the construction and the late Arno Janimaggi, our friend with A. Lang, the Contractors, who by many ways, such as providing the plan, lending me equipment and advising, helped to make the construction as cheap as possible. We also had the house in the Airport Residential Area built with a loan from Ghana Insurance Company, now State Insurance Corporation, which had always been an investment to earn future income and was paying for itself from its rental. I also got, on retirement, a pension and a gratuity of some 30,000 cedis, which was a princely sum at the time. I had for some time been considering how to invest what I thought would be coming to me as gratuity when I retired. Having built a house just over five years before for about the sum that I should expect (on this I had advice on the possible amount from my cousin Lebrecht Chinery Hesse, who was expert at working out entitlements under the Pensions Ordinance), I considered the possibility of building another house. But I knew I could not supervise another building. It was too much hard work outside my line of activity. Besides, I was worried whether having three houses would not, in future, be considered as excessive when my fellow-Ghanaian, in his or her occasional crusade against impropriety in public life, started charging everyone with visible property with having acquired it by stealth or fraud. I decided, therefore, to put the gratuity into the purchase of shares, which the Head of State, Acheampong, pursuant to his policy of "capturing the commanding heights", had by decree made the established commercial companies to sell to Ghanaians. I even took a loan to add to my gratuity from Standard Chartered Bank to increase my investment. Standard Chartered was making such money available to borrowers for such share purchase. Its Managing Director then, \*\*\* [\* missing first name ] Carter, was surprised and disappointed that Ghanaians were not availing themselves of this facility. But investment in shares was not part of the culture of Ghanaians at the time. It was not known or well-understood and there was no stock exchange or other market in which a shareholder could sell the shares if he was stuck for money. The commercial banks had a system for putting potential sellers and buyers together. But it was neither well-known nor easy to access. Immovable property in the form of buildings was what was appreciated. As things turned out, some of these investments were to yield a return while others did not. I later came to the conclusion that had I built a house with the gratuity, the returns over the years would have been better.

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Prior to my retirement, I had consulted two friends in the business world in the hope

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of getting on the boards of the companies which they managed. One was Frimpong-Ansah, at the time Chairman of Standard Chartered Bank of Ghana. Frimpong was a banker by profession, who had risen to be Governor of the Bank of Ghana. Many thought that his Governorship coincided with many of the innovations developed by the Bank. I consulted him because when Standard Bank, in the days of the Irish Managing Director, Johnny Johnston, was seeking to privatise part of its capital early in the 1960s, by inviting the Ghanaian public to subscribe for its shares, Johnny had approached me and asked whether I would like to be a director of the Bank. I did express an interest but at the time I had just become a judge and I thought a directorship while I held that position was out of the question. Besides, I had no intention of resigning as a judge just to become a director of the Bank. That Standard Bank seriously thought that I was going to join them at the time is reflected by the fact that after Johnny left, his successor phoned me at least twice asking when I was joining the Bank. I got the impression that he thought I could hold both my appointment as a judge and the directorship of the Bank at the same time. But I told him that I could not become a director as long as I continued as a judge. The Bank went ahead and constituted its new Board after the public invitation to take up shares without me. I did consult Frimpong-Ansah, not because I expected that the position that Johnny Johnston had invited me to take up had been left vacant to take up any time I chose to retire, but because I thought there may be some new vacancy which I could occupy. There was not.

The other person whom I had consulted was David Andoh, then Chairman of UAC of Ghana Ltd., the oldest and largest commercial organisation in the country. David was a lawyer who had worked before in the Civil Service. During the days of the NLC, he had been invited to join the Government as a Commissioner. He was highly regarded and he was a sympathetic friend. He did not promise anything then but, after my retirement, I was invited by him to join the UAC board. One other non-executive director was appointed at the same time as myself. He was Chris Dadey, the agriculturist and former Civil Servant. We had first met in 1950 when I stayed in the flat of my cousin, Fifi Quartey, while he was on study holiday, in Cambridge. Chris Dadey and his wife, as well as Kurankyi Taylor and his wife, were the other tenants in that house. I believe Chris and I were the first non-executive directors appointed to the UAC (Ghana) board. 632

The other person with whom I had talked about work possibilities, in the future after retirement, was Kwame Pianim, an economist of distinction, who had been trained in the United States and had worked briefly in the Ministry of Finance and Economic Planning. He was now running his own private consultancy, the Management and Development Consultancy Ltd. My expectation in our discussions was that we were to team up together to provide services as an economic and legal consultancy. I had thought that it was going to be a partnership of equals. That was the main occupation which I expected to be engaged in at the time of my retirement. 633

We were to take up offices at Mango House, the last house built by my father at Asylum Down in Accra. It was the house in which he lived in his last days. It was the house where the family welcomed Stella and myself when we came from England in November 1956. My mother continued to live there for a while after my return but eventually moved out and rented it out. But by 1977, the house had, for some time, fallen into 634

total disrepair. Some highlife band which had painted parts of it in garish colours occupied it. The floorboards were rotten and unattended to. The band had paid no rent for quite some time and, when asked, refused to leave. I undertook to move out the Band and to renovate the building for the occupation of the consultancy which Kwame and I intended to form. Getting the band out was not an easy task. It is always difficult to eject a Ghanaian who thinks he has political or public support from premises he is occupying even though he fails to pay rent and misuses the premises. The law requires that ejection should be with the sanction of the courts. The delays of the courts are phenomenal. Adjournments are often granted for little or no cause. Unscrupulous parties and their lawyers manipulate the system. Court officials, not the best paid of a generally poorly paid public service, can be persuaded with small consideration to misplace, misfile or simply sit on court documents and files; they could also be persuaded not to serve court process documents which is their duty to serve on ridiculous grounds, such as inability to find some of the most prominent persons in town. I have had occasion to write at length on these problems and will not burden this book with them. But the eviction of the band was eventually achieved and the renovation of the house done. My agreement with my family over the use of the building was that as I had spent a considerable amount of money in renovating the house I should occupy it free for some time to recoup the outlay. The occupation of the building by MDCL free of charge for some time was a contribution I was making to the partnership.

By this time, it had become clear that the joint consultancy was not to be. The terms were not to my liking and I decided to try to go it on my own. Kwame and I agreed that MDCL should continue to occupy the top floor of the building and pay rent to my family, while I occupied the ground floor without paying any rent. There was one job which I did under the aegis of MDCL. That was a job for the Bank of Ghana on exchange control. In 1961, after Ghana had adopted its own currency, the cedi, it introduced an exchange control system based on the British Exchange Control Act which had operated during and after the Second World War. Under that regime, every foreign exchange transaction was prohibited unless permitted. So long as Ghana had been part of the sterling area and practically the whole of its international trade was sterling area oriented, there was no need to have a separate exchange control. But once Ghana adopted its own currency, Government thought that such a need arose. But exchange control was never popular. In Ghana, its administration was cumbersome, time consuming and could be capricious. By 1977, a number of notices had been issued by the Bank of Ghana to the commercial banks and the public on permissions and warnings. Complaints of the administration of the system were rife. The Governor of the Bank at the time was Amon Nikoi, my old classmate at Achimota School. He was one of the students who loved the United States. He enjoyed putting himself forward as coming from Omaha in Nebraska. From Achimota, he had gone not to Nebraska but to Amherst College in Massachusetts, and to Harvard University. He became an Executive Director of the World Bank some time after that. He has been a Principal Secretary in the Ministry of Finance while J. H. Mensah was his Minister during the Busia Government. Amon thought that the Exchange Control system needed review. But before anything was done about a review, the Bank needed to know what the current situation was. He felt that nobody could at the time tell what really was the legal effect of the Act nor could

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anyone tell what the situation under the Act was, having regard to all the exceptions and permissions that had been granted under it. He, therefore, wanted me to do an investigation and report. This was the first job that I had agreed to bring into the partnership. I carried it out accordingly in the partnership name. The result was a draft report which was submitted in 1978.

In the course of the investigation, I found that the Bank of Ghana itself did not have a file on all the permissions that it had granted. It was, therefore, unable to furnish me with a list or the material on all the permissions. I managed to secure as complete a set of the notices which the Bank of Ghana had issued to the commercial banks and the public from Standard Chartered Bank. Standard Chartered allowed me the use of accommodation at their headquarters and gave me all its files on Bank of Ghana notices under the Exchange Control Act. For that, I was immensely grateful. Apart from this valuable resource, the Bank of Ghana arranged for me to visit the Bank of England to learn about the operation of the British Act. I spent about a fortnight at the Bank of England, during which I had an intensive series of discussions with the officials on the Bank. I remember one occasion when I wanted to take part of an afternoon off, permission for this was granted with great difficulty. 636

I submitted the draft report to the Bank of Ghana with the understanding that it would let me have its views on it before I finalised the report. I never heard from the Bank after that. I was surprised when some eighteen years later I was in Ghana with two lawyers from the Commonwealth Secretariat, Kofi Date-Bah and Makbul Rahim, engaged in a diagnostic survey of the laws of Ghana which impeded investment. Makbul and I had an appointment with the Bank to discuss their perspective of the subject, when, in the lift going up to the office where the appointment was to be held, I ran into one of the Bank's officials who told me that my report on Exchange Control was still being used by the Bank. A year later, one of the Bank's lawyers, Dr. Addeah, asked why I would not do an update of the report as the Bank found it so useful. I was both flattered and interested in doing this and said I was certainly interested in undertaking such a task, if officially requested. Dr. Addeah again repeated in March 1999 how useful the report done more than twenty years ago was the only text the Bank has on Exchange Control. But by this time my interest was in doing a completely new report, based on the same lines for a new Exchange Control Act which had been in the process of presentation to Parliament for enactment for the previous three years, without emerging as an Act. In 1996, the Commonwealth team of lawyers had sight of a draft new Act which proceeded on a course directly opposite to the 1961 Act. That Act had been based on the principle that every currency exchange act was prohibited unless specifically permitted. The new enactment which was more in line with a liberal investment climate which Government had undertaken to establish, permitted, with a very few exceptions, every currency exchange act unless it was expressly prohibited. 637

Once I had decided not to proceed with a partnership with Kwame Pianim, I needed to market myself. This is a thing for which my natural make-up, inclination and previous experience in the law, made be totally unsuitable. I had never begged anybody for any job and I was not anxious or comfortable in starting to do so now. But through an introduction of my cousin Nii Quartey, the Chief Executive of the VRA, I met the head 638

the Italian Company, Impregilo, which was going to build the Kpong Dam and I became a legal consultant to Impregilo. Kwame Tetteh, the youngest brother of my old friend from Oxford days, Kofi Tetteh and who had been one of the earliest graduates from the Faculty of Law at Legon, was also acting as a lawyer for Impregilo. So we co-operated in this matter. That was not the only client that Kwame Tetteh and I had in common. We also had Social Security Bank as a client. Apart from that, I did the research and write-up of some briefs for him to use in argument before the Appeal Courts. That was a service I also once did for the firm of Lynes & Quashie-Idun, at the request of Johnnie Quashie-Idun. Had I remained long as a Consultant in Ghana, research and brief writing for other Counsel to use in appeal cases would have been one of the major planks that I would have liked to specialise in. I did not think that I should myself appear as counsel in cases before the Courts. I was aware of the questions which were raised when A. A. Akainyah, after his removal from the Bench during the NLC regime, decided to appear as Counsel in the Courts. In any event, I did not think that court appearances were, in my circumstances, appropriate and I decided not to raise the issue.

With my stepping down from the judiciary, I lost any official position which I held by virtue of my judgeship. My tenure as the Chairman of the Council for Law Reporting, therefore, came to an end. But Ebenezer Tetteh, who had joined me as my official driver when I was appointed a judge in 1966, decided to continue with me. I also had to organise my own office. In this, I was lucky in having Victoria (Vic) Tamakloe as my secretary. She soon learnt my ways and we got on very well together. Vic became interested in investing in shares and I remember our arguing about the merits of buying into Texaco, which I did, and her buying into Mobil Oil, which she did. The other aspect of a lawyer's practice, in my view, was the building up of a good library. And I set about this in earnest, ordering books from the English law publishers, Sweet and Maxwell and Butterworths; the American publishers, Oceana, West and Matthew Bender; and the Dutch publishers, Kluwer and Libresso. I also ordered journals on international taxation which, with my exposure to the subject with the UN Group on Tax Treaties between Developed and Developing Countries, I hoped would be an area in which I could develop and deliver some expertise. When I look at my library of law books in Ghana some twenty five to thirty years later, I am impressed with the choice of books that I made. A number of them, especially the journals, I had to get rid of when I later relocated in the U.K. Some of them have undergone subsequent editions. They all represented hopes, some of which were never realised. Ghana was then engaged mostly in trade; attendant to this was a lively practice in trade marks and registration of designs which was mostly done by the Ghanaian law firms which took over the practice of the two major companies, Giles Hunt, which was taken over by Kudjawu & Company, and Cridland & Lynes, which became Lynes & Quashie-Idun. There was little investment, whether domestic or foreign being made; nor was there much by way of other commercial or financial legal matters arising. In any case, the legal infrastructure for an active commercial or financial market had not been laid.

Another problem I anticipated in venturing into private practice was the charging of fees. Having been in the Attorney-General's Office and followed it up with a term on the Courts and at the University, I was totally unused to charging fees of anybody. I recognised that not every potential client who approached me had the same ability to

pay the same level of fees. In my father's day, and long after, lawyers charged clients according to how they felt. There were no rules. This had prevailed, more or less to the time that I came to practice in Ghana. I have already retold the story, which I heard from Kwaw Swanzy, of the client who approached Robert Hayfron-Benjamin who charged a fee that he, Benji, thought was reasonable but then followed a long debate about over a request for a substantial reduction asked for by the client, which led to Benji declining to take the case, followed by the client then approaching Kwaw, who had charged a fee several times larger than what Robert charged and all that the client asked for was a reduction of the charge from the figure in guineas to the same figure in pounds. Obviously some clients judged a lawyer's ability by the amount the lawyer charged. The amount charged depended on what the client and/or his family, or in the case of a Stool dispute, what the Stool, could bear. Later, with insurance cases, some lawyers practised the salvage principle of no cure no pay but if there was a cure they charged a percentage, which could amount to as much as a third of the compensation awarded by the insurance company to the client. This, the General Legal Council under Chief Justice Akufo Addo, frowned upon and attempted to stamp out. It was one of the causes of the unpopularity of the Chief Justice with the Bar.

In England, when I was a pupil in Chambers, it was the Clerk of the Chambers who determined the fee. In this question of fee-determination, I took very little interest because whilst a pupil, I had no cases of my own to deal with and I knew that, in any case, my future life would be one which involved no charging of personal fees. But it seemed to me that the Clerk determined the fee to be charged by a consideration of a bundle of factors, including the standing of the barrister who was to do the case, how busy he was, the nature and complexity of the case and its possible duration. If the case involved court appearances, the fee may consist of a fixed fee for doing the case and a daily refresher relating to the number of days actually taken by the trial. I also knew that apart from the regulated fixed charges made by solicitors, some charged by the hour for the actual work done, a practice which also obtained in the United States and other common law jurisdictions. But I had grave misgivings as to whether all clients or even the type of consultancy that I was endeavouring to establish could be treated the same way in the matter of fees. In the end, some of the work that I did was paid for on a lump sum basis; that, for example, was the way that the Bank of Ghana work was charged for. Some were charged by the hour. In some cases where I had a retainer, the usual arrangement was to have the retainer fee which was paid anyway and then any work done within the retainer period would first be deducted from the retainer payment, with any extra work being separately charged for. But there were many consultations which I gave free of charge. These were mainly for family, friends and even people whom I knew casually, or in one or two cases, people whom I did not know at all. I remember one instance when someone I had never seen before, who did not look affluent had come to the office to consult me. After I had given him the advice he required, he asked how much he had to pay. He was astounded when I said it was all right, he need not pay anything. For a while, he sat before me insisting that he must pay something. I had some difficulty in getting rid of this obviously unhappy man.

One other major consultancy that I got was to do a study of the patent systems of

various countries with a view to introducing an appropriate patent system in Ghana. The commission came from the Council for Scientific and Industrial Research (CSIR). Professor \*\*\* [\* missing first name ] Tackie, formerly of the University of Science and Technology at Kumasi, was then the head of CSIR at the time. In a discussion with him, I found that CSIR had for some time been interested in the establishment of a patent system in Ghana which went beyond the then existing colonial system which made only patents granted in the United Kingdom registrable in Ghana. Of course, this had been introduced under an Ordinance before independence. The only change we had made since was to take out the registration of pharmaceutical patents from the list of registrable inventions. A move which was intended to permit the copying of generic equivalents of patented pharmaceuticals, which some countries found to the advantage of developing countries, but which the countries which had the stronger inventive portfolios in that sector argued was a disadvantage to developing countries as they were necessarily excluded from the benefits of investments and technical information. Whatever the merits of the opposing arguments, the system of registration which Ghana operated, did not encourage inventiveness in Ghana. If a Ghanaian scientist invented a thing in Ghana he would have to patent it in the U.K. first before he could register it and thereby obtain protection for the invention in Ghana. One occasionally heard of a Ghanaian who had had a patent granted in, for example, Canada for an invention which would be of use to Ghana. Why should he not patent it in Ghana? I was interested in doing the research for CSIR. Now CSIR had a backer who would finance the research and it was keen to take advantage of it by employing me to undertake the study. The backer was the USIS, which was prepared to fund a travel arrangement for the study of different patent systems of which should be of interest to Ghana. But the USIS was interested, at first that the research be done by a scientist, A position it relented when it finally agreed that I should take on the research but should be joined by a scientist. Professor Tackie recommended Dr. Sodzi, a \*\*\*, of the University of Science and Technology at Kumasi for that role. The research team was thus set.

Our sponsors also agreed two foreign travel itineraries. On the first trip, we were to visit Geneva in Switzerland, where the World Intellectual Property Organization (WIPO) was based; Israel; India, and; Kenya. The reason for the selection of Geneva was obvious. We were there to have a discussion with the members of the section of WIPO dealing with developing countries and they are to map out the strategies for our visits to the other countries. Thus, we discussed which institutions we should visit in the various countries, whom to see and what materials we should look for. We also discussed with WIPO the possibility of collaboration in the production of a report and a draft Patent Act. The other countries were chosen as developing countries which had a patent system which would be of interest to us.

This first trip started at the end of April 1978. I remember that time well because our set itinerary was that we got to Delhi in May and the Indian High Commissioner, \*\*\*, whom friends called Muthu, was anxious that I should avoid Delhi during that season. She forecast that it would be unbearably hot. Why did I not choose some sane period like August to October to visit Delhi, when the weather would be more clement? I pointed out to her that I was not my own master in this endeavour, and that I had masters who were paying for me and whose agenda was that I should visit Delhi in May. However

hard I try, I do not recollect doing anything together with Sodzi on this first travel. I seem to think that he was otherwise engaged at the University in Kumasi at this time so I had to make the trip alone. I first visited Geneva. At WIPO, my host was to be Roger Harben, then the head of the Development Division. He was most helpful in his suggestions as to what we should do in our investigations. He immediately became a friend and a valued collaborator in our research. I had one other advantage. James (Yoku) Quashie-Idun, whom I have mentioned earlier as the younger son of Sir Samuel Okai Quashie-Idun, the famous judge and friend of my family, whose services to the law were rendered not only in Ghana (or the Gold Coast) but also in Western Nigeria and East Africa from the 40s to the middle 60s, was also working with Roger Harben in WIPO. I, therefore, had an old friend in court from whom I received every assistance which I needed.

From Geneva, I went by Swissair to Tel Aviv. The security at Geneva for this flight was very tight. The passengers went through the normal security checks which were done for ordinary flights but, this time, there were more soldiers around adding to the intimidating atmosphere. Then we were bused to a very remote part of the Airport. I thought we were merely to board the flight there. To my surprise, I found that our entire luggage was assembled in a security shed. Each had to identify his or her luggage and open it up for a thorough search by security agents. We were only able to board the plane after everyone had gone through this procedure. On arrival at Tel Aviv Airport, we again went through a rigorous questioning and search. Not having anything of interest to security, I found myself at times giving frivolous answers to some of their questions. Often, before questioning or searching a visitor, the interrogator would ask whether the visitor knew why they are doing so. Eventually, he ends up by saying that whatever is being done is "in your own interest". After all these questions and searches, I was picked out from the line of arrivals proceeding to join the Airport bus and asked further questions about where I came from and such-like questions.

I spent a few days in Israel. My work was mainly in Jerusalem but I stayed at a hotel in Tel Aviv. I found that many people who worked in Jerusalem also lived in Tel Aviv and commuted daily from home to work. Although the Government was installed in Jerusalem at this time, all the foreign Embassies, for example, except I believe the Dutch, were based in Tel Aviv. This was because those governments whose Embassies were located in Tel Aviv did not accept Israel's claim that Jerusalem was the capital of Israel. Our first official visit was to the Ministry of Justice which was the Ministry responsible for the administration of the Israeli patent law. There I found that the Permanent Secretary of the Ministry with whom we had discussions was \*\*\* [\* missing first name ] Gabay, who had been part of the original secretariat attached to the UN Committee on Double Taxation between Developed and Developing Countries when it was established in 1968. Israel had a very old [\* world "old" was missing and assumed ] patent law but a sophisticated patent system. It was a great deal more advanced than the registration system then operative in Ghana. Patents were granted after examination. Government actively sponsored and supported industrial research and there were established mechanisms for the exploitation of inventions by industry. It was a system which I thought Ghana could learn from. I collected materials in the form of legislation and publications on the working of the patent system. Gabay arranged that we should

visit the Weizmann Institute of Science, their research institution in Rehovoth. I did and learnt of the subsidiary company which the institution had for the marketing and exploitation of inventions emanating from the institution.

I had too many interests in Israel to make the visit an all-work visit. I wanted to see some of the biblical places, like Bethlehem and Nazareth. It was pointed out to me that Bethlehem was in the Arab area. But my hosts were keen on my seeing Israel and were happy to show us around. I was taken to see the Knesset and the sacred places of the Jews, the Moslems and the Christians like the Wailing Wall, the Al Akbar Mosque in Jerusalem and the shrine of the nativity of Jesus in Bethlehem. I was also taken to the memorial of the holocaust in Yadvashem, which I found most depressing. Seeing the religious places in their close proximity conveyed a powerful impression of Israel as the centre of Judaism, Christianity and Islam. As claims to human action, however extreme, were often justified on grounds of a belief in their religious righteousness, one obtained a better understanding of the depth of the problems raised by the conflicting and competing tenets of those three religions.

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The economic achievements of Israel must have impressed the political leaders of Ghana so much that many Israeli organisations were invited to help establish equivalents in Ghana after independence. Histadrut, the Israeli trade union organ, was invited to help establish the trade union system; Zim, their shipping line, was invited to help establish Ghana's Black Star Line; Israeli construction company and water resources company were invited to help in the establishment of the State Construction Corporation and to help with water resources. They were in the diamond market. There was a suspicion that some helped with security matters. Many Israelis visited and worked in Ghana and made friends there. Stella and I knew quite a few of them. As a result, I had friends in Israel whom I wanted to see on this visit. Above all, I wanted to see Naaman and Peta Stavy, who were neighbours of ours in the Ringway Estate behind the State House in the early 1960s. Naaman had been the head of an Israeli agricultural team developing a farm at Akatsie in the Volta Region. He often visited the area. Peta and Stella met at the Ridge Hospital when Stella was attending a pre-natal clinic held by Dr. Kwesi Bensi-Enchill at the time when our son, Ralph, was expected. After that we saw the Stavys many times. To my surprise when I started asking about Naaman Stavy, everyone I asked apparently knew him but they always said, "Oh, you mean the policeman". At first I disputed this, but later I had to accept it with the unanimity of the identification. Especially, as the Stavy's address in Beniamina, a village in the north of Israel coincided with the address which those persons I asked gave for "the policeman". We had to spend a weekend in Israel as we could not get any flight over that time for India. The person who was assigned to look after us was very keen to accompany me to Beniamina. I pleaded that that was an unnecessary imposition on his time. No, he said, it would be his pleasure to take me to the Stavys.

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So, we went together to Beniamina on the Friday afternoon. True enough, the person to whom he delivered me was Naaman Stavy, my old friend. I asked him about this policeman identity which everyone gave him. It was true that he had been a policeman before but that was a long time ago, he said. It was during the transition between the British administration of Palestine and the establishment of the State of Israel. My "min-

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der” had what seemed to me to be his unexpected reward for taking me to Beniamina. The Stavys were friends of the sister of Ezer Weitzman, the Israeli General and politician, later to become the President. She was visiting the Stavys when we got there. Apparently, my minder had been at school with this lady and had secretly admired her during that time. He was indeed delighted to see the lady again, though after he had left us, I asked the lady whether she remembered him and, with a toss of her head, she said, there were so many admirers, she could not remember them all. I stayed over the weekend. They took me to Nazareth for lunch with an obviously rich Arab family. I think this was intended to convey several lessons to me. It showed me that there were Arabs living happily and comfortably in Israel, that they had Jewish friends, as indeed, Jews like Stavy did have Arab friends. The Stavys drove me to the old ruined city of Caesaria by the sea. We also visited a kibbutz. It was, in all, an enjoyable weekend. Going around by train to Beniamina and driving around from there made one aware of how small Israel was as a country. On the other hand one could not but be impressed with the skill and effort which had enabled them convert what must have before been arid land into thriving vast fruit and vegetable fields. I wondered how they managed to irrigate so much of their land.

I learnt that the last of the three Stavy daughters, Shoshi, who must have been four or five years old when they were in Ghana and played with Ralph as a child, was now a sergeant in the Israeli military and was in Tel Aviv, where I was based. The Stavys also phoned \*\*\* [\* missing first name ] Granot, who had been with the Israeli water development company in Ghana when the Stavys were there, and was now with living in a town mid-way between Beniamina and Tel Aviv to come to collect me and take me first Tel Aviv. This may have been pure kindness, as indeed it was, but one cannot help feeling by now that that it was their system of security that I should be accompanied by a safe hand wherever I went in the countryside. Granot did come to fetch me. Of course, I was happy also to see him. We drove first to his home where we had a meal and then to Tel Aviv. 650

That night, I was in bed just about to sleep when the telephone rang. It was Shoshi Stavy. She wondered whether I would come with her to a nightclub. She was moving with her unit the next day and could not see me otherwise. I was sorry but did not feel inclined to getting up and dressing to go out to a night-club at that time as I had had a full day and had a programme the next day. In any case, I did not enjoy night-clubbing. We had a long chat on the phone to bring ourselves up to date on families and other matters of mutual interest. But I regretted later that I had not taken the opportunity to see her. As Stella said, you could have invited her for a drink at your hotel before she went to her nightclub. 651

Another Israeli friend whom I wanted to see was Simcha Gafny, my colleague on the UN Committee on Tax Treaties between Developed and Developing Countries. He was in semi-retirement but, I believe, still managing a commercial bank at the time. His son was the Governor of the Central Bank of Israel. He was kind enough to invite me to dinner at his apartment. We talked of old "friends" on the Committee. 652

The other people with whom I spent some time were not Israeli but Dutch. They were the Arienses, who had been in Ghana in the early 70s. Krick Ariens was Ambassador 653

of the Netherlands to Ghana. He and his wife, Roberta, had been very gracious hosts to many Ghanaian friends. Krick joined with a number of Ghanaians to play tennis on Wednesdays at the court in the residence of his second in command, Joris Vos, later to become Ambassador to Australia, then the Soviet Union and then Ambassador to Russia and to a number of the States into which the Soviet Union broke afterwards. After being Secretary to the Minister of Foreign Affairs, he became Ambassador to the United States. But these were early days for Joris. I got in touch with the Arienses when I arrived in Israel. They were living in Jerusalem and invited me to dinner a couple of times and also took me on one occasion to a hospital to which the people of Holland had sent a planeload of tulips. Holland maintained very close relations with the Israelis at the time and, as stated earlier, it was the only country which had its Embassy in Jerusalem. Krick asked how the Wednesday tennis group was going. I told a long story of how the group continued to thrive after Joris Vos was replaced by Jaap de Hoop Schaffer. The group had at various times included Kwame Pianim, who was so strong, he played singles with Jaap before the rest of us turned up to join them in our usual doubles games; Francis Nkrumah, a paediatrician specialist and son of our first Prime Minister and President, later to become a Professor of the Medical School and head of the Noguchi Institute; the late Kwamena Phillips, a delightful companion and diplomat; Kofi Annan, a diplomat, then on assignment with the Tourist Company in Ghana, later to become Secretary-General of the United Nations; Issa Egala, a paediatrician specialist, then with the Police Hospital, Roger Korsah, a judge of the High Court, later to be judge of the Supreme Court of Zimbabwe; Miguel Ribeiro, a lawyer in private practice; Osafo Sampong, a lawyer with the Attorney-General's Office; Commander Kyeremeh, a naval officer, but then, I believe a member of the Government with responsibility for the Cocoa Marketing Board; and myself. But when Jaap was in turn succeeded by Christian Kroner, he put an end to the group with the cryptic remark that "friends are made, not inherited". Roberta asked who this was and, when I told her, she summarily dismissed him by saying, "oh, he is not important". Kroner's remark, though unimpeachable in this case, later caused him some embarrassment. He did not know who those using the tennis court in his residence were. He had obviously come in with the idea of making his own life without interferences from the past. When he later learnt who we were, he asked Kwame Pianim to persuade us to come back to his court. Not one of us accepted. By then, some of us were using the court of the Canadian High Commissioner down the road.

After our intensive work, sightseeing and social visits in Israel, Sodzi and I left for India. I did not know so many people in India. I had lost all touch with the Indians whom I met in Oxford, like Anandraman, Dershi Malhotra, Venkatswaran and Ajmani. The last two, I occasionally enquired about and was aware that they had risen very high in the Indian Foreign Service. With George Isaac, who married the Swede, Cecilia Philipson, with whom many students lost their heart, Stella and I kept in desultory touch after he had returned to India. But he was nowhere near Delhi as his base was in Kerala. We got to know Amrik Mehta when he was the Indian High Commissioner in Accra quite well but he had got a job with UNIDO in Vienna after Ghana and I did not think it worthwhile finding him in New Delhi. Of course, Muthu was still in Ghana. I should have tried to find Justice Khanna with whom I toured Australia in 1975 as soon as we got to New

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Delhi. I knew that he had retired from the Supreme Court but my enquiries started late. When I got his home address, I was about to leave so I sent him a card instead. On my return to Accra, I got a very kind letter from him regretting that he had not been able to see me in New Delhi.

We learnt in New Delhi that there was an even bigger patent office in Calcutta and we were asked whether we were going to visit it. But our itinerary was tightly drawn, with no allowance being made for a detour. So we did all our business in New Delhi. Again we visited the Government offices dealing with patents and we were informed and armed with documents on the Indian patent system. India was more aggressive in its limitation of exclusive patent rights and had a greater suspicion of the intentions and activities of multinational corporations than Israel. The patent laws and practices reflected these attitudes. We visited research institutions and observed India's approach to the matching of inventiveness with the utilisation and exploitation of inventions by industry. The system and the research in progress was one end of the remarkable range of technology which India exhibited. It is a country which had some of the most sophisticated technology in the world and, at the same time, some the most undeveloped. That seemed to be matched by the extreme wealth and the extreme poverty in the land.

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As Muthu had predicted, New Delhi was very hot. The temperature throughout our stay was in the 40s centigrade. I had never before experienced such heat. There were people, obviously employed by the municipal authorities, who kept throwing water on the sidewalks to reduce the effect of the heat. The water sizzled; the effect was fleeting. Apart from this great heat, the most vivid impression one comes away with is the teeming population on the streets, especially in Old Delhi. We were also impressed with the size of the residences of the high office holders. We were taken on a sightseeing tour of the Taj Mahal at Agra. The architecture was indeed breathtaking. It is difficult to conceptualise the difficulties which must have confronted the builders of such an edifice and the ingenuity and time they needed to overcome these construction obstacles. One comes away with a mixed sense of awe, elation and numbness after the viewing.

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I phoned the Ghana High Commissioner and sought an interview. He was happy to receive me in his office. I mentioned that I was on my way out of India but I wanted to spend a day in Bombay before flying on to Nairobi. He said he had an Indian friend in Bombay whom he would ask to look after me when I was in Bombay and immediately phoned the friend. He happily announced when he put down the receiver that everything was arranged. His friend would meet me at the Airport and take me to my hotel. As we expected that I might be the only black arrival at the time, he said his friend would look out for me. I duly arrived at Bombay Airport at about midday. I kept a keen lookout but saw no one interested in me. After seeing practically all who arrived with me on the flight, I thought I should take a taxi to my hotel and ring the friend from there. It was fortunate that I had at least his work number. When he heard me on the phone, he asked how I came and I replied that I arrived by the flight the High Commissioner told him about. "But I was at the Airport looking for you and never saw you", he said. So we arranged to have dinner together. He would collect me from the hotel lobby where I should be at the arranged time. In he walked at that time. I was the only hotel

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quest in the lobby. He looked at me in disbelief. "You?" he queried. "But I saw you at the Airport this morning? I did not approach you because you looked like an Indian to me." Apparently, I could pass as an Indian from the South but it was the first time I had heard so. Had I known beforehand, I would have made the High Commissioner give better particulars about my looks to him.

My next task was to observe the patent system in Kenya. There was nothing new to see there. Kenya had the same system of registration of UK patents as we had in Ghana. My only new experience was a meeting with their legendary Attorney-General, Charles Njonjo. He fitted the advance publicity I had of him: immaculately turned out in his three-piece suit and gold chain. He was surprised to see me. He had been told in advance that a retired judge of the Court of Appeal was coming to see him and he expected a man of a certain advancement in age. His greeting expressed his surprise. "But you are too young!" he announced. We had a general chat about why I had come to Kenya, the similarity between the current patent systems of Kenya and Ghana as well as the office of the Attorney-General. After our meeting, I was ready to return to Ghana. 658

I made a full report of the work aspect of my travels to both Tackie of CSIR and the USIS. They approved and agreed on the next stage of travelling. This time Sodzi did accompany me. We were to visit the patent offices in Rio de Janeiro in Brazil, Washington D.C. in the U.S., Ottawa in Canada and Stockholm in Sweden. 659

We went to Rio through New York. I found the journey long and trying. Rio was indeed an exhilarating city. We stayed in a hotel at Copacabana. The routine was the same as I had pursued before. Visits to the Government patent offices to be instructed on the patent system in Brazil and to such other institutions connected with patenting to give us a picture of how Brazilian patenting worked. Like India, Brazil was anxious that a grant of patent must result in the patent being worked within the country. This approach, of course, Brazil must have adopted as protection from its powerful American neighbour, the U.S., from which most applications for patents emanated. The rules made it necessary that if a patent was not worked in Brazil by the holder, compulsory licences must be granted to persons who wanted to work it within the country. 660

We knew no one in Rio. My old Achimota School companion, Vishnu Wassiamal, was our Ambassador to Brazil, but he was based miles away in Brasilia. I spoke to him by phone and he suggested that we should visit Brasilia. But once more, the tightness of our schedule did not allow such a deviation. We had met some Brazilian diplomats, particularly \*\*\* [\* missing first name ] Carvahlo, with his Finnish wife, Anneli, when they were in Ghana but if he was now in Brazil, like Vishnu, he would be in Brasilia. Pipsi Samasa-Meyer, another Brazilian whom we knew in Ghana, was even less likely to be traced. The last time I saw him was unexpectedly in Placette, a department store in Geneva, as usual with a lovely young girl less than half his age on his arm. But we were looked after by a kind German patent expert, \*\*\*, [\* name lost? ] who was working in the Patent Office. I later kept up communication with him and went once, when he had returned to the European Patent Office in Munich to see him. It was on that visit to Munich that I met my classmate at St. Bees, B. H. Cawthra, who had become a patent lawyer and written several books on the subject. Our free time was, 661

therefore, our own to organise and enjoy. Stepping across the street from our hotel, we were on the beach. In the mornings, the women crowded the beaches taking their exercises. We went to sit out there one day after work. I had my camera by my side. Suddenly I found my camera moving slowly by itself over the beach sand in a direction towards by back. When I turned round to grab it, I found the camera at the end of a string which was being maneuvered by a boy on a bicycle. Fortunately, I was able to rescue the camera but the boy rode off very quickly on his bike. Rio was remarkable for the proximity at times of its lovely housing with the unsanitary shacks of the poor known as favellas. Sodzi and I once thought of taking a bus ride on one of the buses to the end of its run and returning. When we told someone later about our adventure, which was quite uneventful and enjoyable, his face took on a look of alarm. Apparently, we should not have gone where we went. At night, Copacabana and Ipanema lit up and throbbed with music. This lightness of spirit was mixed with a certain catholic religiousness exemplified by its churches around.

Our next port of call was Washington D.C. The U.S. Patent Office is in the suburbs of Washington, in Virginia. For the first time that I could remember, I not stay with friends in Washington. Sodzi and I stayed at a hotel within walking distance of the Patent Office. It is needless to say that the U.S. Patent Office was the largest, the most sophisticated, by way of personnel and equipment, of the Patent Offices I had visited or was to visit. They had a very large turn-over; they patented some inventions, like plant products, which other countries did not give patents on. We knew that their system was too grand and sophisticated for us in Ghana. But of course, being supported by grants from the U.S. Government, there was no way by which we could avoid a visit to this Patent Office. 662

From there we went to Ottawa. John Ryan, who was Australian High Commissioner in Ghana when I first visited Australia to attend the Commonwealth Conference in Sydney and the Law Ministers' meeting in Canberra thereafter, and continued in Ghana over the period of the overthrow of Nkrumah, was the Australian High Commissioner in Canada then. He and Pat invited me to stay with them while we were in Ottawa. But I missed seeing him. He had to leave earlier on the day that we arrived in Ottawa to be in time to attend the opening by the Queen, of the Commonwealth Games in Edmonton that year. Had I known that before, I certainly would have tried to make arrangements to arrive earlier so that I would see him. But I did not know until we got to Ottawa, where Pat met me at the Airport and had me safely installed in their residence and then she also left to join John at the Games. But staying at the residence at the time was John's eighty-year old mother, with whom I watched the Games when I came back from work. I was so impressed with her when she said in a moment of enthusiasm that she would be watching the Games again in another four years. I never saw John again after that. He died rather early in life. We wrote to Pat after that but never got a reply. 663

The visit to Canada was, to me, the most fruitful in our quest for information to help us decide on the patent system to propose for Ghana. The Canadians had a great love-hate economic relationship with the U.S. They felt that the U.S. was out to take them over and did all they could to keep their industry, manufacturing and research under their control. To visit Canada after the U.S. always conveyed to me a sense 664

of peace and reduced pace of life. Our Canadian contact was the Deputy Minister responsible for patent matters, who gave us as much time, information and help as we wanted and even more. He saw to it that all doors were open to us. Canada as well as Australia and Eire have always been held up to us as the drafters of good simple legislation. A Canadian legislation compared with a U.S. equivalent is as often as easy to read and understand as its American equivalent is. The Canadian legislation and other documentation which we received to study were much to our liking. We again visited their research institutions and had instructive discussions on the relation of research, inventions and industry.

Our old friend, Jean Steckle, was in Ottawa at the time and was living in her beautiful condominium, which I visited. 665

From Canada, Sodzi and I flew to Stockholm. Scandinavia has always seemed to me to be a sane part of the world. Things were much quieter than in the Americas. But there was always the feeling that Scandinavia was outside the orbit of a country like Ghana, which had relatively little to do with it. Personally, I had an advantage in Stockholm, because Inger, Stella's sister, and her daughter, Ingela live there. So I was with family. We went through the same exercise as we had done in the different countries. That completed our tour of inspection. As Stella and children were in Kimito in Finland, I continued there to join them. I had no visa for the visit to Finland. When I got to Abo (Turku), the second, or is it now the third, city in Finland, on the overnight ferry, the immigration officials proved very difficult and were on the point of sending me back on the boat to Stockholm. Fortunately, Stella had been driven to the harbour by her brother Rainer to meet me. Together, they managed to persuade the authorities to let me in. They did so with the appearance of some reluctance, asking me to report to the Police when I got to Kimito. 666

It was the year when Bob and Anna Bennett drove to visit us in Kimito and spent some time with us both in the family house in Tingsbacka and at Snackvik, the summer cottage by the sea. 667

The travels abroad had given me much knowledge of the patent systems of the various countries visited. They had also provided a wonderful opportunity to see old friends. On our return to Ghana, we set about writing our report. I wrote the main report to which I attached a draft of a Patents Bill. Sodzi made his comments which I embodied in the report as far as I could. But he also wished to have his own addendum, which was the scientist's approach to the patent system, included in the report, to which I agreed. The draft report was first sent to Roger Harben for comments. He wrote a very kind letter of approval, with a few comments for consideration, which were taken into account and the report was presented simultaneously to the CSIR and USIS. Thereafter, I gave a public lecture under the auspices of the CSIR at the Ghana Academy of Arts and Sciences based on the work we had done. At the lecture, I realised, from no less than some of the Ghanaian scientists present, that there would be some opposition to the establishment of a modern patent system in Ghana. They were not concerned that Ghana had some form of a patent system which consisted of registration of patents granted in the UK to give the patent-holders the same rights in Ghana as had been conferred on them by the U.K. patent in the U.K. That this in a way was an aspect of colonialism did 668

not bother them. In their view, a modern patent system was unnecessary at this stage of our development. We should allow ourselves the liberty to copy any invention that we liked. That was the way to rapid advancement. They cited Japan as a country which had attained its present industrial eminence by copying other countries' inventions and advocated that we should follow the same course. They obviously were not impressed by the argument that venturing into a copying exercise would bring upon us the wrath of those countries whose patents we copied, nor were they impressed with the fact that all countries with patents to protect would try to exclude Ghana from the knowledge which would otherwise be available through the disclosure required to be given by a patented invention. It probably did not strike them that the condition for which they advocated was the system which had prevailed since independence in Ghana and yet they had not managed to copy anything for our benefit, which would have been the best support for the position they took. Despite their opposition, I thought that, with WIPO's endorsement given to the work, Government would nevertheless take it up and try to push through the draft legislation. Nothing was done. Like one of the many reports submitted to Government, it was allowed to lie on a shelf to gather dust. It was not until 1994 that a modern patent Act was enacted in Ghana. By then, I was based in London and I first heard the news when I ran into the Registrar-General, Dominic Mills, in Hatchards, the lawyers' bookshop in London. It was flattering to hear from him that the Act passed was basically what I had drafted in 1978 with a few amendments. But, by then, the TRIPS section of the World Trade Organisation, which deals with intellectual property was about to out date it.

Thus, with my mixed bag of legal work, attending at UAC board meetings and at Valco Trust meetings, trying to complete my books on Criminal Procedure and the Contribution of the Courts to Government [ check that that is all the content that was missing here ] I managed to occupy my time as a legal consultant. I was allowed to confer some benefit of Ghana for the knowledge I had been permitted to glean from my many attendances at the UN Committee on Double Taxation between Developed and Developing Countries by being called upon to advise on the Double Taxation Agreement between Ghana and the U.K. That was followed by an agreement with Germany being given to me to advise on but I was temporarily taken away from my consultancy work by Government so that I could not complete my advice and did not manage to follow up on what happened to that agreement. I was asked to draft the White Paper on the report of the Committee which enquired into the income tax law for the consideration of Government, which I did. The funny thing was that after my draft, Leif Muten was invited to Accra to look at and comment on it. He stayed with us on that occasion. I knew what his task was but he did not know that I had drafted the Paper. It was after he had made his comments, which were favourable, on it that I told him that I drafted it. He was taken aback. What if he had commented adversely on the draft? Would it not have spoilt his relationship with his host? I assured him that it would not have done so. He made some remarks about how careful one had to be in life lest one offended unintentionally.

Acheampong's regime began under the name of the National Redemption Council. As I said earlier, modesty and a desire to do right characterised their actions to begin with. The limitations in a military regime are not confined only to a want of democratic cred-

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ibility. Lacking in a mandate from the people, they assume power with the justification of correcting wrongs committed by their predecessor government. But in most cases, they have no well-thought-through or coherent and consistent political, economic or social policies to implement. Even where it is benevolent in outlook and has some policies to implement to the good of the people, its approach is prescriptive and does not necessarily rely on the wishes of the people. With a desire not to let go of power, they often adopt such actions which would enable them to hold on to such power. As there are always people who want to take advantage of any government, whether democratic or not, they soon derive their support not only from the military establishment but also from such sections of the civilian population which is persuaded that its fortune lies with the government in power. Regimes rarely lack persons or groups which keep singing their praises and proclaiming how good they are. We still believed in Ghana that we had great natural resources which foreigners were anxious to steal from us. We had not quite realised that whenever there is a coup, all serious foreign interest in the country is suspended for a number of years until the outside world has had sufficient time to study and be assured of our policies, if any, before risking its money. We had not quite realised that there were many parts of this world, also with natural resources which were vying with each other to attract the available foreign investment interest in the world.

I should be the last person to speak against military governments as I have personally benefited through advancement by a military government, namely, the National Liberation Council. But the NLC gave themselves a limited time after which they were to hand over power to a civilian government. What had attracted me most to its conduct of affairs was that, in my view, it was a comparatively cleaner government as I had known it to be and its declared policy was to hold a free and fair democratic election. That I take the view that some of its members permitted themselves to be taken over by Busia and his colleagues and to encourage his political ambitions, is a matter on which contrary views could be expressed. Busia never appealed to me in the same way as other people who gave me the impression that they did not really mean what they professed. But there were those, among them close friends of mine, who believed in him and thought that Ghana's salvation could be realised only through him. Acheampong's regime, however, did not have the same determinable quality which the NLC had. At first, no one knew how long it intended to stay or what sort of civilian governmental system, if at all, it wanted to see in operation in Ghana after it had departed. Its policy of capturing the commanding heights by making foreign companies sell part of their capital to Ghanaians may be described as an act to advance Ghanaian nationalism. Others preferred to simply call it nationalisation of foreign assets. But, as explained earlier, it affected only a few Ghanaians in those days. Most were not interested in shareholding as a form of investment. I did approve of this Acheampong policy because, practically all the foreign companies, asked to sell part of their capital to Ghanaians, were established and nurtured during the colonial administration. The companies had seized the plum profit areas for their exploitation. Like the European Club known as "Accra Club", the ownership of its capital was restricted to foreigners alone and they might have been prepared to allow a few prominent Ghanaians to join their businesses after independence. But that was rare. The opportunity, given by Acheampong's policy for

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Ghanaians to participate in these businesses, was therefore, to me, a good idea. But that was not the main problem with the running of the economy of Ghana. The control which Government had on the public corporations through which it managed vast sections of the economy, generally inefficiently, continued. The cocoa industry, which had been our economic backbone for so long was dying of neglect. The amount paid to the cocoa farmers, for long a small fraction of the world price had become derisory; farmers active in cocoa production were growing old as their sons continued a one way drift to the cities, where jobs and bright lights supposedly abounded; the labourers from neighbouring countries who had been driven away by Busia's mass deportations had not returned. There was a serious shortage of labour in the cocoa farms. In contrast to the Ghana Government's treatment of the cocoa farmers, Ivory Coast was paying a generous proportion of the world cocoa price to its farmers. Even Togo, which did not have cocoa farms of any note, was setting generous prices for the purchase of cocoa. It was not a matter of great surprise that Ghanaian grown cocoa should somehow find its way to both these markets. By the time we returned from the U.S., the regime's reputation for modesty and humbleness was gone. It was behaving like the autocratic government, which it no doubt was, intent on holding on to power for as long as it could. It was not helped by a deteriorating world price of cocoa or the continuous haemorrhage of the country's wealth through neighbouring countries which had a harder currency. Smuggling of cocoa was rife. The alleged quantities were so large that suspicions were aroused that some in authority must either be involved or were encouraging it. Rumours of corruption were rife.

In the absence of any indication of a return to civilian rule, there were also constant rumours of planned coup d'états to replace the Government. When there was a change in the middle of Acheampong's reign, it was a change of one military structure of Government described as the National Redemption Council which was established at the time of the overthrow of the Busia Government in 1972, by the superimposition of an even more exclusive body described as the Supreme Military Council in 197\*, [\* date? ] with Acheampong still at the head. There were a number of changes in personnel at the top. E. N. (Fiifi) Moore, who had been made Attorney-General by virtue of the fact that he was the President of the Bar Association at the time of the coup in 1972, was said to have participated actively in the changing of personnel. When the exercise was all finished, Moore himself was replaced as Attorney-General by Justice Gustav Koranteng-Addow, a superior Court judge. The dissimulation practised on Moore was a devastating blow. If there was any doubt initially as to whether Acheampong's power had been curbed by the introduction of this new scheme, it soon dawned on the population that the Government was still under Acheampong. The new arrangement brought no alleviation of hardships in the economy or in democratic participation. The rumours of a coming displacement of Acheampong continued.

It now became clear that Acheampong wanted to remain the Head of State even if the military regime, whether in substance or in name only, was replaced. In their desperation for change, the students of the University of Ghana rioted calling for a change of government. They had prepared a document which demanded that Acheampong should surrender power to a temporary troika headed by the then Chief Justice, Azu Crabbe. Because Azu Crabbe's name appeared in this document, he was suddenly

replaced as Chief Justice by Fred Apaloo. I do not know that the termination of the appointment of Azu Crabbe was because Acheampong concluded that he must have been behind the students' riot but it appeared as if he had thought so. Azu Crabbe's departure ushered in a Chief Justice with whom I felt much more compatible. But his loss of office for something for which he was not responsible, as appeared to be the case, was a personal tragedy. He retired to his retreat in the Akwapim hills.

One could dismiss the information that he had been keen to have Ohene-Djan convicted of murder because Acheampong was enraged by the lawyer's desire to replace him, as part of a product of the rumour mill. It is not so easy to assign the same explanation for Acheampong's energetic promotion of his constitution for a Union Government or the campaigns officially organised in its support. Union Government, or for short "Unigov" as it was popularly known, was the name given to the constitutional structure, which he promoted to the extent of having a draft constitution prepared and officially published, of a system of government for Ghana without political parties. A system in which all legislators would be elected on a personal basis like a collection of independent representatives. My good friend, Dr. Thomas Mensah, the brilliant academic lawyer and former member of the Legon Law Faculty, who was then in the international public service, was popularly conferred with the honour of having been brought back to Ghana to draft the constitution. Geoffrey Bing also visited Ghana about the time when it was in gestation. The purpose of his visit was ascribed to discussions on the Unigov constitution. I did not bother to discuss the question with Tommy Mensah. Even if it was correct that he had drafted the constitution, which I do not say was so, his connection with that constitution was no more than that of any draftsman of a legal document and could not be said to show him to be a necessary adherent of the system of government. There was strong opposition, both emotional and logical, from a large number of politicians and the politically aware to Unigov. The main objection to it must be that it denied the people the constitutional right to freedom of association. I must confess that I was not very interested at the time with the forms of government to express a preference for or against the system. I prayed for Acheampong to leave the scene because I thought he was leading the country to perdition. But I was not sure of what I wanted instead. I was already somewhat disillusioned with democracy, as practised in Ghana, and would have been content with an enlightened and benevolent autocracy which was free from corruption. As a result, I did not pay too much attention to the Unigov debate. As it turned out, Ghana did not have to go through that route at all.

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At last, when the change in government came in 1978, it was by a palace coup. Acheampong was replaced by General Akuffo as Chairman of the SMC. James Aggrey Orleans, who was the Chief of Protocol at the Foreign Office at the time and accompanying a foreign dignitary for an early morning appointment, relates the story of how they were kept waiting in the ante-room to Acheampong's office for a long time while officers like Odartey-Wellington were going in and coming out. Eventually, Acheampong was marched out by the officers without his epaulettes. [Check the story again with Aggrey-Orleans] Thus, ended Acheampong's reign. Akuffo's second in command was Joshua Hamidu, whom I had got to know while I was DPP because he was then in Military Intelligence. The Military Government then announced the abandonment of the Union Government initiative and that it intended to surrender power to a democratically elected

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Civilian Government based on the political party system in the following year, after the adoption of a new Constitution. My old colleague at the Attorney-General's Office, V.C.R.A.C. (Charlie) Crabbe was appointed the Chairman of a Constitutional Assembly, composed of interest groups, such as professional people, trade unionists, farmers and market women, which was given the task of drawing up the new Constitution. Political activity was revived. It provided form of activity, diversion, entertainment and opportunity for competition for the people. As a result, the art and its practice of politics in themselves have always been a reliever of tensions.

Attorney-General Koranteng-Addow soon began to give indications of inability to hold down the job. He made pronouncements which were incompatible with his position. One of them was published on the last day of December, 1978. On reading that, I told Stella that I thought his days in office were numbered. I did not realise how prophetic that was. But I was summoned to appear at the Castle at Osu on 1 January. When I got there, I was asked to be the next Attorney-General and Commissioner for Justice. My main preoccupation would be to see to the finalisation and the bringing into force of the new Constitution, as the SMC intended to hand over power under that Constitution to an elected Government on 1 July 1979. I told General Akuffo and the top members of the SMC present that although this was a high honour, it would disrupt the consultancy practice that I had been trying to develop. However, as the period for the interruption was only six months, I thought I could undertake it. I had no further ambition to continue in the office beyond that date. I was sworn-in together with Mrs. Gloria Nikoi, the wife of Amon, who had been invited to be the Commissioner for Foreign Affairs. I was happy that Gloria was to be my colleague in the Ministry of Foreign Affairs. I had known her from school at Achimota and I admired her tremendously. She was an economist who had great experience in foreign affairs derived from long service in the Ministry which she was now to guide. She was to be my closest colleague during the relatively short but action-packed period that we served with two different military regimes.

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### 13. The Attorney General's Office Again and After

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Once more, I was in my old office. Although there had been some improvements in the furniture and fittings in the office, much remained the same. Above all, Patience Dixon-Caesar, my Private Secretary who had been assigned to me in 1962 when I became DPP and I took along with me to the Attorney General's office when I acted in that office, was still the Private Secretary of the Attorney General. This was my greatest delight. She had been the Private Secretary of the various Attorneys General who had held office for the past thirteen years. She was then in a powerful position, having held the secrets of the office of at least four other Attorneys General, Victor Owusu, S. Yaw Adade, E. N. (Fiifi) Moore and Justice G. Koranteng-Addow. As I write today in 1999, she still occupies the same position. I believe the tally of Attorneys General she has served as Private Secretary must have risen to at least ten, with Joe Reindorf, Archie Djabatey, G. E. K. Aikins, Tannor and Obed Asamoah, coming after me. Her experiences would make a most wonderful book on the ways, methods of management, strengths and weaknesses as the efficient dispatch of business of all these different personalities; providing nothing short of a wonderful feast of the comparative biographies of these lawyers.

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The Attorney General's Office which I came back to meet was not the same as the Office I had left some twelve years before. In the upper echelons, there has been considerable movement. Aikins, later to become Attorney General and eventually a judge of the Supreme Court, was now DPP. There was no Solicitor General. There was a Legal Class Appointments Board (LCAB), on which I had served as member since the time I was a judge of the Court of Appeal. Its functions included the recommendation for appointment, promotion and discipline of all the legal staff in Government Service. In these matters, therefore, it had come to substitute for the Public Service Commission. The Attorney General was the Chairman, although, his Deputy could preside in his absence. I recall that N. M. Chawe Doodoo, who had been in the Commercial Section practically since its inception in the 1960s, was recommended for the post some years before my return to the Office. That recommendation was accepted by Government. But somehow, no appointment letter was issued to him. Apparently, someone in high office thought that he was not deserving of the post and refused to take the necessary action. No reason for not implementing this Government decision was ever given to the LCAB. Chawe, meanwhile, obtained an appointment for an initial period of some two years as the General Counsel of the Secretariat of the African Caribbean Pacific States (ACP), which represented those States in their dealings with the European Economic Community (EEC), now the European Union (EU) in Brussels. With the office of Solicitor General still vacant when I came back; and the approval by Government of Chawe for appointment to the office not countermanded, I thought the right thing was to offer the appointment to him. But it would only make sense if he was to return from Brussels in the not too distant future to undertake the duties of the office. I accordingly made this proposal to the SMC to which it agreed. But Chawe did not return from Brussels. His two-year secondment extended to a stay with the ACP of about fifteen years. Eventually, the Solicitor General's post was given to Charles Tettey, who had been acting in the position in Chawe's absence. He held the post for a record of about fifteen years.

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I left the Attorney General's Office with Lebrecht (Nii Tete) Chinery Hesse as the Chief Legal Draftsman. I returned to find him in the same position. He had always liked his work as a legal draftsman. But his department was depleted of staff. It then had a complement of eleven draftsmen. There were only five at post and one of them, Dabi, had been assigned to the Constitutional Commission. Indeed, the whole Office was suffering from a certain lack of lustre among its ranks. Prosecutors like Kobina Taylor, Peter Adjetey and Kwesi Zwennes were gone before, some of them even before I left the Office the first time. Gyeke Dako was still advising the Police. There were bright lights, like Amonoo-Money and Badoo around, but I am not sure that they had the recognition that they deserved. One thing the LCAB had done was to introduce an element of temerity in its members as the lawyers in the Public Service, always conscious of their positions in the legal hierarchy, were near enough to the members to embarrass them by complaints personally to them whenever anybody was promoted out of turn. The spate of enquiries into the affairs of people with affiliations or past performances of undesirables to the current powers which had started in the days of the National Liberation Council, after the overthrow of Nkrumah, had not yet ended. Some of the members of the Attorney General's staff were still assigned to these enquiries. As was customary, the cases or files coming to the Office for action were distributed to the officers who were to deal with them by their heads of section. But occasionally, there were matters which I needed to entrust directly to a member of staff. In organising this, I tended to make more use of the members of staff whom I thought had the flair or ability of the particular person chosen rather than follow any routine for distribution of work. One of the persons whom I heavily relied upon was J. E. K. Appiah. He was a mature public servant when he entered the Attorney General's Office, having been one of the most senior officers in the Establishment Secretariat before he qualified as a lawyer. He was, in my view, very good. I, therefore, entrusted a number of difficult court or commission of enquiry work to him. It was after I had left office, that I was shaken by unpleasant news about his personal integrity in the discharge of his office.

My letter of appointment from the Office of the Supreme Military Council dated 1 January 1979, was signed by E. K. Minta, as Secretary to the Council. Minta was an old Achimotan who was about three years ahead of me at the School. I quote it, as it might be of interest for later comparative purposes. It read:

Dear Sir,

I am directed to inform you that in pursuance of the Supreme Military Council (Establishment) Proclamation (Amendment) Decree, 1978 (SMCD.169), the Supreme Military Council has appointed you a member of the National Redemmtion Council and assigned to you responsibility for the Ministry of Justice and as Attorney General with effect from 1st January, 1979.

2. The salary attached to the post is c14,856.00 per annum consolidated. In addition you will be paid a non-taxable allowance of 20% of your salary.

3. You will be provided with official accommodation for which you will pay rent at normal rates paid by members of the Civil Service. Except for normal wear and tear, you will be expected to make good any damage to or loss of Government property

provided for your use. You will bear the cost of electricity and water consumed in the premises you occupy and pay bills for these services direct to the authorities concerned. If however you reside in your own house you will be paid 20% of your salary as rent allowance.

4. You will normally be provided with a chauffeur-driven official car. Alternatively, you may use your own car on duty, subject to your being provided with a paid chauffeur and drawing appropriate maintenance and mileage allowance. If you use an official car, you are expected to comply with the requirement of a log-book being kept in respect of petrol issues, journeys, mileage, maintenance, major repairs, etc. 686

5. When travelling on duty outside Accra you will be eligible to draw as night allowance the amount charged by a hotel for bed and breakfast plus c2.00 to meet other expenses. Alternatively, you may draw an unaccountable allowance of c6.00 per night to cover the full cost of your stay with friends or relations. 687

6. You will be provided with the services of 1 cook, 1 steward, 1 garden boy and 2 drivers. 688

7. You are eligible to 28 days' vacation leave in a year. In addition, you may take casual or special leave with the approval of the Chairman of the Supreme Military Council. With the approval of the Chairman, you may travel outside Ghana at your own expense during your leave. 689

8. Please acknowledge receipt that you accept the appointment and on the terms offered. 690

Yours faithfully, 691

As I intended to continue staying in my own house during the short time that I contemplated staying on as Attorney General, I had the 20% housing allowance. I was quite satisfied with the one driver, Ebenezer, whom I had and forewent the second driver. In March, 1979, I received a letter from the Secretary of the SMC informing me that the 20% of salary duty allowance had been changed to c4,000 flat per annum. I got soon to declaring my assets and named every property I had got or was interested in. It was a tedious process but I understood the need for such declaration and willingly bore the burden. 692

The SMC, which was the topmost policy making organ of State at the time was a seven-man body, formed mainly by military officers. General Fred Akuffo was its Chairman and consequently the Head of State. The other members were General Joshua Hamidu, his Deputy, and the others were the heads of the military establishment: General Odartey Wellington (Army), Air Vice Marshall GeorgeYaw Boakye (Air Force), and Rear-Admiral Joy Amedume (Navy); and Inspector General of Police, B. S. Kwakye. Apart from their responsibility for the various arms of the military forces and the Police, each had responsibility for one or more portfolios of government. By invitation, a few Commissioners like Gloria Nikoi, Joe Abbey and myself attended the SMC meetings as advisers. 693

The membership of the next tier of Government, the National Reformation Council, which was composed of the Commissioners (the terminology adopted by the Military 694

regimes for Ministers) consisted of Abayfa Karboe (Commissioner for Special Duties), Kofi Badu (Commissioner for Sports), J. L. S. (Joe) Abbey (Commissioner for Economic Planning), Kwame Afreh (Commissioner for Information), Professor J. Benneh (Commissioner for Lands & Mineral Resources), Dr. Emmanuel Evans-Anfom (Commissioner for Education, Youth & Culture) J. Harley (Commissioner for Transport & Communications) Anthony Kobina Woode (Commissioner for Labour & Social Welfare), Alhaji Iddrisu (Commissioner for Local Government) and myself. The civilian Regional Commissioners, who were in charge of some of the regions of the country were E. R. K. Dwemoh (for Greater Accra), J. S. Y. Amenlemah (for Western Region), S. H. Annacy (for Eastern Region) and Dr. K. G. Erbynn (for Central Region). The head of Security, E. K. Buckman, the Commissioner for SMC/NRC Affairs, always attended SMC meetings and gave a report on the current security situation. Gloria Nikoi, Joe Abbey, the Economic Supremo and myself were the other regular attendants. From time to time, others, like particular Commissioners from whom the Council wished to hear, would be invited for the occasion. Rev. Colonel K. A. Quashie, later on to become the Archbishop of the Anglican Church in Ghana, was Commissioner of Trade and Tourism. I met him in office but, before I became Attorney General and Commissioner, I had thought of entering the transport business and had obtained a licence from him for the importation of an articulated vehicle. The importation of the vehicle was to be done by UTC as my agents. But by the end of 1978, no letter of credit had been established for the importation. Licences which had not been utilised before the end of the year on account of lack of a letter of credit were being renewed. But when I became Attorney General, I asked for mine to be cancelled. Thus failed my attempt to become a transport entrepreneur. Of my colleagues, George Benneh, was the Professor of Geography at the University of Ghana, of whom much was expected in the politics of the future in the country by followers of the Nkrumah tradition. His father had been a member of Nkrumah's Government, Dr. Erbynn, a lecturer at the University of Cape Coast, later on to have charge of the Cocoa Purchasing Company. Several of the portfolios of government were held by military officers. The Finance portfolio, for example, was held by a shy officer, who was often overshadowed by the brilliance and exuberance of Joe Abbey. That exuberance always riled George Benneh, who probably thought that Joe was unduly interfering in other people's work, as he often entered into argument with Joe.

The NRC was more a Council of Ministers. It was attended by all the members of the SMC together with all Commissioners with responsibility for particular portfolios. At this time, the Chairman of the SMC, presided as the Chairman of the NRC.

The first thing I turned my attention to was the new Constitution. There had been a great deal of constitution drafting activity from 1978. A Constitutional Commission, was originally appointed by General Acheampong on 10 May, 1978 with a Chairman and membership of some 27 members. The Commission was enlarged on 1 August, 1978 to a Chairman and 50 members. Dr. Thomas Mensah, was the chairman of the Commission. Its mandate was limited, in that it was charged with drafting a Constitution on Union Government, taking into consideration the previous Constitutions of Ghana since Independence and the various proposals and circumstances leading to their adoption; the Report and Findings of the Ad Hoc Committee on Union Government and the results of the National Referendum of 1978 on Union Government; and

other matters as the Commission may consider appropriate and, in particular, but without prejudice to the generality of the foregoing, any other institutional arrangements which were not provided for in the previous Constitutions. After the palace coup which replaced Acheampong with General Akuffo, the Constitution Commission was on 1 August 1978 reconstituted into a body consisting of a Chairman and fifty seven members but, as it turned out, the Commission had to proceed with the Chairman and fifty one members. Dr. Mensah continued as Chairman. Justice Charles Crabbe was one of the new members added by the reconstituted group. The terms of reference of the Commission were altered from that of drafting a Constitution on Union Government, which was dear to the heart of Acheampong, to drafting a constitution for the establishment of a Transitional (Interim) National Government for Ghana, taking into account the previous constitutional documents, including the Report and Findings of the Ad Hoc Committee on Union Government. The Commission presented its proposals for a Constitution for the Establishment of a Transitional (Interim) Government for Ghana on or about 20 November 1978. All this was before I was recalled to be Attorney General and I had nothing to do with them. Yet another body was subsequently appointed. It was described as a Constituent Assembly, with Justice Charles Crabbe as Chairman. That body reported with its draft Constitution which was to be promulgated by the Assembly on 1 July, 1979, the date scheduled for the Military to hand over the reins of government to an elected civilian regime. It was this draft that I had to deal with. One of the members of the Attorney General's staff in the Drafting Section, Mr. A. K. Dabi, had been assigned since the time of the first appointed Commission to help with drafting matters. I thought I could simplify some of the drafting which had been done by the Constituent Assembly. Indeed, I made a number of non-controversial corrections which were adopted by the Assembly. There was, however, other work to be done. Unfortunately, with the work-pressures on him, Koranteng-Addow left a huge pile of files unattended to. I decided to work systematically through these. The fact that I also had to attend and advise the meetings of the Supreme Military Council (SMC) and as Commissioner of Justice and to attend the meetings of the National Redemption Council (NRC) as of right, placed an extra burden on my time.

One provision of apparent insignificance but the most troublesome was the provision that Parliament shall have no power to pass retrospective legislation. In the British system, it has always been possible for the Government to pass retrospective tax legislation. A power that is rarely used but occasionally necessary to redress a serious imbalance, windfall profits made by a small group of persons at the expense of the general public or a palpably unfair distribution of the tax burden. Ghana had, due to obvious historical connections, followed British practices in many ways. Generally, on that account and because the power is useful and salutary if exercised with caution, it was thought that this power should be preserved. Of course, the argument could be made that the British Parliament could pass any law, at will, that it had never operated under a written constitution and, in any event, there were other precedents which could be cited where retrospective legislation was wholly banned and, therefore, the British practice should not be used as a guide because it would only confer a dangerous power which would be abused by government. There were other States, I believe the U.S. is one of them, in which the Constitution denied the legislature the right to

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enact retrospective legislation. Theirs was the example that many in Ghana thought we should follow. That must have been the argument on which the blanket exclusion of retrospective legislation was based. The matter was, however, not always debated on this high plane.

There was a narrower issue which influenced consideration of this problem. Acheampong, during his regime, had personally given concessions to certain individual businessmen, considered as friends. The usual tax concession conferred on an entrepreneur was of a nature of a tax holiday, exempting him from paying tax on profits or business income over a period of time. Although this practice was opposed by the U.S. on the ground that it infringed the principle of tax equity and equality, many developing countries used it to attract foreign investment, including, incidentally, investment from the U.S. In the exemptions granted by Acheampong, notably to B. A. Mensah, the owner of the Rothmans' cigarette franchise, and Siaw, who built Achimota Brewery, was included an exemption from surrendering the sales taxes collected by them on their products as well. The objection to this concession is that whereas a tax holiday was an exemption from paying tax on one's income, this latter exemption was not allowing them to keep their own money but enabling the concessionaires to keep money constituting a tax imposed on the public which they had collected from the public merely as agents of Government. Some described it as permitting these privileged persons to keep for themselves other people's paid tax money belonging to Government. The matter had obviously been discussed in the SMC before I started attending their meetings. Most of the members were in favour of recovering this sales taxes collected by B. A. Mensah and Siaw on their products from them, though there was the rare dissenting voice. When I joined them, my advice was that the sales tax collected from the public was not a concession on their operations which Government could give as an incentive to the entrepreneurs and agreed that they should be recovered. The amounts recoverable were determined and attempts were made to recover part of it. But it was clear that the whole amount outstanding would not be collected before 1 July, the date on which the Military Government intended to hand over to a civilian Government. Clearly, if the Constitution provided that retrospective legislation could, on no occasion, be enacted, this would make it impossible to collect whatever was outstanding at the time of the handover. The SMC, with my full support, was, therefore anxious that a power to redress inequitable tax situations retrospectively should not be excluded by the complete bar which the Constitution makers intended to have the new Constitution promulgate. Thus Article 89 of the draft of the 1979 Constitution contained the provision that:

"89 (1) Parliament shall have no power to enact a law -

(a) which has the effect of a legislative judgment; or

(b) which is to operate retrospectively either in intent or content."

An exception was made by subsection (2) with respect to matters like the authorisation of expenditure by Parliament, expenditure in advance of appropriation, the contingency fund authorisation of Government loans and the public debt. But this, in my view, was insufficient to deal with the problem. I still have a copy of the draft Constitution to be promulgated which shows Article 89 deleted. This was, no doubt, as a result of my

advice. The Constituent Assembly after debating it refused to make the change. But the ultimate power in the enactment of the Constitution lay with the SMC and I advised that in approving the Constitution, it should make this amendment in any case. As will presently be told, the SMC did not have the opportunity to promulgate the Constitution. By May, anyway, the Constitution was ready for approval by the SMC and adoption. There was some argument about how the adoption should be made to give the Constitution validity. Some thought the Constituent Assembly should be given power to promulgate it, as promulgation by the SMC, which was not a representative Government, would not be appropriate. The Constitution published by the Assembly, opens grandly with the words: "We the People of Ghana, by our representatives gathered in this Constituent Assembly .... Do hereby Adopt and Give to Ourselves this Constitution this First day of June 1979." This grandiose claim seemed to me to ring false. If the SMC was not an appropriate body to promulgate the Constitution on account of it being unelected, neither could the Assembly, which the SMC itself appointed, be described as representative; it was not elected by the people. The SMC stuck to its decision, despite political pressure for change, that it would be the body to promulgate it. The new Constitution was scheduled to be promulgated on 1 July and not 1 June of 1979. I was not much impressed with the argument that this would not give it legitimacy. On that basis, the legitimacy of the Commission itself was, in my view, questionable. The 1979 Constitution was eventually promulgated by the Armed Forces Revolutionary Council, the Military Government which overthrew the SMC and it came into force on 24 September, 1979.

Party political activity had started when Akuffo took over from Acheampong and was being actively conducted by the time I became Attorney General. The scheme, which was decided upon, was that the election of the President and members of Parliament should be separately held. The Presidential election was to be taken first. The followers of the Nkrumah tradition were, in spite of the fact that a number of their stalwarts were disqualified, full of confidence that this time they would win. The person they would have liked to nominate as their candidate because of his ability to unite all the different factions of the party, was Imoru Egala, who hailed from the north; had been a Senior Prefect at Achimota School; and was a Minister in Nkrumah's Government. But Egala was disqualified. Nevertheless, the party slogan was that if they nominated even a goat as their leader, they were going to win the election. Even though he was not qualified to stand, Egala was interested in retaining and manipulating the reins of power. According to reports, it was he who proposed the person who was eventually chosen as the party candidate. He nominated Dr. Hilla Limann, who had taken a doctorate degree in Economics in France, and was a Foreign Service man in the Research of Intelligence branch, who had served in Geneva and Togo. It is said that Egala nominated him because he was a relative or a former student of his. In any case he hoped that by having Limann elected President, he, Egala, would be the real wielder of power behind the throne. How mistaken he was, was soon to be proved. Limann was eventually elected President.

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By March to April, I had managed to reduce substantially the mountain of unattended files which greeted me at the beginning of January. There was one of the last UN Conferences on the Law of the Sea coming on about this time to which I was invited. I

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asked General Akuffo whether I could go. He thought I had been working hard enough to deserve a break, and he put the matter to the SMC, which agreed to my attending. It was on that occasion that I met the then Attorney General of Tanzania, Joseph Warioba, a simple but very impressive man, who was a Deputy Chairman of the Conference and acted when the Sri Lankan Chairman, Amerasinghi(?), [\* name check? ] was absent from the meeting. Warioba handled the Conference with knowledge, humour and skill and, I think, did much to project his country and the African image at that Law Conference.

Not long after my return to Ghana, I was told that I would be in the official delegation travelling with General Akuffo to the OAU Heads of State meeting in Dakar. The meeting was in the about 20 May. But sometime before the delegation left for Dakar, there was an uprising led by a young Air Force Officer by name of J. J. Rawlings in May. He represented a group of dissident members of the Armed Forces who were unhappy about how things were going in the country. The economic situation had not much improved. The Government in the hope of improving exports and reducing the quantities of local currency in circulation, without notice, suddenly changed the currency, giving a short time within which to exchange the old currency for the new. To make matters worse, 1979 saw another huge price hike in the oil price. Oil was selling at over 40 US dollars per barrel. We were relieved to hear that Libya would supply us with oil which we could not get from Nigeria. But the Libyans turned out to be as hard-headed about money as any Western businessman. Oil was to be delivered only on payment of cash. The oil problem was one which the finance people with Commissioner Joe Abbey at the head, were constantly battling with. On one occasion, Ghana was faced with a serious shortage. A boat carrying Libyan oil for which we knew we had paid was in Ghanaian waters and we all thought that relief was at hand. Suddenly, members of the Cabinet which formed the SMC were summoned to an emergency meeting. The boat was in Tema but the Captain refused to discharge the oil because, according to his instructions, Ghana had not paid for it and he had been ordered from Libya not to discharge until payment had been received. At the emergency meeting, Joe Abbey, terribly upset, assured the Cabinet that the money had been paid through Citibank in New York and notice of it must have reached Libya by then. We were saved by the fortuitous circumstance that the Charge d'Affaires at the Danish Embassy was Lisabeth Anderson, a young Danish woman married to Alfred Gaisie, the Ghanaian businessman. Through her, the message was given to the Danish Captain of the boat requesting him to begin to discharge the oil slowly while steps were taken by Joe Abbey's team to find out what had happened to the money paid to the Libyan bank in New York. The Captain agreed and it worked. The sight of the boat discharging the oil, however slowly, reduced the pressure on Government. It turned out later that payment for the oil had, indeed, been made as Joe Abbey had said, and notice of the payment had been sent to Libya. But, it being one of the Moslem holidays, the person to whom it was sent had not been at his desk to read the notice.

The economic situation underwrote the events leading to the handover to civilian rule. Hard times added a dimension to the restlessness of the ordinary soldiers in the barracks. The reports from Buckman, the Security Chief, were that there was disgruntlement among them about the plans for a return to civilian rule. Even if I did not accept

their argument, I could understand the possibility of opposition to yielding the power to civilians on the ground that it was an unnecessary surrender. The exercise of power and enjoyment of its perquisites have always been intoxicating, and are not possessions which, even if illegally acquired, a holder willingly surrenders. But apparently the surrender of power was not the main cause of the ordinary soldiers' discontent. The security reports were to the effect that the disgruntled soldiers were opposed to the call for a return to barracks which involved the return also of those military personnel who had held civilian office in Government. These holders of civilian offices who, as a general rule were some of the most senior members of the Armed Forces, were regarded as corrupt, having misconducted themselves by making money while in office, that the soldiers did want them to return to occupy the top positions in a purely military scenario. This objection seemed to have occupied the SMC for some time but now, as the time for handover got closer and there was no resolution of the problem to the satisfaction of the dissatisfied soldiers, their opposition mounted dangerously. That apparently was the reason why Flight-Lieutenant J. J. Rawlings had attempted this uprising of 15 May 1979. When I heard about the uprising, it had already been quelled and Rawlings was in custody.

There was much discussion as to what to do with him. There were those who thought that he should be prosecuted as soon as possible. Others thought that the case needed to be treated with circumspection. As far as I knew, the investigations being done by Security were not complete. I had not seen the docket but the time for us to leave for Dakar was rapidly approaching. As no decision had been taken before we left and as we were staying away for about a week, my advice was that no action should be taken before our return from Dakar. Joshua Hamidu was in charge of Government during Akuffo's absence. 707

Ghana had occasion at this juncture to entertain General Obasanjo, the Nigerian Military Head of State, who had come to power after the assassination of Murtala Mohammed but in 1979 was in the process of handing over to a civilian regime and who himself in 1999, some twenty years later, was elected to be a civilian Head of State. Obasanjo was also on his way to the OAU meeting in Dakar. It was a time when on account of Ghana's deteriorated economic condition, large numbers of Ghanaians had gone over to Nigeria to work there, to eke out a living often in the most menial jobs or illegally without necessary papers. Obasanjo was met in his ride from the Airport to the Castle at Osu by street-lined school children waving and continuously chanting "Agege". Ignoramus as I was, I asked what the significance of the word being chanted was, only to be informed that Agege was the part of Lagos in which there was the heaviest concentration of the Ghanaian community. The sense of humour was subtle. 708

By the time the Ghana delegation left for Dakar, the parliamentary elections had taken place. The party representing the Nkrumah tradition had won handsomely. The presidential election was to take place in June and the handover to civilian rule was to be on July 1, the anniversary of Ghana turning a republic. At most, we had five to six weeks before the event. By agreement with the Government, my duties as Attorney General and Commissioner of Justice were to end then. I was looking forward to it. 709

The delegation to Dakar, consisted of Akuffo; Air Force Commander Boakye; Gloria 710

Nikoi; Joe Abbey; myself and; a number of Civil Servants and Security Officers. We travelled by the Presidential jet. Boakye took over the piloting of the plane from the official pilot. By this time, I had grown to admire Akuffo a great deal. He was a master at handling the meetings of the SMC and the NRC. I have seen all kinds of chairmen at work. Some try to impose themselves on the body they are chairing by bullying, cajoling, guiding or otherwise carrying on a solo act, which leads to the conclusion which they desire. At times they manipulate by listening only to those whom they knew or suspected would speak in support of a decision which they had always intended to give. Others are consensus makers; yet others read out the agenda item and let loose the chaos which follows, in the hope that some other member of the body would take command of the proceedings and impose a decision on it. Akuffo's style was to listen to everybody round the table and then say, at the end, all right we shall do this which would be the view in the discussion which had greatest support or appeal. I remember that when moving towards the end of the SMC days, he held a party at Peduasi Lodge in the Akwapim hills for the politicians who had thrown themselves enthusiastically into the fray. Bernard da Rocha, then a power with the Busia tradition of politicians, approached me at the party and asked whom I would like to see as the next President of Ghana. I merely gestured in the direction of Akuffo and replied, "that man." Bernard rounded on me in disappointment, asking how I could support a military man as President. He did tell me some time after the party that many people he had later asked the question had given the same answer as myself. I had often wondered what Akuffo was going to do after he had handed over power. When he invited me to sit next to him on the plane and some of us took turns at doing this throughout the flight, I put the question to him. He said he was going to retire quietly and lead a life away from the public eye for some time. I regretted that he was not going to be involved in the political governance of the country. But he said he had had enough for the time being.

The journey should have taken about three and a half hours, but the news we received while in the air was that Dakar had been hit by a heavy sandstorm. Visibility was insufficient to permit plane landings. We nevertheless went ahead with the hope that matters would have improved by the time we arrived. We kept listening from time to time to news of the weather from Dakar. After three hours we seemed to be nowhere near Dakar. There was some concern about our whereabouts. On investigation, it turned out that we had been going, not westwards to Dakar but northwestwards towards Mali. With the news of visibility in Dakar not very encouraging and, having regard to our location at the time, the decision was taken that we should spend a night in Bamako, the capital of Mali, and then continue the next day to Dakar. From then on, our efforts were directed at identifying ourselves to the authorities in Bamako, requesting permission to land and suitable accommodation for the night. Fortunately, the President of Mali at the time, who was also going to attend the OAU meeting in Dakar had not yet left Bamako. We were very well received. Akuffo had an audience with him. The whole delegation was given a hastily arranged banquet in the evening and accommodated as privately as possible in a well-appointed Government guesthouse(?). [\* ? question mark, check, uncertainty? ] On the following morning, we left Bamako for Dakar, which we reached without further event. The visiting Ghana delegation was, like many other delegations, accommodated at the Tiranga Hotel. The delegation was completed by

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the Ghana Ambassador, the late George Lamptey, joining us.

This was the second OAU Heads of States meeting that I had attended. It will be remembered that I attended the first during the days of the National Liberation Council in 1968 when Patrick Anin was the Commissioner for Foreign Affairs and he had invited me to join the delegation as an adviser. Patrick attended both as the Foreign Minister and the Acting Head of State. It would appear that all these meetings follow, more or less, the same pattern: the preparation by the Civil Servants and other advisers; the meeting of Foreign Ministers supported by their Civil Service and advisers, which settle the agenda and as far as possible the resolutions for adoption by the Heads of States; then the meeting of the Heads of States. By the time we got to Dakar, the meeting of Foreign Ministers was about to start. Civil Servants and advisers were occasionally asked to leave the conference room if the Heads of States wanted to debate a subject in privacy. There may be considerable discussion of an item on the agenda but the resolution proposed by the Foreign Ministers is often adopted by the Heads of State. On occasion when disagreement is deep, the subject is adjourned to the next meeting for further study and consideration to be given to it. 712

In 1979, one of the most important issues engaging the interest of African States was the Southern Rhodesian crisis. The Unilateral Declaration of Independence (UDI) which Ian Smith declared in 1965 was coming to an end but the problem was still a live one for Africa. Kenneth Kaunda, the President of Zambia, was there to speak. One of the most fluent orators present was Mobutu Sese Seko, already discredited in the eyes of many Africans as a corrupt tyrant, maintained in his position by the western powers, notably the U. S. and Belgium, in the cold war then still raging against the Soviet Union. Apartheid had been ending and was to continue to engage the Heads of State for some time yet to come. 713

The Ghanaian community was invited and came in their numbers to Ambassador Lamptey's residence to a party to welcome Akuffo. There, Akuffo gave a speech about the return to civilian rule and the steps which were being taken to realise this. I think it was at that same party that I renewed acquaintanceship with the U. S. Ambassador to Senegal, who was no other than Rudolph (Rudi) Aggrey, the son of the famous Ghanaian educationalist, James Egyir Kwegya Aggrey, who with Governor Guggisberg and Fraser had been immortalised as the founders of Achimota School. After his service to Achimota, J. E. K. Aggrey had lived in the U. S., where his son, Rudi, was born. Stella and I had first met Rudi in Washington D.C. in 1973 while we were there on my sabbatical at the Woodrow Wilson Center. He was an American citizen with a long foreign service career. A very shy and cultured man, Rudi, I think, considered himself in some ways as a Ghanaian. He invited and entertained some members of the Ghanaian delegation to his residence. 714

We returned to Accra in late May, 1979. We were met at the Airport by the usual delegation of Ministers or Commissioners and members of the Diplomatic Corps, which usually sees off and meets the Head of State on his travels abroad. Before we landed, one of the members of the delegation on the plane asked where was the Air Force plane which usually escorted the Head of State when he was about to land at Accra Airport, Akuffo, with his gentle humour, merely replied, the pilot is in custody. The pilot was J. J. 715

Rawlings, then in custody for the failed uprising that he attempted. It occurred to me that the uprising was a problem that I would now have to deal with. I asked Buckman, the Security Chief, what the security situation was like? He said things were well; the disgruntlement of the soldiers over the return to barracks was the only problem.

On reaching my Office, I got the report that the case against Rawlings had begun. The first trial day was held before a Military Tribunal with a packed audience of soldiers. Aikins, the DPP, had opened the case for the prosecution. In his opening, he had done the most unusual thing for a prosecution, by reading in full the statement taken from Rawlings after his arrest. This brought pandemonium to the tribunal, because the apparent feeling of the soldiers was wholly in support of Rawlings' views. Why was he being prosecuted when what he said was exactly what they all felt? The proceedings at that stage had to be adjourned. I was astounded by the decision taken in our absence to bring Rawlings to trial. The decision at the last meeting of the SMC which I attended was that the matter be held over until Akuffo's return from Dakar. What circumstances brought about the change? Who took the decision that proceedings should commence? Apart from everything else, here was a military regime with only one month to go before it handed over to an elected President, why should it get itself entangled in a treason or subversion trial, especially, when the uprising involved had been quelled without much loss of life or damage? I never found out, because as things turned out, I thought it unwise to do so.

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On 4 June 1979, there was a coup. It was one military regime replacing another. But it was not of the palace kind. The coup which overthrew Nkrumah was led by top military and Police officers in Kotoka and Harley with Ankrah brought in as the stabilising force. That was the National Liberation Council (NLC) Government. The coup which overthrew Busia was led by middle ranking officers, with Colonel Acheampong as its head. That led to the National Redemption Council (NRC) Government, which in the course of its existence was superseded by the Supreme Military Council (SMC) under General Acheampong. This present coup seemed to have been an other-ranks affair. Flight-Lieutenant Rawlings who became the Head of State was still in custody when it was staged and was freed by the soldiers to be their head. The most senior officer among the rebelling soldiers was Major Boakye Djan. The battle between the military factions lasted several hours. General Odartey Wellington led the forces of Akuffo's Government. There was general excitement among people, including, surprisingly some young lawyers. I sat by my radio and listened to announcements being made, supplemented by reports by some visiting friends. Late in the day, there was an appeal by Odartey Wellington to Rawlings to surrender. Obviously, this was not heeded, because Akuffo's regime was overthrown. Odartey Wellington himself lost his life that day. By late afternoon, early evening, it was clear that the military faction led by Rawlings had triumphed. There was the usual playing of martial music over the radio, broken by periodic announcements of the new regime. I experienced an eerie feeling. There was late that evening the announcement that all Commissioners of State should report to the nearest Police Station. The Armed Forces Revolutionary Council (AFRC) Government had been formed. As Commissioner for Justice, this applied to me. I decided to spend the night at home and report the next morning, which I did. It was a harrowing night as we did not know what was to happen to us the next day. Throughout the night, there

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was sporadic gun firing for which one could not assign a cause. Stella was a tower of strength. However much she worried about the future, she never showed it and kept on cheering everybody else. But the disturbed situation had a profound effect on Juliet, who was then eleven.

I duly telephoned the Tesano Police Station where I was well known, as my Orderly, while a judge, and my Police guards in the evening, had come from there. They told me that it was all right for me to stay at home until they informed me otherwise. Two hours after that, a battered car, without Police identification drove into our yard. One of the two persons in it came out, identified himself as a Police Officer from Tesano Station and asked me to come away with them. They had decided that I should not, in view of the call on the radio that all Commissioners should report to the Police, stay at home any longer. But they promised to take me to a quiet Police Station where I should be all right. They drove me to Achimota Police Station, a short distance from our home. Though I had been spent many years as a boy at Achimota School, I had never been to the Station. Its main building was a simple place with one decent sized room which served as the charge office, with the usual bar table behind which the duty officer stood to receive complaints and to charge suspended offenders. Already there were a few persons, one of whom was my Achimota classmate who joined the military and was important in the NLC days but long since retired, Colonel Coker Appiah. I also remember that at the time I was brought in, there was another military officer. Ebenezer, our driver, drove Stella and Ralph round to visit me at the Police Station. There was nothing in particular going on at the time, the main concern was that none of the Police Officers around knew what was going to happen to us. The most senior among them spent most of his day drunk because he had had a nasty encounter with some soldiers earlier on which had resulted in him being beaten. He was, therefore, afraid on his own account. He kept well away from us because, each time we saw him, we asked whether he had any news for us. Of course, he had none. Whoever formed the Government at the time must have had more serious security and diplomatic problems than bothering about us. So we sat there and waited, whiling away the time with the exchange of stories.

From time to time, though not often, there were some additions to our population at the Station. One person brought in whose presence none of us could explain was Guido Locher, a Swiss national, who was one of the managers of Accra Brewery. He was then quite unwell and was brought on a stretcher. Most probably, someone who wanted to get even with him had seized the opportunity at this moment of turmoil to have him arrested. A latter addition put the Ghanaians at the Station into a state of agitation: it was General Kotei. As he came in, there was a general silence. Then somebody muttered under his breath that now we were in danger. He was a prominent member of the ousted Government and carried every bit of the hatred which the other ranks had for that Government. He was brought in by his father-in-law, General Ocran of the NLC Government, who had taken to golf, which he played at the Achimota course nearby, in his retirement days. Ocran had brought Kotei there because he, like the Policemen who brought me, thought it would be a quiet and, therefore, safe place. The level of conversation among those of us at the Station fell after that. True to expectations, shortly after Kotei's arrival, his mother-in-law, the flamboyant and loud-speaking Mrs. Nancy

Tsiboe, came to the Station to see how he was. He spoke so loudly as he regretted the amenities in the place that a small group of young boys gathered outside the Station, as if to find out what was happening. After she had left, we observed a military truck coming from the direction of Achimota Village turn to into the Palm Avenue to proceed towards Legon. We saw the vehicle stop. There were some young boys pointing at the direction of the Police Station which was then behind the vehicle. Our spirits sank as we saw the vehicle reverse and turn around and proceed to the Station. We soon found out that it had a number of armed soldiers on it who started jumping down, shouting that we should all come out. Some of us did. One soldier, pointing his gun at me, shouted, "Hands up!" So I meekly put up my hands. He quickly relieved me of the watch which I was wearing. Meanwhile, I could hear shouts from behind me from his colleagues demanding that we should surrender General Kotei whom we were hiding. I was too preoccupied with my own inquisition to find out what had happened to Kotei. My inquisitor then asked me who I was. My position could probably have been ignored if I had said that I was the Commissioner of Justice. But I stupidly, though truthfully, said that I was the Attorney General. "What kind of General is that?" he shouted at me. He then ordered me to get into their vehicle, pointing to the back of the truck where they had been seated before. He was frog-marching me on to the vehicle, when a young man in civilian dress who had been riding in front of their vehicle and who was obviously in some commanding position, got down and told my soldier quietly "Not that man" and advised him to let me go. That advice, he heeded and ordered me to put my hands down and go. With relief I brought down my hands and turned back to walk to the Station building. I was deeply grateful to the young officer who had saved me from the orders of the soldier. I did not know who it was. Several months later, after the memorial service for my friend, Grace Quist Arcton, a young man in civilian clothes approached me in the milling crowd and asked how I was. I dutifully answered, not knowing who he was. He asked me whether I remembered him. I confessed I did not. He just asked, "What kind of General are you?", and I knew I was facing the person who saved me. But he did not say more to identify himself. It was obvious when I got back into the Achimota Police Station on the day of the coup that the soldiers had not found Kotei. That was a puzzle because Kotei was certainly in the Charge Office with us when their vehicle turned to come to the Station. The dissatisfied soldiers were shouting around; they were clearly inspired by drink or drugs. They threatened that as we refuse to surrender Kotei, they were going to return in the middle of the night and would shoot up the Station to ensure that they got him. I noticed then that the other senior military officer, apart from Coker-Appiah, had blood running down his face. According to those who saw it, he had been severely beaten up and hit in the face with the butt of a gun. They left us to ponder our fate.

After they had left, Kotei came out of his hiding place. At the corner of the Charge Office, I had noticed when I first came in that there was a pile of very large vehicle tyres, like those used by articulated trucks, piled up on top of each other. I took these to be some exhibits which the Police were keeping for a case. The pile went up higher than the height of the tallest man. It was this pile of tyres which provided refuge for Kotei. I recalled that he had been a high jumper in his younger days. That would have helped. We decided that whatever happened, we should not spend the night at

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the Achimota Police Station when the drunken soldiers returned. We went to find the Officer in Charge of the Station. He was still drunk. He tried to cheer us up with some story about some expectation that we would be allowed to go home before evening. The truth of the matter was that all the Police Stations in the country which were holding the Commissioners and military officers had no instructions on what to do to them and they were understandably afraid of releasing anyone on their own initiative for fear of punitive consequences to themselves. But this time my colleagues were insistent that he should arrange to have us transferred to another Station as we could not, in view of the threat issued by the departed soldiers, afford to spend the night at Achimota. They were also insistent that some other detention place be found for Kotei because, as long as he remained with us, \_so long would we be in danger from disorderly soldiers\_ [\* check grammer ] who were prepared to deal with him in their own way. Eventually, the Officer in Charge came to tell us that we were being transferred to Tesano Police Station. When the truck which had been arranged for us appeared, Kotei was the first to jump on it. No one had the inclination or nerve to ask him to step down.

I had so many friends in Tesano Police Station that they allowed me to telephone to Justice Apaloo to tell him where I would be spending the night. He, in turn, must have informed Stella, because she appeared there with my little travelling short-wave radio, a pillow and some blankets for me to use in making my bed on the floor. Without asking for it, the Police brought me an unfixed door and invited me to make my bed on it. Thus, we spent the night. I could hear some of the Policemen giving a lecture on who I was. I could hear my Orderly as a Judge and later as a Commissioner, the late Sergeant Atugba, giving a whispered lecture in the middle of the night on how I came to leave the Judiciary. He thought I left because of unfair treatment accorded me by Chief Justice Azu Crabbe. I thought of joining in to set the record straight, by pointing out that there were more important reasons, such as my reaching my position too early in life and trying to make enough money in private life for the education of my children, which contributed to my leaving the Bench. But on reflection, I thought this was not the place or time for such discussion and that, in any case, my intervention would complicate a straight forward story even further. So I desisted.

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Early next morning, two things happened. Just before we got up, some men, obviously military service men, came in and asked all who were serving or past military officers to come with them. We got up to see our military colleagues being taken away in a truck. Kotei was among them. As I looked on, I had no anxiety over my old classmate, Coker-Appiah, or the other senior officer who was injured by the soldiers the afternoon before but I had a premonition that this was the last time that I was seeing Kotei. It was not too long after this had happened that I had a visitor in the form of Father, now Monsignor, Senoo, a Roman Catholic priest whom I had often met at the home of Fred Apaloo. He said he had come to invite me and the rest of my civilian colleagues to come with him to Burma Camp, where Rawlings was holding court. Burma Camp was the last place which I wanted to visit at this time. But Father Senoo's argument was simple and compelling. If we did not come with him now, we would spend a long time at Tesano Police Station with no one paying any attention to us, as the soldiers had far greater problems to deal with than considering what to do with detained Commissioners and others. But if we came to Burma Camp, Rawlings would be forced to take a decision on

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what to do with us. We really had no alternative than to do what the Father said. He assured us that he had been in and out of Burma Camp several times since the coup and there was no need to fear. We went with him.

The sight at Burma Camp as one went in was unsettling: groups of soldiers drilling civilians, some old, some women and forcing them to do difficult exercises for what appeared to be taken as fun. We were led to a kind of ante-room where our personal possessions were taken from us and entered into a document and then, we were shown an inner room. There I saw quite a number of my Commissioner colleagues who obviously had been assembled there like us to find out our fate. We were told that Rawlings was at that time meeting the diplomatic corps. That was encouraging, because if he had got to the stage of talking to the corps, he would not want to do things to offend the international community. We sat for what we thought was a long time without anything happening on our front. Those of us who could carry on a conversation with a friend did so in undertones, exchanging our experiences of the previous night. I think it was there that I heard that Amon Nikoi had reported to the Cantonments Police Station with his wife, Gloria, who was Commissioner for Foreign Affairs, bringing along a camp bed with them. Then, suddenly, a soldier came in and announced that Commissioner Joe Abbey was wanted. At last some movement had begun. Another long break, then came the soldier again to read out a list of some four Commissioners, including myself, with the request that we should go back to our offices.

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I was glad to leave the place. But I was not going to my office. I needed to have proper sleep. Outside I met a number of soldiers, who appeared quite friendly. One of them was an officer who had been an old student of mine at the Law Faculty. He asked whether I needed transport to go to my office. Obviously, he knew the decision which had been taken on me. I replied that I did need transport but I was not going to my office; I was going home to sleep. He smiled appreciatively, ordered a car and sent me home. By now, it was getting to the middle of the day. I was pleased to get back home, as was my family. After having something to eat, I went to sleep. But it was not for long. A battered military truck soon drove in with some soldiers carrying guns. They said I was wanted by Rawlings in Burma Camp. There was no way of confirming the genuineness of the message. But I took the chance and went with them. We raced through the Achimota Road to the Military hospital in the open truck and did indeed go to Burma Camp. In the conference room, I was taken to where Rawlings was sitting at the head of the table, with some of his men around. I was invited to join them. We sat for some time waiting, during which time Rawlings asked me in a confidential manner whether I knew that he had visited my house before. I was flabbergasted because I thought this was the first time of my seeing him and could not recall an earlier meeting. To put me at ease he quickly followed by saying that he had come with Anthony Gbeho while we were away. Tony Gbeho was one of the sons of my old music teacher at Achimota School with whom I travelled to England in the MV. Accra. We liked Tony. He had taken to tuning pianos, among his many accomplishments, and was free to come at any time to our house to look at the old piano which our children, especially Tossan, played. It was a good English piano which had been reconditioned, and Tony had said that anytime we thought of getting rid of it, he would be prepared to take it off us. We did not know it, but Tony and Rawlings were very good friends. Rawlings told me that Tony was the

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bestman at his wedding. That line of common interest established between us made me a bit more comfortable. I learnt that we were waiting for Gloria Nikoi. That made me even more comfortable.

When the meeting was fully assembled, Rawlings tried to explain to us what had happened. He thought that matters would have turned out much worse if the coup had not taken place at the time it did. He stated that they, the coup-makers were interested in correcting a few things with the military before returning the government to civilian rule. He described their mission as a house-cleaning exercise. By now, I was feeling quite relaxed. So that when he asked Gloria and me what we thought they should do, there was no hesitation on our part. We strongly urged that they should keep to their limited programme, allow the programme for a return to civilian rule to continue on its course and return the country in the shortest possible time to civilian rule. This was not the unanimous view of all those round the table. But Rawlings undertook then to return the country to constitutional government within three or four months. He, thereafter, summoned a meeting of all the recognised political parties held at Burma Camp to explain the objectives of the coup and their intention to leave the scene once the house-cleaning exercise was over. Those who continued in their positions as Commissioners, like Gloria Nikoi (Foreign Affairs), Joe Abbey (Finance) and myself (Justice), were invited to the meeting. After Rawlings had told the meeting of the intention of the Military to return the country to constitutional government after the house-cleaning exercise which they estimated would take three to four months, he invited contributions from the audience. To my dismay, I heard Professor Mawusi Dake, a maverick politician who, to my recollection, had never held political office in a constitutional administration, ask why the Military wanted to leave the government so soon. According to him, there was a huge task ahead of the Military to do. The purge, he argued, should not be confined to the soldier-politicians alone. How about the civilians who helped those Military officers to plunder the country? "The gallant Rawlings and his men" should stay on as long as it takes to clean the whole country of corruption. Others took up this theme. By the end of the meeting, I was thoroughly depressed. People like Victor Owusu, the great lawyer of the Busia faction, did not seem unduly worried by this event; looking at me, he said in his usual jovial manner, "Austin, you do not look happy". Indeed, I was not, knowing what Gloria and I had advised and the work ahead to try to keep Rawlings and his men to the commitment we had earlier extracted from them.

I had a curious relationship with the Military at this time. Rawlings seemed to want Gloria and myself to advise him on some matters. He would, therefore, call on us from time to time to ask our views. Sometimes the method of summons would be unnerving: a radio announcement that the Attorney General and the Commissioner for Foreign Affairs were wanted in Burma Camp immediately. One did not know before and whether this was because they had done anything wrong or it was only because their services were required. I remember an evening when members of the Lebanese community had been attacked and they had naturally taken fright and were meeting in the Greek Orthodox Church near the Cantonments Road. Rawlings wanted to meet them there and to reassure them that the Government was not against them as a community. Possibly, it was thought that the presence of Gloria and myself would give some credibility to the process. We were summoned by radio. I often spent time with

Rawlings on his own in his office. He was always courteous to me, often apologising for the situation that he had put me in, because he knew I was not enjoying it. But he had a volatile temperament and one was not sure when he would next explode, so I sat on tenterhooks wondering when he would suddenly turn angry with some other subordinate who had done or said something which irritated him.

One of the earliest acts of the soldiers was the public execution by firing squad of General Acheampong and the head of the Border Guard during the Achempong regime, Brigadier Utuka. This was not preceded by any legal process of which I, as Attorney General, knew. 727

I continued with my responsibility for ensuring a smooth transition to civilian rule. I had always held the view that the Constitutions we had devised from 1969 and built on further in 1979 were far too detailed and cumbersome. I knew that a number of provisions had been put in those documents because of past experiences. But I thought that a simpler Constitution drafted in broad terms, which could be broadly interpreted, with the detailed and more mechanical material being dealt with in additional constitutional enactments which were easier to amend, as was the case with the 1960 Constitution, was much better. Perhaps, being hooked on the style developed while I was a young lawyer in the Attorney General's Chambers, made the detailed constitutions unattractive to me. Of course, the one point on which I had thought there should be a departure was in altering the fundamental principles in the 1960 Constitution, which were vague declarations of intent should be changed to a firm bill of rights conferring constitutional guarantees of rights and privileges, enforceable by the courts. I will always remember the Baffour Akoto Case, where the State put forward the argument, which prevailed with the Supreme Court, that those principles in 1960 merely imposed a moral obligation on the President, and likened the principles to the British Coronation Oath, taken "not to enable the courts to hold back an Act of Parliament which violated it as illegal but to provide a moral and political yardstick by which the conduct of the Crown could be judged. The sanction, if the oath was violated, was the extra-legal one that the monarch might lose his throne as a result." It will be recalled that Attorney General Geoffrey Bing led me as Counsel for the State in the presentation of this argument. Having seen the shortcomings of the fundamental principles, I thought the country should not go through that route again. There might have been other firming up changes which I would have adopted. But, by and large, I thought that an over-detailed Constitution would lack flexibility for meeting changing political-social conditions in the society. I once mentioned to Rawlings my thoughts that the draft Constitution was too detailed for my liking. His reaction was immediate. "Why don't you change it?" he asked. I had not expected that reaction. The Constitution-making body had worked on this Constitution for months. Their product was quite ready for promulgation by this time. For me to make the radical changes that I would have liked to see, all by myself, would have caused endless trouble. The fact that I knew that Rawlings, in his revolutionary zeal, would have liked me to change the almost completed Constitution into what I thought a constitution should be, made me say, in a panic, that the process had gone too far for me to do anything about it. I knew that it would have taken me more than the time that I hoped they would stay in power to make the changes, which would in fact had meant a completely new constitutional document. I managed to calm him down. 728

But I thought that in taxation matters, the rigid provision against retrospective legislation ought to be changed. Especially as the draftsmen in the Attorney General's Department thought that concessions had been granted to certain entrepreneurs, like Siaw, for the building of his brewery, and B. A. Mensah, with respect to sales taxes which ought to be recovered by the State. Akuffo's regime had already had this matter in hand and had managed to recover some of the monies derived from these concessions from Siaw. It was more difficult with respect to Mensah, because he always had powerful friends at court. In Akuffo's time, it was Kwakye, the IGP. In Rawlings's time it was \*\*\*. [\* missing name ] Thus began a tug of war between me and those in Rawlings's Cabinet who thought, for their own reasons, that no such change in the Constitution should be made. The whole thing came to be characterised as a struggle between the Ewes and the Ashantis in the Cabinet. There was a perception that Ashantis were too fond of the acquisition of money and that there were more, among them, who were corrupt than people from other tribes. So the provision in the Constitution on retroactive legislation was changed forward and backward, depending on the support which was paramount in the Cabinet at time. Eventually, those who wanted a blanket ban on retroactive legislation won.

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The other debate on the Constitution was on the authority to promulgate it. The terms of reference of the Constitution making body did not include a power to promulgate the Constitution developed by it. This was a deliberate policy of the Akuffo Government, which reserved to itself the final authority to decide when and, perhaps, the final content of the document. This policy was taken over by the Rawlings regime. The Constitution making body wanted this changed so that it could have the power. Part of this problem must have been due to the fact that the body wanted to be the final body to decide on the contents of the Constitution before its promulgation. The argument generated a lot of heat, some of it fuelled by pure sentiment and not logical argument. Eventually, the 1979 Constitution was promulgated by a decree made by the AFRC.

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My experience in advising on constitutional matters at this time was the most intriguing. Right from the start, Rawlings made it clear that the cabinet of the AFRC was not constituted by the soldiers that we met at what were supposed to be the ordinary meetings of the AFRC. He always insisted that there were those among them who did not attend meetings. Those who attended were enough for me to cope with. The meetings were the most unstructured governmental body that I had ever come across. The meetings started with some people of unknown rank gathering without identification to the civilian advisers who had been summoned to attend. In the course of the meeting, some new faces would wander in and sit down and participate. Others merely walked out if they had other things to do or were bored by the proceedings. On legal and constitutional matters, most of the participants had their own relatives or friends who were lawyers who advised them about what positions to take. It was the most difficult task to argue legal or constitutional principles with someone, whose appreciation of law was obviously limited and who was obviously speaking on advice without wanting to disclose the identity of his adviser. Of course, those carrying such advice could be the most tenacious of their views.

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As time went by, I began to wonder whether the Military Government would keep to their promise to hand-over after the few months required for house-cleaning. 732

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# Appendix

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# Misc

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## **Recollections in Hospital - short**

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(2001.01.01)

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Must write something. But what?

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My period as A.G. terminated on 24th September 1979, when the civilian administration under President Hilla Limann took over in ceremony in Parliament followed by a Grand parade at Black Star Square. No one quite understood why Uncle Ben Firdjoe and I danced round in the Square that day. We both felt it was an achievement to have in our various ways kept JJR to the planned handover.

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I soon started rebuilding my legal consultancy. At home, with the introduction of my cousin, Nee Quartey, who was still Chief Executive of VRA, to the head of Impregillo [\* check spelling differs earlier/elsewhere ] and after an interview, I got a consultancy with that company. It was then about to build the dam at Kpong. So there was some active work to do. Through my old student Alex Odame Labi(?), [\* name check ] who was in-house lawyer to Social Security Bank (SSB), I got some work from that bank. In both cases, I worked with Kwame Tetteh, the younger brother of my old friend from Oxford days and the AG's Office. Kwame, was no doubt a very good lawyer, who with more experience was going to reach the top, as he indeed has done. But he had one irritating habit: he never returned any telephone calls. His philosophy, apparently, was that if you needed him, you would call again. He and I also co-operated by my preparing briefs for him to use in the appellate courts.

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Right from the beginning, I adopted the system of charging fees by the hour. I did one for my friend Johnny Quashie-Idun, which he told me he exhibited to his colleagues in Chambers as to how such briefs should be written. But he never came back. Perhaps my fees were too high. Perhaps the chambers used my brief as a proto-type for future briefs. But perhaps not.

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In one thing I was lucky. I had been used to the efficient standards of Patience Dixon-Caesar, the Secretary that I had when I was DPP and later took in 1966 to the Attorney General's private office, where she has remained, it seems, for ever. But the secretary I have in my consultancy, Victoria Amegatcher, was also good. Apart from Victoria, I had Ebenezer Tetteh, the driver I acquired when I became a judge in 1966, and who as remained with me since, to do the old chores in addition to his duties as chauffeur.

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[Continue with writing on Snellingen/ Erik Sande]

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2001.01.02

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The first visit by Rolf and myself to The Gambia was to establish contact with personnel in Government, other partners in the construction of the proposed hotel, banks and business people. There were several visits often that when negotiations were done, contracts drafted and signed, site visits and general oversight of the construction were our main tasks. All this time, we continued to widen and deepen local friendships. The Gambia is a lovely place, with lovely people. A distant uncle of mine who had once served there as a magistrate, described them as treacherous people. I do not know what experience led him to this conclusion. But his warning put me on guard against

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any such manifestation. To some extent, I think that although they were naturally friendly people and I have not met a more openly friendly people other than Ghanaians in Africa, they also had an undercurrent of reserve against foreigners whom they do not know well.

The Gambia was trying at this time to increase the potential of the country as a tourist destination. A small country like a tongue on either side of the Gambia River, its economy formally consisted of exporting groundnuts and of the hardy "ndaura" (?) [\* check name ] cattle which have an in-bred resistance to the tsetse fly, so dangerous to cattle in other parts of West Africa. Hence its concern over developing tourism as an additional foreign exchange earner. The Government was actively involved in this development, granting fiscal and financial concessions as well as incentives e.g. by way of participation, in the establishment of infrastructure, especially in hotels, in the country. The Government itself was the owner of the biggest business hotel, the Atlantic, which had its share of tourists in Banjul, the capital. 745

My visits to The Gambia over the period of the construction of the hotel were frequent. It was named the Senegambia after the brief flirtation, then at its height, of neighbouring "big brother", Senegal which, except for the Atlantic coast, surrounded The Gambia, and The Gambia itself. 746

On my return to Accra from my first visit to The Gambia, I found Stella's niece, Veronika (whom we have always called by her nickname "Misi") visiting us. Misi has always looked more like Stella than she does her immediate family. Her arrival was a typical Misi experience. She had written to us about her coming but we had not got the letter. There was no one at the airport to meet her and she arrived at Accra Airport without knowing exactly where we lived. That did not worry her one bit. She jumped into a taxi and told the driver, "Please, take me to the place where the judges live." By then, I had long left the Cantonments area, where most of the judges could be found, to our own home in Ablenkpe. The taxi driver was equal to the challenge. He replied, "I know". He drove her to the house, formerly occupied by Chief Justices on the Inner Road, only a hundred yards down the road from the "Bing house" which was the house we occupied before we moved to Ablenkpe. Justice Mills-Odoi was the current occupant of that house. By good fortune, he was in. As Misi walked in, he was on the telephone on the other side of that huge sitting room. Mills-Odoi waved her to a seat and continued on the phone. When he had finished, he came to Misi with arms outstretched to welcome her. "Hello"! he said, "I know your mother." Of course Mills-Odoi was thinking of Stella as the mother. Misi told him her problem. He immediately summoned a daughter and gave directions to her to take Misi to our house. The daughter only knew Fred Apaloo's house in Ablenkpe. But it was agreed that she would take Misi that far, from where she could ask for directions onward. 747

2001.01.03 Of course, from Justice Apaloo's house, she found ours. But when she got there Stella was not in. It was 1st July and Stella had been invited by the Canadians to mid-day drinks to celebrate their national day. Misi discovered that she did not have local currency to pay for the taxi. Again luck was on her side. Our cook-steward, Paa Kofi, who had been with us since 1968, was there and he managed to pay off the driver. 748

Paa Kofi must have recognised the striking resemblance between Stella and Misi and immediately made Misi comfortable in the guest room. When Stella returned from her cocktail party, to her great surprise, there was her niece, asleep in the guest-room bed, with our own normally unfriendly dog, Bessie - she bit Stella's sister, Inger, when Inger was trying to be friendly on her visit, - lying quietly on the floor beside her. Misi's letter did arrive but after Misi. 749

I have seen no one else, probably except myself, endowed with so much luck. Is it because we were born under the Libra sign, two days apart? 750

Take, for example, another incident. We were visiting her parents on a Sunny summer's day in their summer home in Kimito. On such days, both hosts and guests sit in the garden, far from the noise of the telephone. For some reason, Rainer wanted matches and went into the house to fetch some. He came back several minutes later convulsed with laughter. Did we hear the telephone? None of us had. He said just as he got inside the house, the telephone rang. It was Misi ringing from Spain where she had just arrived and found that she had left behind in England the address of the place where she was booked to stay. Fortunately, her father had it and gave it to her. 751

Despite this apparent disorganisation, Misi is a joy to be with. I was met at the Airport on my return from my first trip to The Gambia by Stella and Misi, driven by Ebenezer. In the car, I confessed that I was returning to The Gambia in two weeks' time to continue with work there. Stella, not wanting another parting so soon expressed displeasure. But Misi immediately said "Why not?" That is part of his work. My path was smoothed considerably by that intervention. 752

I was away when Misi returned to Finland, via Nigeria. I understand the return journey provided its excitements with bureaucracy. She had, I believe, over-stayed her visa. She survived. 753

Through work with Erik Sande, I made a modest sum in foreign exchange, evidence of which was required by the British High Commission in order to grant Ralph a student visa to England. It was so modest that the UK High Commissioner interviewing me asked how I intended to finance Ralph's education after the first year. I replied that I hoped to continue working for my client and make more. With the help of Brian Simpson, he had got a place at Keynes College in the University of Kent at Canterbury. The news came so late that I could announce it only at my 50th birthday dinner to which I had invited all the old Ladies I loved, my mother, Auntie Marion, Auntie Mary Acolatse and the not so old Naawaa Torto. Ralph left a few days later. 754

2001.01.04 755

By now, our thoughts were very much on the education of the girls, Tossan and Juliet. Tossan we had taken away from my old school, Achimota, which by now was suffering from shortages and fallen standards. We went to see her for me to say good-bye because I was going away on one of my trips abroad and found that she had a boil on the leg and had had no attention from the hospital or house-mistress for a whole day, although she had a high temperature. We took her away from the school that day and put her back into the Ghana International School. She and the other children had all 756

gone there although my belief, now proved to be misguided, that my children should be educated in the Achimota School that I had gone through, made us put all of them for some time through Achimota.

With Ralph taken care of for the first year at Canterbury and prospects of further money coming from work with Arne Sande A/S to ensure support for the rest of his University life, we turned to making provision with any extra money for the girls. We went into educational insurance schemes which would help us minimise the fees for further education abroad, first for Tossan, then for Juliet. Tossan was finishing her "O" Levels at GIS in 1981. As there was no further course for the "A" Levels at GIS at the time, we thought that we should send her abroad for her "A" Levels. 757

But what would happen to Juliet when both Ralph and Tossan were away in England and she was the only one with us? She was the most sensitive of our children, and the one most unsettled by coups, sporadic and unexplained gunfire evidencing apparent violence. She was the one most obviously disturbed by my overnight detention after the 1979 Rawlings coup. How were we going to manage her with Tossan, who often gave her comfort, gone? Juliet had been put down for Achimota, due to my disbelief in its deterioration, and she went there for a few weeks at one of the worst times in the history of education in Ghana. Because of the depreciation of the cedi, teachers were not able to manage for a week on their month's salary. To meet this situation, they began to take on several employed positions with the result that they were not present in the classes at which they were expected. Juliet was at Achimota for two weeks without seeing a teacher. They just went and sat in the class and were expected to read on their own. But no one could read because there was an awful din from classmates wanting to talk. Juliet, by virtue of the fact she was born in February was three years behind Tossan although in actual age, she was only two years and two months younger. So, jokingly, I proposed to her that, if she could do her "O" Levels in two years instead of three, we would send her to school in England at the same time as we sent Tossan. Of course, she did promise to try. 758

We were able to think in these terms because work in The Gambia was progressing satisfactorily. I travelled there often on Ghana Airways West Coast flight - Accra; Abidjan; Monrovia; Conakry (sometimes); Freetown; Banjul. Each was the capital of a West African State. Abidjan used the CFA franc; Monrovia used the dollar; Conakry used its own equivalent of the franc; Freetown had its own currency and Banjul had the dalasi. There were Ghanaian women traders always on these flights. Often in first class. Most of them did not look college trained. I used to marvel at their grasp of these various currencies and the exchange rates between which they discussed expertly and with ease. 759

My travel on behalf of Arne Sande A/S was not confined to The Gambia. Erik Sande invited Stella and myself to visit Bergen, in Norway in about September 1980, ostensibly to discuss progress of the Senegambia Hotel project. The contracts for the construction had been completed. We started off with a stylish dinner at the Hotel in Bergen where we had been put up, with Erik, his wife, Agnethe; Rolf Bjorvik and wife Ranveigh; his finance man at the time, Ole Kulseth and wife. Erik really put up a show for our benefit. Next day, we were given a tour of the city from a small aircraft. We also visited one of 760

their two summer houses near Bergen. We did discuss business in Africa. But we had other interests to look at. Erik had already embarked on his expansionist phase. Arne Sande, was the name of his father who had built the construction business which bore his name, and Erik now heads and practically owns. When Arne Sande died, clearly to leave the company completely in the hands of his only son, he left 80% of the equity to Erik, 17% to Erik's mother and one percent each to his three daughters. Mrs. Sande Snr. was not interested in the management of the company and left things to Erik. Erik, therefore, had almost 100% control of Arne Sande A/S which, when I met him in Bergen, was the sixth largest construction company in Norway. During our visit, Erik celebrated the acquisition of a Ford car dealership, Mathiesen Auto, to his empire. It was then and at later social meetings that I met a Norwegian lawyer, Jan Greve, who was to play a major part in Erik's later life.

By anything that I had been close to, the Sandes were a rich family. Erik used to tease his wife, who had a reputation of being a millionaire, in her own right, that she was the capitalist of the two. 761

How do I describe Erik? A tall, clever and confident man, of enormous charm, almost ten years younger than me. A man of extremely generous instincts. But a man of mercurial temper, which could flare without much warning, especially against a subordinate whom he felt was not acting up to scratch at any particular time. Such outbursts could be embarrassing. In our long relationship, however, he sounded off like that only once against me. For a very long time after that, he was so apologetic over the incident that, it too, was a bit embarrassing. 762

Right from the beginning, he invited Stella myself and our children into their home. He treated me like an elder brother (from whom he would take comments which he would not otherwise take from others). His arrangement from now on was to organise a meeting in Bergen with him in the summer, then lend me and Stella and family a car to drive to Finland for our holiday, returning the car on our way back. 763

Erik involved me closely in his next acquisition venture. He acquired the largest construction company, Selmer A/S, several times the size of Arne Sande A/S, in a bold move which surprised the industry at the time. Selmer A/S was as much a company built by one person as was Arne Sande A/S. At the time of its acquisition, it was owned 83% by the daughter of the founder and 17% by a nephew, Lawrence, who had for years before the daughter was born, worked for and had the expectation of succession, a fact which was altered by the birth of the daughter. The daughter and husband were interested in disposing of the holding but wanted to be certain that it did not fall into the hands of the cousin, Lawrence. Assured that Erik wanted the company for himself and was not an agent of Lawrence, they decided to sell. Erik wanted the deal kept as secret as possible. So he got me and Olav Snellingen to draft the sale agreement. Suddenly, Erik controlled the largest construction empire in Norway. (mention almost immediate acquisition by Selmer of 50% of Furuhome - second largest?) 764

(2001.01.07) Eventually, he was advised that to complete the deal what he needed was a lawyer in Oslo. So he got Lars Kristensen, who took over our work, but had little to add. 765

At this time, Erik was thinking in international terms - he was going to have a holding company on the board of which Olav and I would be, as well as one American whom I did not know but was well known in financial circles over there. Olav got grand ideas. He thought and he played a crucial part in persuading the Selmer daughter and husband to sell to Erik, that he was anointed to be the Managing Director of this holding company. That irritated Erik immensely because he himself expected to take on that role. He made this clear at a meeting we had in London. But what put Olav and Erik apart had nothing to do with business. It was to do with what Erik thought was interference with his time with his children. He was, however busy, keen on devoting a certain minimum of early evening time to his three boys, Arne, Erik and Haakon. It was this time which Olav chose to phone and discuss business. Olav was incapable of saying anything in a few short sentences. So Erik gradually got weary of these phone calls and asked Olav not to call again. 766

With Erik in the hands of Norwegian lawyers with little international exposure, one is not surprised that the international umbrella company was heard less and less about. When Selmer A/S was bought, the umbrella company formed was Selmer-Sande A/S, a Norwegian company. 767

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# Tributes

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## Tributes to Austin Amissah

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### Obituaries Justice Austin Amissah, The Independent 8 February 2001, The Thursday Review, page 69

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(By Patrick Smith)

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THE CAREER of Austin Amissah - jurist, academic, writer - spanned the length and breadth of the Commonwealth. Born in Ghana in 1930, he became that country's Attorney General and served on commissions and inquiries in the Caribbean, Sri Lanka and South Africa. And as President of Botswana's Court of Appeal he made a landmark ruling against sex discrimination in the Unity Dow case whose reverberations were felt in the region and beyond.

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George Bizos, a former colleague of Amissah's on the Botswana appeal bench, and better known as Nelson Mandela's lawyer, remembers Amissah as: "a zealous guardian of judicial independence; a patient, helpful and understanding colleague. He avoided prejudgement of any cause and strove to reach a just decision in every case after giving counsel on both sides and his brethren on the bench every opportunity to persuade him what was the right thing to do."

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A voracious reader; Amissah had been ploughing through commercial arbitration papers in his hospital bed in the expectation that he would defeat the latest assaults on his digestive system in the same way he had dealt with previous hospitalisations. His friend and doctor Felix I.D. Konotey-Ahulu recalls Amissah's sang-froid when in January 1992 he was admitted to hospital in London in poor health which was quickly diagnosed as Non-Hodgkin's Lymphoma. "This diagnosis would have made some people turn their face to the wall, like King Hezekiah did, and prepare for imminent death. But not Austin," Konotey-Ahulu said. "He was an amazing patient. He would present doctors with medical information he had obtained from the lay press, then quiz them about it. Sometimes, though, he decided when he would discharge himself from hospital, presenting those who treated him with cogent reasons why he should not be hospitalised a day longer."

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Despite the seriousness of his condition, Amissah showed no sign of being sick: his personal remedy consisted of a resolute optimism about people and events, combined with an intellectual curiosity and sociability that left no time to get weighed down by thoughts of advancing illness.

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Amissah had that rare gift of arguing a case and defeating the counter-argument utterly without appearing to have battered his opponent into submission. Some of it was in his demeanour and style. One of South Africa's most distinguished judges, Jan H. Steyn, summed it up: "Austin was a role model for all those who preside over courts of law... I learnt so much from him, especially to be patient even when one's tolerance was stretched by the limit of incompetence and inefficiency."

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Like his fellow Ghanaian, the UN Secretary General, Kofi Annan, to whom he was close, Amissah managed to climb to the top of the professional ladder without making serious enemies. The two men shared natural diplomatic gifts and a robust sense of humour:

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Recently, Amissah wrote to Annan telling him that he had been mistaken for the UN Secretary General in a London Restaurant. Annan, who is eight years Amissah's junior; replied that he would have been flattered had it been the other way round.

Based in London for the last two decades of his life, Amissah undertook an itinerary that would have tired someone half his age, working in Botswana, Ghana, Gambia, Namibia, Sri Lanka, South Africa, and Trinidad and Tobago. He was busy until the end. 778

In *Unity Dow vs the Attorney General of Botswana* in July 1992, as President of Botswana's Appeal Court Amissah ruled in favour of Dow's right to confer nationality on her children. He found that the Botswana constitution's guarantee of equal treatment of men and women overrode an immigration regulation stipulating that nationality rights could only be conferred by a man. The ruling prompted calls for other governments in the region to amend nationality rules to reflect the constitutional rights of equal treatment. His membership (along with Lord Mackay of Clashfern as Chairman and L.M. Singhvi as the other member) of the Presidential Commission of Enquiry into the Administration of Justice in Trinidad and Tobago produced a widely praised report late last year. 779

Despite his international back-ground - Amissah graduated from Jesus College, Oxford, and was called to the Bar as a member of Lincoln's Inn in 1955 - he remained committed to his native Ghana and its urgent need for economic development. In Ghana's post independence years, he moved quickly through the ranks to become Director of Public Prosecutions by the age of 31 and then appointed as an Appeal Court judge four years later. By then he had won a considerable reputation in scholarly circles and was seconded from the Ghana bench to become Dean of the Law Faculty at the University of Ghana Legon from 1969 to 1974. And in 1979 he was appointed Commissioner (Minister) of Justice and Attorney General. 780

His "Criminal Procedure in Ghana" (1982) won the Noma Book award in 1983. Other books included "The Contribution of Courts to Government: a West African View" (1981) and "Arbitration in Africa" (with Eugene Cotran, 1996). 781

In 1982, Amissah moved to London with his wife, Stella, and their three children, Ralph, Tonesan and Juliet. But he visited Ghana frequently, undertaking consultancies for the Volta River Authority and most recently working on a legal training and law library project. 782

It is a particular sadness to his family and those many friends in Ghana that Austin Amissah died before he was able to see the new order in place under President John Kuffuor. The hopes are that the Ghanaian opposition's victory in December will entrench constitutional rule and establish a new respect for human rights and equality before the law - causes for which Austin Amissah spent his life fighting. 783

Austin Neeabeohe Evans Amissah, judge: born Accra 3 October 1930; called to the Bar, Lincoln's Inn 1955; Director of Public Prosecutions, Ghana 1962-66; Acting Attorney General 1979; Judge of the Court of Appeal, Ghana 1966-76; Professor and Dean of the Faculty of Law, University of Ghana 1969-74; Chairman, Ghana Law Reform Commission 1969-75; Commissioner of Justice and Commissioner for Local Government, Ghana 1979; Judge of the Court of Appeal, Botswana 1981-2001, President 1988-2001; mar- 784



ried 1956 Stella Mattsson (one son, two daughters); died London 20 January 2001.

**Austin Amisah, Africa Confidential, 9 February 2001, Vol 42 No 3, page 8 ([www.africa-confidential.com](http://www.africa-confidential.com))**

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We are saddened to announce the death of Justice Austin Amisah, a reader, critic and friend of Africa Confidential. An eminent jurist, academic and author, Justice Amisah's career spanned Africa, Asia, the Caribbean and Europe. Born in Ghana in 1930, Justice Amisah became that country's Attorney General and served on Commissions and Enquiries across the Commonwealth. As President of Botswana's Court of Appeal, he made a landmark ruling in favour of Unity Dow's right to confer nationality on her children. He found that the Botswana constitution's rights of equal treatment of men and women overrode an immigration regulation stipulating that nationality rights could be conferred only by a man. A former colleague of Amisah's on the Botswana court of appeal bench, better known as Nelson Mandela's lawyer, George Bizos, described Amisah as "- a zealous guardian of judicial independence; a patient, helpful and understanding colleague; he avoided prejudgment of any cause and strove to reach a just decision in every case after giving counsel on both sides and his brethren on the bench every opportunity to persuade him what was the right thing to do".

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**The Honourable Justice Austin Neeabeohe Evans Amisah by His Brother-In-Law K.R.A. Korsah**

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Nothing more effectually tarnishes and eventually drowns a memory than a flood of words, and so I shall be brief.

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Austin and I first met at Achimota in 1944. Against the background of rowdy, boisterous and over-zealous youths his gentleness and rare sense of humour portrayed him as a youth in a class of his own. We soon struck up a bond of friendship that lasted throughout the years.

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In or around 1944, Austin, who being left-handed had earned himself the sobriquet ABEKU; fractured his left forearm while playing soccer. Within the period that the arm was cast in plaster of Paris, he learnt to write with his right hand and took notes in class and did his homework. That was an early example of his resolve not to be deflected from his goal by adversity. And whether with the left or the right hand his handwriting was more pleasing to the eye than the rest of us.

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It was not by coincidence that Cadbury House, the house in which we resided at Achimota, became known in our time as the House of Gentlemen. With the likes of Austin, Alex Kwapong, Baeta and others to influence our lives, that accolade was well earned.

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During our stay at Cadbury House, Austin and I belonged to a small group of friends, among whom were Adamu Attah and Johnny Quashie-Idun, who clubbed together to

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share whatever food our mothers and auntie Martha would send to us over the weekends. In our eating sessions we discussed, among other things, our problems and difficulties and how to surmount them.

Austin would sit listening to proposed solutions without saying a word. Then one of us would turn to Austin and ask for his opinion on the matter under consideration. And even though he was one of the youngest in the group, the opinion he proffered invariably resolved the problem and indicated the way forward. This happened so often that eventually Johnny nicknamed him "SAPIENS" the wise one - a nickname he quietly endured right through school and after. But it was more than that, the wit had prophesied what the man was later to become. 793

We were sharing a flat in London in 1956 when he decided to marry Stella, to whom he had introduced me on a visit to Oxford in 1954. I doubled as best-man and cook at their wedding. 794

On my return to Ghana, I was a frequent visitor to the home of the "Amissah's", as Austin and Stella were fondly called by their friends. I was honoured with a request to be godfather to their son Ralph. Austin was a great family man. He adored his wife, Stella, and their children. He was a model of a father. Once when I shouted at one of my grandchildren for persisting in what he had been forbidden to do, he said: "Roger, do not shout at him, reason with him and he will do as you wish". 795

He then demonstrated it by reasoning with the child in a quiet voice and the child desisted from what he was doing. He did this not only with children, but also with adults much older than himself. He had a felicity of language and turn of phrase that made it irresistible to listen to him. And which, combined with his natural sagacity, great learning and sense of humour, made him a colossus among his peers. I know of no one who did not appreciate his wisdom in resolving problems perceived to be unresolvable. 796

As a prosecutor, he was uncompromising, but fair, both to the accused person and witnesses. His veiled questions kept a witness, and sometimes the court, wondering what he was getting at. But once satisfied the witness had by his answers firmly placed himself in a corner, then and only then, would he spring the telling question from which there was no escape. He was too polite to suggest that any witness was a liar. He proved it. Yet, so fair was he in the prosecution of a case that those he prosecuted to conviction bore him no grudge. 797

He once, unbeknown to him, gave a lift to a man he had prosecuted to conviction and had been sentenced to a long term of imprisonment. During the ride, the man turned to him and asked: "Master, don't you recognise me? I am Maama Tullah." Austin told me that he was momentarily shaken and did not know whether wisdom lay in abandoning his vehicle to Maama Tullah and fleeing on foot or to continue driving the gentleman. He settled for the latter, and asked Maama Tullah to talk to him about his experiences until he dropped Tullah off at his destination. 798

Austin had a sympathetic ear for all and sundry. He would sit patiently and listen to the most improbable story from someone soliciting money from him and, without saying a 799

word he would produce his wallet and hand over to the person whatever he could afford at the time. Later, when asked whether he believed a word of the cock-and-bull story, he would say: "don't mind him. He thinks I am a fool, but if that makes him happy what of it?"

That Austin was not only generous, but also selfless I can attest to. We both left Ghana within a month of each other towards the end of 1982, for different reasons. It was to him that an invitation was first extended to become a judge in Zimbabwe. He turned that offer down and suggested that the appointment be offered to me. I was then interviewed by the Minister of Justice of Zimbabwe and accepted as a Judge of the High Court, where I served for four years before being elevated to the Supreme Court Bench. 800

The black suit that I wore when I sat on the Zimbabwe High Court Bench was bought for me by Austin, as a man cannot carry much clothing when leaving his country of origin in unaccustomed haste. 801

Upon my retirement at the age of 70, he again proposed me for appointment, this time to the court of Appeal in Botswana where he was President of the Court, and to which Court, after being interviewed by the Honourable Chief Justice, Mr. Julian Nganunu, and the Honourable Mr. Justice Aguda, I was appointed. Were it not for Austin's selflessness, I may not have been what I am today. To him I owe a great debt of gratitude. 802

Austin's Judgements both in Ghana and Botswana were gems of wisdom. So erudite was he in the field of Law that his counsel was sought by successive governments in Ghana, though not always acted upon. His opinions were no less regarded in the international arena. Yet he was never pompous or belligerent, never smug or superior. He treated everyone as his equal. He looked down on no one and up to no one. To do justice to the name of Austin would require an eloquence equal to his own, and of which I am bereft. 803

Of the effect that his magnetic personality, his varied gifts, and his lofty ideals had on the minds of others can best be summed up if I quote the words written some years ago by a distinguished American critic, feeling sure that no words of mine could form so graceful and worthy a tribute, or so truly foreshadow that echo of his greatness which we listen to today: 804

"The bright periods of history occur, whenever it happens that one man has arisen who to genius and character adds devotion and inflexibility of will. Such a man adorns the stage, and invests it with an allurements which the public cannot easily resist, and then suddenly there ensues a great judicial prosperity." 805

Such a man was Austin. 806

No other Judge has ever been so thoroughly lovingly liked - liked and trusted. Austin's naturalness made him credible to all, regardless of region, religion, race or gender. He was our most brilliant citizen of the word mirroring all the successive eras of changes in human inter-action without ever being dramatic about it. He was discreet and steady without being flamboyant. He was family. 807

Alas! The great silence has fallen on him that we mourn, the strenuous life ended in a noble but pathetic death, but his memory will forever remain green to those who knew and loved him. As great as he was as a lawyer, brilliant as a Judge, it is the memory of the man we are met here today to honour. Some in the past may have rivalled him as an advocate, others may have been as distinguished in the field of judicial prowess, but none have been so loved and revered as a man. He was not only a friend but also the blood brother I never had. I know how much Stella and the children and his brother and sisters will miss him. We shall all miss him. 808

Well may his whole life be summarised in the aphorism "Suaviter in modo fortiter in re" (gentle in manner, firm in action). 809

May the soul of our beloved husband, father, brother and friend rest in eternal peace! 810

### **A Tribute to A.N.E. Amissah, a friend and confidante by E. Kofi Tetteh** 811

With the passing away of Austin Amissah, Ghana has lost one of her illustrious legal luminaries. As the Independent Newspaper of London in its' Thursday Review of 8 February 2001 aptly described, "The Career of Austin Amissah - jurist, academic, writer, spans the length and breadth of the Commonwealth". One also remembers him for his warmth and sense of humour. 812

I first met Austin in October 1954 when I went to Oxford to read law. He had just completed his course in law but stayed on at Oxford to read for the Bar. From then on we became very close friends and he remained one of my closest friends until his death. 813

After successfully passing his Bar Exams, Austin returned to the then Gold Coast where he joined the Attorney-General's office as an assistant Crown Counsel and rose to the post of Senior State Attorney during a comparatively short time. In 1959 when I returned to Ghana and joined the Attorney General's office, Austin had been posted to Kumasi to head the Attorney General's office there. He was barely five years in the service then - a testimony of his ability, and also the confidence in which he was held by the authorities. A few years later, Austin was reposted to Accra, and it was not long before he was appointed Director of Public Prosecutions, a post he held with distinction. As a lawyer and subsequently a judge of the Highest Courts both in Ghana and Botswana - only a few could match his patience, courtesy and sincerity both at the Bar and the Bench. When at a comparatively young age Austin was appointed to our highest court, quite a few eyebrows were raised, and he was soon to prove them all wrong. Anybody who cared to read his judgments, which adorn the pages of the Ghana Law Reports from 1967 to 1976, and the Botswana Law Reports from 1982 to 2000 will find that his elevation to the bench was more than justified. As Editor of the Ghana Law Reports from 1967 to 1981, I reported practically every judgment delivered by him. His judgments were gems, lucidly written in felicitous language. It was a pleasure reporting them. There was of course criticism from some members of the Bench, that the then Editor of the Law Reports only reported judgments of his friends, especially Austin's. But nobody ever said, the judgments which were reported were not reportable or not 814

very good, nor has anybody ever drawn attention to reportable judgments of other judges which were not reported.

There was the general belief among lawyers that the lawyers trained in the Attorney General's Office were weak in Civil Law as opposed to Criminal Law. When Austin was appointed to the Court of Appeal, the then Chief Justice assigned a few civil cases in the High Court for him to try. I remember him telling me of a civil case of which he was seized. One of the lawyers who appeared before him in the case cited a judgment by reading only a portion of the judgment, which was favourable to his case, and sat down. Austin in his usual characteristic calm manner asked the counsel to read the next page of the judgment, which was against him. He did not reprimand the lawyer for attempting to mislead the court, or for presuming that the judge was ignorant, because counsel had made a fool of himself. I do not think that lawyer ever attempted that gimmick again. 815

Austin was versatile in the law - jurist, academic, and writer, but I believe of all, he was most at home in the academic world. He enjoyed his post as the Dean of the Faculty of Law, Legon, and was greatly admired by his students. He was therefore disappointed while on his Sabbatical at the Smithsonian Institute for Scholars, U.S.A. that his tenure of office as Dean was abruptly terminated, because he had overlooked a university statutory provision which prohibited the incumbent to be absent for more than two years. He was looking to return to the Deanship. On his return from the Smithsonian Institute, he resumed his seat on the Court of Appeal. While on the Court of Appeal, he succeeded the late Chief Justice, F.K. Apaloo, as chairman of the Council of Law Reporting, of which I was the editor. He was instrumental in acquiring a site for a permanent home for the Council of Law Reporting. Also as Chairman, he was able to persuade both the then Australian High Commissioner and the British High Commissioner to provide the Council for Law Reports with complete sets of the Commonwealth Law Reports and the English Law Reports respectively. 816

Sometime in 1976, Austin came to my office at the Council for Law Reporting and shocked me by telling me that he was retiring from the Bench, this was at the age of 46, which was the age when most lawyers aspire to be judges. I tried to dissuade him but without success. He then established a Legal Consultancy that proved to be successful. In 1978 when I decided to take up an appointment with the Government of Botswana through the Commonwealth Secretariat, I used Austin as one of my referees. A few days later, Austin phoned my wife to enquire whether she was in favour of my going to Botswana. He told her that if she did not want me to go, he would ensure that I did not get the job. My wife said "Uncle Austin", as he was affectionately referred to by my family "let him go if that is what he wants". So I left for Botswana, but Austin was soon to follow me in another capacity. 817

In 1981, the then Chief Justice of Botswana, a Ghanaian, the late Mr. Justice Robert Hayfron-Benjamin recommended that Austin should be appointed to the Court of Appeal Botswana. He had written to Austin. He was not sure that Austin would accept the appointment, so he asked me to persuade Austin to accept the appointment. I therefore sent a telegram (there was no e-mail or fax) that under no circumstance should he reject the offer. He should accept it and later resign if he did not like it. I did not 818

think that Austin ever regretted accepting the appointment. He was one of the most respected judges on the Court of Appeal of Botswana, eventually becoming its President. As stated in the article in the Independent Newspaper "As President of the Botswana Court of Appeal he made a landmark ruling against sex discrimination in the Unity Dow case whose reverberations were felt in the region and beyond".

I remember visiting him in his office in 1976 where he conducted his consultancy. He asked me whether I had made a will. I said, "no", because there was nothing to will. He insisted I should make a will, and that he had made a will even though he did not have much to will. Another question he asked me was whether my wife was signatory to my cheque book. When I said no he advised that I should immediately enter her as a signatory to my cheque book just in case I should suddenly die, and she would be in an embarrassing situation if she did not have funds on hand. 819

Of all the qualifications and achievements, what I will remember most of Austin is his friendliness, advice, warmth, generosity and patience. 820

On behalf of my wife Dorma, my children Afi, Ahuma, Esayo and myself, I wish to express our condolence to Auntie Stella, Ralph, Tossan and Juliet. 821

May his soul rest in peace. 822

**Tribute to Austin Amissah My Respected Senior Friend and Cousin by His Excellency Mr. James E. K. Aggrey-Orleans, High Commissioner for Ghana** 823

I am deeply saddened at the passing away of my good friend Austin. I have known him since 1963 when I was a young Foreign Service officer and in the years thereafter we met frequently in a lot of social and diplomatic circles in Accra. 824

He was already a prominent figure in the Ghana Public Service, as Director of Public Prosecutions at the Attorney-Generals Office, and was very much in the news. He invariably got questioned in social circles about his work in the courts, legal suits involving any number of individuals and parties. He was very proper in parrying off such incursions on his professional integrity by courteously reminding his interlocutor not to talk shop with him. However, on matters of general legal interest, he could not escape the flurry of interest which he aroused when he discussed points of law. He did so, not in pedantic terms but in simple, layman's language, very much to the admiration of all. 825

Such was the sterling quality of Austin's, intellect - its clarity, his command of language and his excellent diction. In discussion, his argument, fact and logic flowed abundantly, vigorously and attractively. There was a distinct quality about his personality and intellect - a certain cleanliness, integrity and refreshing candour conveyed with a smiling courtesy. It was always a delight to be in his company, listening to him in lively conversation. Not for a moment should one infer from this that Austin was talkative and sought to engross the centre stage in conversation. He did not push himself forward anywhere. He did not need to. He was precise in language but would only elaborate 826

on points in detail in order to make something clear which might otherwise be misunderstood.

The year 1979 marked a significant turning point in his career. I was privileged then to have worked closely with him in the period from August to September 1979 when the Joint Planning Commission was set up to discuss the transitional arrangements for the handing over by the Armed Forces Revolutionary Council (AFRC) to the newly-elected Government of the People's National Party (PNP) led by Dr. Hilla Limann of blessed memory. Austin was then Commissioner (Minister) of Justice and Attorney-General and Commissioner for Local Government. I served then as the Secretary of the Commission. I came to admire more deeply the full measure of his intellectual depth, professional integrity and heightened sense of public duty. It was from those days of close working relationship that someone highly placed thought and announced that we were cousins. Ever since Austin and I have kept that term as a sobriquet of our relationship and as an amusing memory of those historic days. 827

In assessing Austin's life and service it is impressive to note how varied and rich his record of service: Law Officer, a Law Professor and Academic Dean of Faculty, a member of the Court of Appeal, a Consultant and Minister of Government. All these heights he scaled in his youth. It is manifest that his distinguished service in Ghana played a significant part in building up his wide acquaintance with scholars, jurists and high public personalities abroad. With his professional excellence and integrity, his reputation preceded him everywhere. His services were sought in many international circles. Austin had come to exemplify that fine generation of African jurists and professionals who have distinguished themselves as products of Africa's intellectual relations with the world outside, especially with Europe and North America. Austin's sense and discipline of public duty, the vigour of his mind and body could well cope with the pressures and demands on his time. Law was his medium; his absorbing and predominant interest. As he grew in stature, he was bound to turn his intellect on the relation of law to society and politics. 828

As a public servant and law officer, he was twice thrust into political office; the first time from February to October 1966 as Acting Attorney-General and the second time in 1979 as Commissioner for Justice and Attorney-General and Commissioner for Local Government of Ghana. It was not in the nature of Austin to relish, much less flaunt, the exercise of political authority. Far from it. As a high-minded law officer suddenly thrust into such high offices by force of circumstances, he used the opportunity to serve his country well. On both occasions there were extraordinary constitutional orders at stake. He saw his calling for promoting the rule of law. He put himself to great trouble to clear the terrain for constitutional tidiness. He knew, as well as his professional colleagues, that the legacy of his service was of great significance in assisting to lay the building blocks of constitutional order with which to construct the basis of political stability, peaceful change and development in Ghana. If there was one puzzle in his mind for which he worked to find an answer it was this. Until his last breath, I am sure, he never ceased to ponder deeply over Africa's crisis of political, legal and constitutional order. He knew that this constituted one of the answers to democratic governance. 829

I lost contact with Austin in the 1980s but I followed with admiration the soaring repu- 830

tation of his career, whether as a Legal Consultant, a Judge of the Court of Appeal of Botswana, his several other judicial services under the auspices of the UN, the Commonwealth and other multilateral institutions and multinational corporations.

In 1997, after several years of separation, I was pleased that our paths crossed again when I was posted to London. Here he had a busy consultancy in between his judicial assignments in Botswana and other preoccupations. Wherever Austin's name was mentioned, there was nothing but praise for him, whether among Ghanaians who knew him, among friends and contemporaries while he was a student in Oxford, among personalities from Southern Africa, especially South Africa and Botswana and among legal personalities of the Bench and Bar here in England, USA and Africa. You instantly felt it was a privilege to be counted among his friends. Knowing his wife Stella and his children, and the larger family from which he springs, there could be no doubt that whether in times of joy, illness or sadness, his morale received the most comforting boost from his family circle. When in very recent times his health began to fail, not many outside his close family knew of it. He remained as uncomplaining and as industrious and enthusiastic as ever. I am told he refused to discuss his failing health; he rather encouraged his wife and children to be incurable optimists and be of good cheer. He continued to work and receive assignments for consultancy with great zest and calm confidence. 831

Austin's death is a bereavement for all who cherish law, order and decency in regular organised society. Our hearts go out to his family for their irreparable loss. With his dear wife Stella, his son Ralph, his daughters Tonesan and Juliet, his sons-in-law Malcolm and Neil and two granddaughters, we all share their great sorrow. We pray that they may derive consolation from the satisfaction that they constituted a pillar of strength, support and inspiration for the life and exemplary service for our dear Austin. 832

We should all be inspired by his life of competent service, made evermore distinguished by his humanity, sense of decency and honour. May these virtues exemplify and rekindle our loving memory of Austin Amisah. 833

**Funeral Speech by the Hon. The Chief Justice Mr. Justice J.M. Nganunu LLB (Hon) Barrister at Law (Grays Inn) London in Honour of Hon Mr. Justice A.N.E. Amisah on 27th February 2001 in Accra, Ghana** 834

I have had the privilege of reading the many tributes and speeches that have been made about our departed brother Austin N.E. Amisah. If what I should now say appears the same as you have heard from such speeches, please do not think I merely copied. This arises because we are mourning and paying tribute to the same person. He is remembered from many perspectives - being a person of great abilities in many areas but essentially it is the same man we all describe. The important point is that we are united about his many talents, humanity and commitment. 835

I repeat he was a man of many talents, profound humanity and a deep sense of commitment. 836



I have known Austin since 1981 when he became a judge in the Court of Appeal of Botswana and I then practised in the courts of Botswana. He became the Judge President of the Court of Appeal of Botswana from 1988 till his untimely demise. I then became a judge in the High Court of Botswana in January 1992 and a Chief Justice for the country from July 1997. Since this period, I have worked closely with Austin in the judiciary of Botswana. When therefore I speak of his contribution to Botswana in the judicial field and wider areas apart, I have good reason to know. 837

Ever since Austin ascended to the Court of Appeal in Botswana, it very quickly became clear that he possessed one of the finest legal intellects of our time. I myself got a rude awakening to that fact in the case of Commissioner of Taxes v. A.B. Company Limited: Civil Appeal No. 1 of 1981 decided in December 1982 when he delivered the majority decision against my client in which I was led by a brilliant senior from the Johannesburg Bar of South Africa. He was to show flashes of pure brilliance in many leading cases in Botswana, which have blazed the way in the route of human rights and constitutional freedoms. The famous cases of Dow v. The Attorney General 1982; and The Attorney General of Botswana v Bruiwer and Strumper in 1999 - C. to mention a few. 838

The Court of Appeal in Botswana is the last Court of Appeal of the land. It is made up of international judges of repute who sit in two sessions annually to dispose of all cases. The Chief Justice of Botswana is not its leader and the current practice is that he may only attend at the invitation of the Judge President of that court. Austin Amissah was a member of that court from 1981 and led it on behalf of Botswana from 1988 to the time of his death. Up to that time nobody in Botswana or in the court itself had ever thought he should be replaced. That was a measure of his dominance of the court. He led that court through frenzied legal session during each of the short court sessions allowed the Court of Appeal to work. He worked by example and by doing so, he extracted from all his colleagues more than would seem possible from the outside. He did all that without any complaint from his colleagues. Indeed I often heard from most of them of the collegiate spirit and camaraderie that the court enjoyed. That to me illustrated his unparalleled leadership qualities and diplomatic skills. Veritably he was a leader of men. He was a person who proved himself amongst highly reputed international jurists on the Botswana Court of Appeal, as the primus inter pares. I know one thing - he came to Botswana and did all his work for such a long period because he believed in the contribution of law to social justice. He often repeated that the law was but a tool for social engineering and the enhancement of human dignity. He saw in the Republic of Botswana a democratic country, which at that time was surrounded by perhaps hostile and not so democratic regimes; and he believed in the preservation of the Botswana example as a beacon for democratic values. Those selfless motives were his inspiration and that of his other colleagues on the Bench of the Botswana Court of Appeal. Once he had been entrusted with such a court in that country he saw it as his duty to consolidate the observance of the rule of law. In that, at least up to date, he succeeded immensely. So I pay tribute to a truly African internationalist of great legal intellect. He was a leader of people and a diplomat of immense persuasion. He believed in the African vision, which holds that Africa like other continents, has great potential, is essentially democratic, that Africans from any African countries, more than others, have the duty and privilege to work Africa out of its present somewhat unstable situation. He did not 839

ask what was owed him or blow his trumpet of how much he works, but steadfastly, with a clear purpose and zeal, sought out what part he could play to make the world better. He was born to serve and not to lament, because he did not ever complain of the facilities laid out for the Court of Appeal in Botswana. In this he was just like his dear wife Stella, who accompanied him to each and every session of the work in Botswana without a word of complaint. In Botswana; and I dare say in many other countries and international organizations, Austin had carved for himself an enviable niche where he had no equal for the jobs and roles he held, and there were many! For us he helped create a Court of Appeal of a very high calibre with a reputation in international legal circles that far exceeds the size of our country. The court has become known, under the leadership of this Ghanaian patriot, for its unflinching commitment to real justice, which cuts through obstructive procedures and legal sophistry; and at the same time does not ignore necessary rules that hold a system and fairness together. He helped entrench the rule of law by showing that the law is for all and sundry and that the constitution is an instrument for the protection of the liberty, rights and properties of each and every righteous litigant. He and his colleagues in our Court of Appeal have already created a jurisprudence that will surely stand the test of time. We still had hoped for his contribution.

Oh!! why had he to die at this time. Austin was loved and respected by all. We mourn him and regret his passing even as we accept that God's will be done on earth. From Botswana we want to thank the Republic of Ghana which brought him up and nurtured his beliefs and values; so that he became a man with a commitment. We want to thank his parents and the wider family, together with his beloved wife, Stella and their children. I should tell you that throughout his work in Botswana Mrs. Stella Amissah was as committed and as loyal to the mission of her husband and the Court of Appeal, as if she was one of the judges. We owe her too a great debt of appreciation. To her and her children I want to mention that Austin, as they know, had become a friend of Botswana and of me and my family, as well as being an advisor at work. He personified the best in human beings and whilst we mourn his passing we must record our great thanks to the Lord himself who blessed us with a son of his calibre and perspicacity. I want to say to the family of Austin Amissah that he and they, shall always be remembered as friends of Botswana and the friends of my family. Any time they wish to take a trip to Southern Africa they must think of coming to Botswana first; and to my house in particular. May the Memory of their great father sustain them and God bless his soul.

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**ADDRESS By Honourable P.T.C. Skelemani Member of Parliament,  
Attorney-General Of the Republic of Botswana**

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On the Occasion of the Memorial Ceremony in Honour Of the Late Mr. Justice Austin Amissah, Judge-President of the Court of Appeal Of the Republic of Botswana Wednesday 31st January 2001

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My Lord, Acting Judge-President Aguda; My Lord, Chief Justice Nganunu; My Lords, Honourable Judges of Appeal; My Lords and Lady, Judges of the High Court of Botswana; Registrar of the High Court; Your Worships, Members of the Magistracy, My Learned

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Friends, Members of the Bar; Distinguished Guests; Ladies and Gentlemen;

1 It was with the greatest sadness and shock that I learned, on Saturday 20th January 2001, of the tragic passing of His Lordship Honourable Mr. Justice Austin Amissah, the learned and esteemed Judge-President of the Court of Appeal of the Republic of Botswana. Though I was aware of the illness, which militated against his attendance of the on-going session of the Court of Appeal, it was my expectation that he was going to recover therefrom; and, quite frankly, I had taken it for granted that I would see him at the July 2001 session, and I was looking forward to that occasion. My Lords and Lady, for all of us who had no real insight into the gravity of his illness, the death of Justice Amissah has been a cruel, untimely and telling blow. 844

2 My Lords and Lady, Members of the Bar, my acquaintance with the late Justice Amissah goes back some twenty (20) years, when he was first appointed to this honourable court as Judge of Appeal in 1980/81. I appeared before him on a few occasions in those years and it rapidly became apparent that he was a man of immense, and exceptional gifts. He possessed a razor-sharp intellect, and a fertility of mental resource which was unparalleled. 845

3 In addition to his formidable intellect, it must be recognised that the late Justice Amissah also brought an invaluable wealth of learning and experience to this court. His career, prior to his appointment to the court in 1981, encompassed appointments to very high offices. Well before his attainment of 50 years, he had been Director of Public Prosecutions, an Attorney General, a judge to the Court of Appeal of Ghana, a Professor and Dean of the Faculty of Law of the University of Ghana, and ultimately a judge of the Supreme Court of Ghana. These appointments, and the experience derived therefrom, conduced to the emergence of one of the most well-rounded, seasoned and eminent jurists ever to grace this court. 846

4 It was, undoubtedly, in recognition of his gifts - and their sheer abundance - that he was appointed Judge President of the court with effect from 1st January 1988. His tenure as Judge-President coincided with a major upswing in the court's business, both qualitatively and quantitatively, and the late Justice Amissah steered and directed this honourable court through what is undoubtedly its busiest, most challenging and stimulating era. Not only did he justify the confidence reposed in him as a worthy leader of this honourable court in terms of the influence which he was able to exert, and to chart this court's course in hitherto un-navigated judicial waters in this jurisdiction, but, his tenure as Judge-President also ushered in an unprecedented era of judicial activism and dynamism, and inspired some of the most far-reaching and ground breaking decisions in the annals of our jurisprudence. 847

5 My Members of the Bar, the late Justice Amissah's judgements, which constitute a significant part of his contribution to the development of our jurisprudence, and are his legacy to us and future generations, are too numerous and varied to be enumerated on an occasion such as this. Criminal lawyers will readily recall his decision in *Mosotho Masina v The State*, which decision was ground-breaking in relation to the admissibility of confessions in criminal cases, and which judgement compelled a complete re-examination of the sufficiency of the then existing safeguards to ensure the 848

voluntariness of such confessions. There was also *Letsogoro & Others v The State*, which remains the clearest exposition of our law on the doctrine of common purpose in relation to joint offenders.

6 But there are other numerous definitive judgments, which are notable not only for their remarkable clarity in terms of their exposition of the law, but also for what those judgments reveal about the late Justice Amissah's credo as a judge, and how he understood his judicial role. I recall his exhortations in the case of *Unity Dow v Attorney General* that our Constitution must be interpreted as a living document, and the need for the understanding that its dispositions impact not only the aspirations of the living, but future generations as well. We also recall his judgment in *Labbaeus Peloewetse v Attorney-General*, in which he stated that, in a democracy (such as our own) the presumption by which executive action is generally presumed to be correct puts government at a great advantage; but, necessarily, imposed a reciprocal obligation on the government to ensure that when it acts, it does so correctly. And, further, that a government should not hide its own mistakes behind a shroud of silence when its actions are questioned. Although novel in this jurisdiction, the late Justice Amissah was echoing a view, which he had earlier expressed in his book titled "Contribution of the Courts to Government", wherein he had stated that silence by the courts in the face of wrongdoing by the executive was the beginning of tyranny and a death-knell for democracy. 849

7 No less ground-breaking was his judgment in *Richard Moeti & Others v Botswana Meat Commission* in which he ruled that the Industrial Court did not exist simply to decide trade disputes, but was created to settle such trade disputes; and that upon the latter and more permissive interpretation, the Industrial Court was entitled to adopt a more pro-active role in discharging its duties, and not merely to observe one party best the other. My Lords and Lady, Members of the Bar, scholarly as his judgments undoubtedly were, the late Justice Amissah's contribution ought not to be assessed in purely esoteric terms, because the judgments to which I have alluded (and the countless others to which I have not) are loaded in terms of their actual/or potential benefit to the lives of the people of this country, and the transformation or resolution of certain inequalities in our society. 850

8 Besides his far-reaching judgments, I will always remember the late Justice Amissah for the depth and sincerity of his belief that the courts, including a court of last resort such as this, must be accessible to all, however lowly or indigent or misguidedly revolutionary. For years, a certain famous litigant in person (who shall remain nameless) but invariably assisted by his non-lawyer son, was practically assured of a reserved position in this courtroom. In courts where the austerity of tabulated legal formalism prevails over the litigant's right to be heard, it is doubtful whether such indulgence could ever have been extended to a litigant who was never represented by counsel and one who so consistently flouted the rules of court in relation to proceedings in forma pauperis. 851

9 I would also like on this occasion to acknowledge the late Justice Amissah's open mindedness, and his ever-readiness to hear Counsel on a point of law; and, if the circumstances warranted, engage such counsel in legal debate. Whilst one cannot be 852

heard to encourage argument on legal points devoid of merit, it cannot be gainsaid that litigants derive inestimable satisfaction from being afforded the opportunity to ventilate their grievances. I recall the late Justice Amissah's near-inexhaustible patience with such litigants, and occasionally their counsel. But I also recall the opening words of his judgment in the reported decision in *Smit v Swedish Geological Surveys* in which he admitted that the appellant's case, at the outset, was not readily appreciable to him; but having listened patiently he later grasped the point being advanced by or on behalf of the appellant, and proceeded to decide in the appellant's favour.

10 My Lords and Lady, Members of the Bar, there is much that has been said, and a great deal more that can, and probably will, be said about the late Justice Amissah's virtues and attributes as an individual and as a judge; and about the sterling manner in which he discharged his role as the Judge-President, and standard bearer of this honourable court. That he was a major, and indeed global figure, or something of a colossus in a judicial context admits little, if any, doubt. But for all his greatness, his glittering career and illustrious achievements, he remained one of the most humble, unassuming and, at times, most self-effacing individual I have ever known. Along side the memories of his numerous accomplishments, there are many of us who will also cherish the memory of his ever unfailing courtesy, his gentleness, his dignity and grace. 853

12 We, in this jurisdiction, have been richly blessed not only in our good fortune to secure and retain, for the length of time that we did, a pre-eminent jurist of the late Justice Amissah's calibre and distinction; but more so, in the premium and importance with which he regarded his appointment here, and the consistently dedicated service which he rendered over the twenty (20) years that he was a member of this honourable court. His passing, coming as it does when his mental faculties remained so alive and he still had very much to offer, is an irreplaceable loss. My Lords, we would also like to take this opportunity to thank judges of this honourable court, both past and present, for all the assistance and support, companionship and friendship, they afforded to the late Justice Amissah over the years; and perhaps without which, his tenure as a judge of this court may not have had the same luster. 854

13 My Lords and Lady, Members of the Bar, our thoughts at this moment are with the late Justice Amissah's wife, namely Stella, and their children. We are mindful of the depth and extent of their loss, and it is our prayer that the good Lord shall give them strength and comfort during this bereavement; and that, with His guidance and assistance, they overcome their grief. 855

14 I thank you all. 856

### **A Tribute to Mr. Justice Austin N.E. Amissah from the Volta River Authority** 857

It is with deep shock, sadness and a sense of loss that the Board of Directors, Management and Staff of the Volta River Authority (VRA) received the news of the passing away of r. Justice Austin Amissah in London on 20th January, 2001. 858

We knew that he had been under medical care for some time. But just weeks before his death, he had been providing to VRA legal services and guidance from his immense experience in international corporate culture. The Authority had become heavily reliant on him in our negotiations with multinational corporate bodies. Recent negotiations he handled for the Authority included those on the Valco Agreements and the mediation between General Electric/Stone & Webster (GE/S&W) on claims and counter-claims concerning the Takoradi Thermal Power Plant Project. Indeed, earlier, Justice Amissah had been immersed fully in VRA's negotiations with CMS Generation of Michigan, USA on our joint venture arrangements for the expansion and privatization of the Takoradi Thermal Power Plant. Justice Amissah was therefore very much "in the trenches" so to speak, with VRA on all our current and major engagements and transactions up to a few weeks before he died. So it never occurred to us that whatever ailment he had could have ended his life so soon. 859

VRA's relationship with Justice Amissah goes back to the early years when VRA found itself having to call upon the Volta Aluminium Co. (Valco) to negotiate an increase in the power rate, which is the price paid for electricity generated from Akosombo. At that time the very thought of questioning the Valco power rate and indeed, anything concerning the Valco Agreements was considered a heresy. 860

The Valco power rate had been agreed to by the parties, presumably at arms length, and fixed in a carefully negotiated power contract of fifty years duration. Any such price change would require amending the Agreement which deliberately made no provision for such amendment. Moreover, it was at that point in time when the full business relationship negotiated and envisaged in the Valco Agreements had just taken off. The Akosombo plant had reached its full installed capacity and the aluminium smelter construction had also been completed. 861

Ghana had scant technical expertise and very little negotiating skills with which to persuade Valco and its owners to pay more for electricity from Akosombo. Valco's owners were two of the most powerful multi-national corporations of the aluminium industry, namely, Kaiser Aluminium and Chemicals Corporation (KACC) and Reynolds Metals Company (Reynolds). 862

This was when VRA discovered the genius of Austin Amissah. When he was consulted on how to approach the problem he was neither intimidated by what appeared to have been cast in stone, nor over-awed by the economic power and international stature of the opponents. He acknowledged Government respect for sanctity of agreements and Government policy not to do anything to discourage foreign investment in the country. 863

He was also aware however that the early 1970s had witnessed such a phenomenal increase in the world average power rate that the Valco power rate had become untenable and indefensible. 864

Justice Amissah prompted VRA's first Ghanaian Chief Executive, Dr. E.L. Quartey, to put such a persistent pressure on Edgar Kaiser for a rate increase that Kaiser capitulated. This enabled VRA, in spite of the fixed price provision to extract from Valco a series of upward adjustments of the power price. Between 1972 and 1981 the rate of 2.325 US 865

mills per unit rose in various steps to 5 US mills in 1981. In the process of achieving these small but significant gains for VRA, Justice Amissah gained the respect and admiration of highly knowledgeable members from both sides of the negotiations. He held his own, to our great pride, in a series of lucid written and verbal arguments on legal principles and concepts, accounting principles, procedures and ethical standards, as well as on technical issues of the power and aluminium industries, exchanged chiefly with Ward Saunders, a redoubtable and formidable engineering and legal luminary who led the Kaiser Group. But VRA was still not satisfied with 5 mills. VRA wanted more than 20 mills. At this point the negotiations broke down. A new Government which had taken power in 1981 took over responsibility to restructure the whole relationship between GOG and Valco. The price negotiations between VRA and Valco under the Power Contract were therefore absorbed into the restructuring.

But before a Government team commenced negotiations on the restructuring of the relationship with Valco, Justice Amissah was commissioned to review the Valco Agreements and to produce a comprehensive digest of VRA's earlier negotiations with Valco on the power rate increases, to summarize VRA's case for the review and Valco's responses to them, and to suggest a resolution to the impasse. 866

Justice Amissah, who by then had already been a former Attorney-General, former Dean and Lecturer of the Faculty of Law of the University of Ghana and the Ghana Law School, and a Justice of the Court of Appeal, then the highest court in Ghana, in addition to the advisory services he had rendered to the VRA, was eminently qualified for the work. And he rose to the occasion. The digest when completed became the cornerstone of the preparatory work of the Ghana Government Technical Team on the re-negotiation of the Valco Agreements. It is a lucid and fitting testimony to his immense intellectual talent for a highly technical and complex multidisciplinary subject such as the power and aluminium industries and the legal issues, principles and concepts that concern and govern their interrelationship. 867

But Justice Amissah did more in the VRA/Valco saga. He was one of the first Trustees of the Valco Trust Fund. As a Trustee, he did a thorough study of the exchange of correspondence between Kaiser and Nkrumah which led to the creation of the Fund. He saw the Fund, not so much as an expression of Kaiser's charity to Ghana but as part of the financial entitlements of Ghana in return for concessions granted and cheap power provided to Valco. He therefore fought relentlessly for the right to verify Valco's computation of the amount payable to the Trust Fund by auditing Valco's accounting processes and numbers. 868

For the last couple of years, Mr. Austin Amissah brought along his son Ralph, who also doubled as his legal partner, to do the research at our negotiation sessions, participate in the drafting and provide electronic technology to back up support to him in his work with VRA. 869

With his demise we can no longer draw on his rich reservoir of wisdom nor tap his highly efficient professional services delivered continuously and right on call. Hence our great sense of loss and dismay. For us his passing away has been very untimely. And we are profoundly saddened by this loss. He was not just a revered, reliable and 870

extremely knowledgeable professional colleague but also a collaborator in the vigorous pursuit of VRA's corporate objectives and interests and a highly respected and deeply cherished friend and mentor to many of our staff, past and present, old and young, some his contemporaries, others his former students, all drawn to him as much by his superior intellect as by his unassuming disposition.

VRA has indeed lost an irreplaceable advocate and colleague.

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To his wife Stella, his son and partner Ralph, his two daughters and all members of his family, we send our deepest condolences.

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### **A Tribute to Justice Austin Neeabeohe Evans Amissah by J.L. Ekra Executive Vice President of the African Export-Import Bank**

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Mrs. Stella Amissah and the rest of the Family of the Departed Justice, our Highnesses, your Excellencies, Distinguished Ladies and Gentlemen,

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On 20th January 2001, an Iroko tree that bestrode Africa fell - birds dispersed and nobody knows where they will perch.

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Our Fountain of wisdom has dried up - where will we drink from?

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Ladies and Gentlemen, we find no better words to depict our feeling of deep loss we at African Export-Import Bank ("Afreximbank" or the "Bank") feel about the sudden death of Justice Austin Amissah, one of the most illustrious and lucid legal minds we have been opportuned to work with. Standing here, amongst the large crowd that have gathered to pay their last respects to Austin, we cannot but conclude that he touched many people's lives while he lived.

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Anybody who has had the opportunity to read Austin's biography will agree that Africa owes him a tremendous debt. However, one thing missing in his biographies we have read is the tremendous work he did for Afreximbank. It is therefore important that we put on record the additional service he gave to our continent through his work with the Bank. In this regard, we will like to state for posterity that Austin played a crucial role in resolving a thorny legal problem the Bank confronted [with regard to its governance] a few years after the Bank was established. Austin waded through highly technical documents, conducted extensive research and threw light on the way out of the problem. Indeed, the lucid manner with which he identified the problems and offered remedies turned the otherwise thorny problem into a routine house-keeping matter. His presentations to our Board and General Meeting were always so sound that most proposals proffered by him were adopted unanimously. It was through his hard work, intellect, tact and experience that necessary amendments to the Afreximbank Charter were made with a minimum of rancour in the Bank's General Meetings. We have no doubt in our minds that the work he did more than ever placed the Bank on a very firm foundation for future growth.

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Recently, Austin began discussions with Afreximbank on a collaborative programme to transfer complex trade and project financing expertise to African lawyers. He saw

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the necessity of ensuring that part of the hundreds of thousands of U.S. Dollars paid to foreign legal firms by banks documenting African deals go to African law firms. We were still discussing the modalities of implementing this laudable programme arising from a shared vision when we learnt of his death.

Distinguished Ladies and Gentlemen

I believe you can now see why we will miss Austin so dearly. As those who knew him would testify, his lucid, clear and articulate mind was a rarity. However, as we mourn him today, the advice we can give the Family and those who miss him as we do is that we can pay him no better tribute than to continue with the good work he was known for.

Austin's death has brought the import of the saying, "you never miss your walk till your well runs dry", home to us. [\*\*#?] [\* ... ]

His death has also deprived us from drinking from the Fountain of wisdom which he represented. On 20th January, Africa lost an illustrious son. It is indeed an irreparable loss.

On behalf of the Board, Management and staff of Afreximbank, I would like to extend the Bank's heartfelt sympathy to the family of Austin, the Government and the people of Ghana and all those whose life Austin touched.

May His soul rest in perfect peace in the Lord's bosom. Amen!

### **Professor Justice A N E Amisah BA MA(Oxon) FGA, Tribute by Dr F I D Konotey-Ahulu**

On Saturday afternoon, 20th January 2001, at the Royal Postgraduate Medical Schools Hammersmith Hospital, London, Justice Austin Amisah departed this life. For more than nine years Austin had borne the burden of ill health with remarkable fortitude. In order that, even after death, Justice Amisah's experience might be of help to others, his family has agreed that I could mention some details of his clinical history.

Austin first presented in the evening of Wednesday 8th January 1992, very ill. After examining him I contacted Professor Lucio Luzzatto of the Royal Postgraduate Medical School who very kindly agreed to admit him to hospital the same night. This led to the diagnosis of MALT Lymphoma ie mucosa associated lymphoid tissue lymphoma of the stomach.

This serious diagnosis would have made some people turn their face to the wall, like King Hezekiah did, and prepare for imminent death. But not Austin. Between January 1992 and January 2001, Justice Amisah achieved more than a great many professionals did in decades of excellent health. From October to December 1992 he was Leader of the Commonwealth Observer Mission to South Africa. In 1993 Justice Amisah was Chairman of the Presidential Commission of Enquiry (which included New Zealand's Sir Kenneth Keith and Nigeria's Justice Muhammadu Uwais) on the Araly Point Explosion which resulted in the death of several senior military officers in Sri Lanka. He was

not only Consultant to the Commonwealth Secretariat, London, on South African constitutional affairs but was also involved with reviewing the scope and functions of the Ministry of Justice in The Gambia. During the same period (1992-1994) Austin Amissah's advice was sought regarding a USAID project in the Gambia, the Ghana Stock Exchange and how it related to the Ghana Companies Code and, in subsequent years, he continued to immerse himself in work in Namibia, Botswana, Ghana, the Caribbean, and the United Kingdom where he maintained an international legal consultancy in London. Right up to the day he died Justice Amissah had been (since 1988) President of the Court of Appeal in Botswana.

He was an amazing patient. He would present his doctors with medical information he had obtained from the lay press, then quiz them about it. Sometimes, though, he decided when he would discharge himself from hospital, presenting those who treated him with cogent reasons why he should not be hospitalised a day longer than necessary. 890

Being the great scholar that he was, Professor Amissah was sought after for various lectures and seminars and, sick or not, he accepted the invitations. Those who heard him less than two years ago in The Great Hall, University of Ghana, on 5th March 1999, shall never forget the lecture he delivered. Flanked on the platform by the Dean of the Law Faculty, Professor Akua Kuenyehia, and the late Mr Justice Fred Apaloo, Professor Amissah delivered (as part of the Fiftieth Anniversary Celebrations of the University of Ghana) a public lecture on the Law Faculty's Fortieth Anniversary. I sincerely hope that lecture was published. Entitled The Law, Lawyers and Litigants in Society the lecture was a masterpiece, obtaining full marks from at least one physician. Little wonder that one of Austin's books, Criminal Procedure In Ghana, is mentioned on the Internet among nominations for One Hundred Best Books Africa Has Produced In The 20th Century. I have only touched upon what Austin Amissah achieved after his diagnosis so that we may all learn from him, but I am sure others will mention his enormous achievements before 1992. 891

Ending on a personal note, I shall miss Austin for many reasons; one of which is this: he was the only person I knew who would say to me: How are you today? before I got round to asking him the question, so concerned was he about the welfare of other people. He was also unflappable. Indeed, he would sooner reassure his doctors, than they him. For the more than 54 years that I had known Austin Amissah (from the days he led Cadbury House to bowl out Gyamfi House with his medium pace left arm leg spin in Achimota School), he was never flustered. On the morning he had the cardiac arrest in hospital, he had just had breakfast and ordered the morning newspapers to keep abreast of what was happening in the world. I do not know how his family coped with this tranquil-even-in-adversity man, but Austin had in Stella, his bride of some 45 years, an equally calm lady who was not only a remarkable help-meet, but one who nursed her husband superbly in times of emergency at home and abroad. His illness bound the whole family together very firmly - Ralph, and his sisters Tonesan and Juliet and their families. To them, and to the larger family in Ghana I extend my condolences and my wife's. 892

Austin Amissah was a great man, and a kind man. His departure has left a void - families 893

will miss him, countries will miss him, and the Commonwealth will miss him. May he rest in peace. For those of us left behind, I am reminded of the hymn of John Henry Newman (1801-1890):

LEAD, kindly Light, amid the encircling gloom Lead Thou me on! The night is dark, and I am far from home; Lead Thou me on! Keep Thou my feet; I do not ask to see The distant scene: one step enough for me.

894

### **An Appreciation by Albert K. Fiadjoe**

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Austin N.E. Amissah, President of the Court of Appeal of Botswana, eminent jurist and, without any doubt, a brilliant lawyer, passed away on Saturday, 20th January 2001. Austin was an extraordinary man. His knowledge of the law was very profound indeed. But above all, he was a perfect gentleman.

896

I had the undeserved privilege of working with him on a number of consultancy projects in the Gambia. We collaborated so well that one couldn't discern that ours was a relationship of mentor and student, such was the humility of the man.

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I always wondered how Austin could move so easily and swiftly from one legal arena to another - from Contract Law and Constitutional Law to Commercial Law and Arbitration, and more. He was a fine legal mind. His legacy to the law is monumental and our debt to him unusually large. To cite just two examples: In the Court of Appeal in Botswana, Austin left a landmark decision in Constitutional Law which has become a locus classicus on sex discrimination. That was in the case of Dow v. Attorney General of Botswana. In the Caribbean region, Austin's name will go down in history as one of a team of three (the others being Lord Mackay of Clashfern and Dr. L.M. Singhvi) who have just produced a report on the Machinery for the Administration of Justice in the Republic of Trinidad & Tobago. He was an exemplar. In short, he was the quintessential lawyer who won the admiration of all. He lived and worked in several jurisdictions, born and bred in one, professionally honed in another practised his profession in several others, tried and tested in all. He passed those tests with flying colours.

898

I am the richer for having known Austin and worked with him as a colleague and a friend. He never allowed his supreme knowledge of the law, nor the fact that he was the senior of the two, nor that I worked under him as a lecturer when he was Dean of the Faculty of Law at Legon to stand between us. He treated me always as an equal. We had many a vigorous argument and discussion over fine and abstruse legal issues. His ability to ventilate issues and cut through the density of legal problems was a quality which I always admired in him.

899

It will therefore be understood why I feel an especial pain for losing a loyal, trusted and devoted friend, a professional idol and mentor. But rather than mourn the passing of Austin we should all give thanks to the Almighty God for making it possible for us to benefit from the decency of his life and the scholarship of his mind. We thank God for letting Austin cross our paths. His charming and dear wife, Stella, who stood by Austin through thick and thin, deserves our heartfelt sympathies, just as much as their children.

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God's beautiful treasure has been returned to Heaven. We can only sing praises to the Almighty. 901

My dear friend, Austin, may the earth lie lightly upon you. 902

Albert K. Fiadjoe Professor of Public Law University of the West Indies Cave Hill Campus Barbados January 30, 2001 903

**A Tribute to Honourable Justice Austin Neeabeohe Evans Amissah by Akinola Aguda** 904

A star has disappeared from the judicial firmament of Botswana and indeed of the Commonwealth with the passing away into eternity on Saturday January 20, 2001 of Honourable Justice Austin Neeabeohe Evans Amissah. 905

All those who came in contact with Justice Austin Amissah in his life either as a lawyer, or equally importantly, as a gentleman, must realise that the legal profession, his career choice, and Africa as a whole have lost a rare gem with his death. My interaction with Austin lasted only 20 years but those 20 years gave me an insight into his humanness, his unalloyed love for fairness and justice, and his legal sagacity as well as to his administrative capability. Not only that, I had in him a very close ally in the pursuit of the eternal search for the upliftment of dignity of man and woman alike. The judgements of the Botswana Court of Appeal reported and yet unreported between 1981 and 2000 are a loud testimony to this. 906

When Austin joined the Botswana Court of Appeal in 1981, a year after I had been appointed to that court, he brought along with him his unusual experience as legal practitioner in all spheres of the profession, his enviable record as a judicial officer at the highest level, as an admirable teacher of law as well as an author of law books. Austin's background being so similar to mine served as a platform of a friendship both in our professional outlooks as well as in our personal lives, a friendship which lasted till he had to change from mortality to immortality. Both of us would have wished that our friendship lasted another 25 years but that is never to be. 907

His assumption in 1988 of the leadership of the Botswana Court of Appeal, which replaced the Judicial Committee of the Privy Council as the apex court in the hierarchical structure of the Botswana judicial system, provided him with two daunting challenges. First, he had to have the wisdom and the force of character and the knowledge required of such a post in order to be able to weave into a formidable whole members of that court who are drawn from seven different countries, namely, Botswana, South Africa, Scotland, England, Zimbabwe, Nigeria and his home country Ghana. His success in this respect was simply so outstanding that at the time of his death tributes poured into the offices of that court from all those countries and others. And each and every member of that court, serving as well as retired, has phoned in requesting that I say that from the very bottom of their hearts comes their undying admiration for a man they have grown to love and respect. 908

The second challenge was to address how the judiciary could assist in the develop- 909

ment of Botswana so as to meet not only the demands of the modern world where the demand for human rights as well as women's and children's rights have become internationalised while at the same time ensuring that the judiciary should not alienate itself from the very people it had been established to serve. It gives me joy and a sense of pride that in all the efforts of Austin to meet this particular challenge, from the time of his presidency, to the end, he found me an unwavering ally. The Law Reports of Botswana as well as the Law Reports of other Commonwealth countries provide loud and independent testimony to the success of the Botswana judiciary under Justice Austin Amisah in this very difficult task.

The Court of Appeal of Botswana under the Presidency of Justice Austin Amisah whilst drawing inspiration and wisdom from other courts, especially those of the Commonwealth, did not only go all out to assert and maintain its independence of all the courts of all other foreign countries, but that which is of far more importance, was to maintain its independence from any sources external to the court itself. In this respect one must sing aloud the praises of the successive governments of this country for their understanding such that even after many decisions of the court which might have sent jitters down the spines of the governments of some other African countries, there continued to be unparalleled harmony and love between the Executive and the Legislature on the one hand and the Judiciary on the other. Thus the Court has provided unparalleled stability for an enviably democratic Republic of Botswana. 910

In further testimony to the judicial sagacity of Honourable Austin Amisah, and for his unsurpassed love of fairness and justice, he was on several occasions called upon either to head a team of top-most judges in the Commonwealth to solve seemingly intractable political situations such as in the case of Sri Lanka, or to join a team of constitutional experts all over the Commonwealth to assist in re-shaping the political future of one of the member countries. First in the 1960s, he had the difficult task of giving assistance to the blacks of South Africa, at the peril of his own life, then later he was appointed Leader of the Commonwealth Observer Mission prior to the elections that ushered in the new South Africa; and in that new South Africa he was a participant in the Round Table Conference on South African Constitution in 1995 in which I also had the honour and privilege to participate. More lately he was a member of a team of top judicial officers from the Commonwealth given the duty to recommend reform and development of the judiciary of another Commonwealth country, namely, Trinidad and Tobago. 911

It is impossible in a short write-up such as this to pay sufficient tribute to one who in his way shaped the lives of so many different persons of different countries, and the destinies not only of his own country, as his biography shows, but also of the destinies of other countries scattered all over the globe. Austin lived in his own very little corner of this earth but his contribution to the development and happiness of humanity everywhere will live for much longer than the biblical 70 years which he managed to exceed, though very slightly, before he left millions to mourn him. The greatest of his mourners are his wife Stella, Mother of the Botswana Court of Appeal and his children and grandchildren. For me, he continues to live in my heart for the rest of my own life. 912

## **Austin N.E. Amissah**

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En av de stora bland den nya tidens afrikaner, Austin Amissah, har avlidit i London, 70 år gammal. Född i Ghana och utbildad först vid Achimota School, Ghanas Eton, och sedan i Oxford, blev han bland annat riksåklagare, justitieminister, dekanus vid juridiska fakulteten vid Legon University och medlem av Ghanas högsta domstol. Efter Rawlings maktövertagande mördades fyra justitieråd och Amissah tvangs 1982 i exil. Parallellt med dagens situation i Zimbabwe ger sig själv. I exilen arbetade han vidare med juridiska uppdrag, bl.a. var han ordförande i Botswanas högsta domstol. Krisen i Ghana lade sig efter hand och han hade kunnat flytta tillbaka till sitt land, om de medicinska resurserna där hade räckt till för den cancerterapi som krävdes.

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År 1983 vann han NOMA-priset för bästa afrikanska bok i alla kategorier för en lysande framställning om straffrättsförfarandet i Ghana.

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Hans internationella uppdrag var många. Under 1972 var han Woodrow Wilson Scholar vid Smithsonian Institution i Washington D.C. och gjorde ett så starkt intryck att han engagerades som gästprofessor vid University of Virginia i Charlottesville, ett fint gammalt sydstatsuniversitet där en svart professor kort dessförinnan hade betraktats som en omöjlighet.

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Han representerade sitt land i den expertgrupp som formulerade FN:s modell för skatteavtal mellan i-länder och u-länder, och det dröjde inte länge förrän ordförandeskapet lades i hans händer. Det förvaltades väl.

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Bland många andra uppdrag kan nämnas ledarskapet för Samväldets observatörsgrupp i Sydafrika 1992, liksom för utredningen av Araly-incidenten i Sri Lanka 1993, och medlemskapet i Samväldessekretariatets skiljedomstribunal liksom i fjolårets utredning av rättssystemet i Trinidad och Tobago. Överallt vann han respekt för sin blixtrande begåvning, sin omutliga rättskänsla och sitt anspråkslösa och vinnande väsen.

918

Han var sedan 1956 gift med Stella f. Mattson, en blond finlandssvenska som med sin personlighet och sin makes stöd elegant övervann de fördomar mot blandäktenskap som till en början frodades både i Åbo-trakten och i den ghananska slakten. Sonen Ralph, länge i Tromsø och nu i London, blev till sin fars glädje ett världsnamn som skapare av en berömd hemsida för handelsjuridisk dokumentation. Döttrarna Tonesan (Tossan) och Juliet, båda yrkesverksamma i Bermuda resp. London, är också bland de sörjande.

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Austin Amissah behövde ingen "affirmative action", ingen positiv diskriminering. Han var en med rätta stolt representant för ett land med stora mänskliga resurser. Så mycket vemodigare att han skulle behöva tillbringa många år i exil.

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**A Tribute to Austin Neeabeohe Evans Amissah, by THE HON JH STEYN  
Former Judge of Appeal of Botswana President of the Court of Appeal  
of the Kingdom of Lesotho Member of the Court of Appeal Swaziland,  
and a retired Judge of the Supreme Court of South Africa** 921

I was privileged to serve for 6 years as a member of the Court of Appeal of Botswana under the Judge Presidency of the late Austin Neeabeohe Evans Amissah. He was without question the fairest presiding officer I ever encountered in my career. He had a profound impact on all those who worked with him in the administration of justice because of his dignity and judicial insight. 922

As a result he had the confidence of his colleagues and of practitioners. He was an outstanding lawyer. Indeed the many landmark judgments he delivered in Botswana constitute the best evidence of this fact. But above all, he had a rich experience of life which contributed to the wisdom which he brought to bear when passing judgment. Fairness was for him a key objective to achieve an outcome of the judicial process. He was kind, considerate and gentle almost to a fault. 923

One has many friends in life, but out opportunities to love people are limited. Those of us who knew Austin well loved him because of the many wonderful qualities which he unflinchingly exhibited towards all those who knew him. 924

He was a loving, caring, loyal husband with a very deep commitment to his children. I know how much they will miss him. So will we all. He was one of the most irreplaceable people I have ever known. 925

**Legal Resources Centre Constitution Litigation Unit Our Reference:  
George Bizos/JK** 926

Mrs Stella Amissah 1 West Gate Terrace London SW10 9BT 927

Fax No: (0944)(207) 370 5895 928

My dear Stella and family, 929

I am saddened by Austin's death. Arethe and I convey our sympathy to you and your family. 930

Austin had a marked effect on my life. Ever since I joined the Court, we became brothers in more than the formal meaning of the word referring to fellow judges. His wisdom, his sense of justice and his patience were qualities so obviously ingrained in him that it was inevitable that they would affect us around him. Austin's judgements will serve as a memorial to his work. 931

Our long walks at sunrise or at times in the evenings on the hills around Lobatse gave us an opportunity to talk not only about our work, but what was happening in Africa and more particularly in apartheid South Africa. His concern about the denial of justice in South Africa, the political prisoners and more particularly Nelson Mandela gave us courage to continue. 932

We will always remember the meeting between Austin and Nelson in our garden when Austin said that he believed that no African could feel free whilst Nelson was in jail and the joy he expressed on his release. 933

I think of Austin daily whenever I open my pocket diary that he sent me at the end of each year. 934

May you and your family live for a long time to come, proudly remembering Austin as an exemplary human being. 935

Our best wishes GEORGE and ARETHE 936

**Letter from George Bizos on his (GB) retiring from the Botswana Supreme Court 1994 (all other letters are current sympathies...)** 937

Legal Resource Centre Johannesburg 938

23 February 1994 939

The Hon Mr Justic Austin Amissah 1 Westgate Terrace LONDON SW10 9BT United Kingdom 940

My dear Austin, 941

You were too generous in your praise in the opening statement of the January 1994 session. I thank you for it. Michael Modlhabi dutifully sent me a copy shortly after it was delivered. I did not write to thank you earlier as I was expecting Bill Schreiner to come back for us to have a good lunch (that we had yesterday) for him to report to me fully how the session was. 942

I was sorry to hear that you were not well, but glad that you were much better towards the end of the session. I hope that you have fully recovered. Bill told me that of his walks with Stella. I was glad to hear that she is well and was with you during the difficult session. 943

Bill told me that you speculated about my future over dinner at the Cumberland Hotel and elsewhere. I was nominated for inclusion on the list for election to the Constituent Assembly I declined the nomination I do not think that parliament is for me. The thought of my being disciplined by a party whip was enough to dissuade me. I am enjoying what I am doing at the Legal Resources Centre very much. I have no plans to change this. My friends tell me that I may be called upon to assume other responsibilities. I don't know that I will want to look for a different job at this stage of my life. 944

Austin, I want to thank you for what you have done for me while a member of your Court in Botswana. I have learnt more from you than any other person throughout my career, particularly how one should behave as a judge. I admire your intellectual honesty, your respect for the views of your brethren on the bench, your insistence that justice should be seen to be done. The decorum in the court when you presided differed from my own manner nurtured by the aggression that inevitably creeps into one's personality during the years of practice in an adversary system. Thank you for your patience. I know that 945



I was not a very compliant pupil. You almost reformed me. I want to thank you for that too.

I looked forward to the sessions, I will miss you, Stella and other members of the court, particularly Judge Aguda, as I am less likely to be able to keep in touch with him as easily as with you and Stella and other members of the court. 946

Keep well. Your family, we, your friends, and the people of Botswana need you for many years to come. 947

Yours as ever, 948

George 949

**From The Hon JH Steyn 4 Alphen Drive Constantia 7806** 950

22 January 2001 951

Dear Stella 952

One makes good friends in one's life. People who you like, respect and value. But there are very few people of whom you can say that you have learned to love them, because they meant so much to you. 953

Austin Amissah was such a person. He was a man of quality. His dignity, gentleness, care and compassion endeared him to all who knew him, and he had a very special place in our hearts. 954

Ann and I were shocked and dismayed to learn last night that he had passed away over the weekend. When I spoke to him on Thursday, I said that your not being able to come this February was only a postponement of a visit we had looked forward to for such a long time. All we can say now is how much we regret that we will be denied the pleasure of sharing the beauty of our homeland with you both. 955

Stella, please know that we have a home which is there for you anytime you can come. It will be good for you to have a real change of scenery sometime in the months ahead. Cape Town may offer you this opportunity. The apartment, semi-detached to our home, is peaceful and private. We would love to give you our love and support in such a tangible way. 956

As a judicial officer, Austin was a role model for all those who preside over Courts of Law. Kind and compassionate, always fair, but also firm without ever being discourteous. I learnt so much from him especially to be patient even when one's tolerance was stretched to the limit by incompetence and inefficiency. 957

Please convey to Tossan and the other children our condolences. I know the grief you all feel. May peace be granted to you and may the wonderful memories you have of this very special man sustain you in the months and years ahead. 958

Austin Amissah was one of the most irreplaceable people I ever met. He will be missed 959

by all who knew him. As a colleague and as our friend we pay homage and tribute to a remarkable man.

With much love and compassion from

Jan and Ann

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**From Brian Spilg, Date: 23 January 2001 To: Mrs Amissah and family  
Fax No: 09 4420 7370 5895**

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Dear Mrs Amissah, the children and family of the late Austin,

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I wish you all a long life.

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I count myself amongst those privileged to have known Austin.

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The first time I saw him, which would have been in about 1982, I was struck by his appearance. As he entered the court room in Botswana, he bore the countenance of a distinguished nobleman. A satisfying contrast to one who had the interest of the individual so close to this heart.

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There are very few who embody all that is great in man. He was one of them. An intellect equalled only by his humanity. His great mind, which could perceive so much that was good and bad in human conduct, did not externalise itself in self aggrandizement or arrogance. No, it was revealed by his inner confidence, ability to appreciate competing views and majesty of reasoning in selecting one above the other.

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He has left an indelible mark on Botswana jurisprudence. His legacy is to have secured the protection and advancement of fundamental rights, and a respect of civil liberties, for the people of Botswana. He was a powerful and harmonising force as President of the Botswana Appeal Court.

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On a personal level, he has been a great influence on me. If I am selected to the judiciary, I would wish to pursue justice in the same fashion as he did. As a practitioner in the Botswana Court of Appeal, I will miss him - as I am sure is the case for all my colleagues.

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I am certain his pain was lessened by passing away when he did.

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My deepest condolences.

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Brian Spilg

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**Tribute to the late Justice Austin Neeabeohe Amissah by the Faculty  
of Law, University of Ghana**

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We are gathered here today to mourn a great son of Ghana, a lawyer, a scholar, a teacher and a mentor, whose impact on legal education in Ghana has been tremendous.

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As a scholar, he authored a number of books among which are Criminal Procedure in Ghana and The Contribution of the Courts to Government: A West African View, as well as articles, which are invaluable tools for both students and practitioners. On the occasion of the Centenary Celebration of the Supreme Court in Ghana, the Faculty published a book of Essays in Ghanaian Law to which he contributed an essay on The Supreme Court One Hundred Years Ago. As a teacher, he was responsible not only for training lawyers for the nation, but more importantly, for nurturing what he perceived to be talent and encouraging them to blossom and eventually serve the Faculty as teachers of law. 975

By special arrangement with the then Chief Justice, he was seconded to the Faculty of Law and was appointed Dean from 1969. He served as such until 1974. He succeeded the last expatriate Dean at a point when the Faculty needed decisive leadership. He rose to the challenge and ensured that the Faculty produced its own crop of teachers. To this end he looked out for, and encouraged all who had potential, nurtured and had them trained. This is an enduring legacy and the Faculty is grateful for it. 976

He endeared himself to most students who passed through his hands with his attention to the details of their period of study in the Faculty. He was an excellent teacher who carried his students with him on the journey through his lectures in Criminal Procedure and Evidence. 977

During his tenure of office as Dean, the whole issue of lecturers and private practice came up for serious debate within the University. He took the view that lecturing and practice were not incompatible and that a certain level of exposure in the law courts for lecturers was necessary if the lecturers were to do a good job of teaching. Thanks to him, the Law Faculty has been the one Faculty in the University that was able to maintain a reasonable number of lecturers, especially at a time when there was a massive exodus of lecturers from our Universities. 978

A firm believer that a Faculty and a University should have opportunities and avenues for interacting with other scholars and institutions worldwide he, together with the then Vice-Chancellor, Professor Alex Kwabong forged links with Oxford University, his alma mater. Under the exchange with Oxford University, renowned law lecturers like the late Professor Sir Rupert Cross came to teach at the Faculty, while some of the young lecturers at the Faculty at the time had the opportunity to spend time at Oxford teaching and doing research. 979

Long after he had left the Faculty and was living abroad, we continued to call upon him for various services, including the assessment of academic publications for promotions within the Faculty. He was always willing to oblige even when it clearly meant extra stress on him. 980

On the 40th anniversary of the founding of the Faculty of Law, which coincided with the 50th anniversary of the University of Ghana, the Faculty invited him to deliver the anniversary lecture, an invitation which he graciously and happily accepted. He delivered an excellent lecture on the 5th of March 1999, titled The Law, Lawyers and Litigants in Society. He ended the lecture by charging the Faculty not to rest on its oars and bask in its achievements but to face the tremendous challenges that have come in the wake 981

of modern developments so that it will continue to achieve even greater heights.

The Faculty honoured him with an award among many others on the occasion of the 40th anniversary. The final paragraph of the citation on that occasion read For your tremendous contribution to legal education in Ghana, the Faculty is proud to confer this honour on you on the occasion of its 40th Anniversary and the Golden Jubilee of the University of Ghana. 982

We shall dearly miss his good counsel and occasional visits, but we say that: 983

To live in the hearts of those who love you is not to die. 984

Fare thee well till we meet again. 985

### **The late Mr. Justice A. N. E. Amissah A Tribute by Mr. Justice Pat Tebbutt** 986

I joined the Botswana Court of Appeal in July 1994 and was warmly welcomed by its President, Judge Austin Amissah and his lovely and charming wife Stella. And that started an association that was to stretch for seven years until his death in January. 987

At our first meeting I was immediately conscious that I was in the presence of a man of immense stature and a remarkable human being. Behind his quiet, low-key personality lay a person of deep intellect, with an incisive mind and possessed of the gift of being able to express himself clearly and succinctly in perfect English. As a judge he had an encyclopaedic knowledge of the law and an ability to appreciate and analyse facts, enabling him to reach the correct conclusions in the cases with which he dealt. Apart from his outstanding skills as a judge, he was a man of extraordinary compassion not only towards those he judged, but also to people generally. He loved his fellow man. 988

He read widely, enjoyed good music, appreciated art and loved nature and the environment. He was a caring and affectionate husband and father. He adored Stella and his family. 989

I was privileged to be his friend. He enriched my life, as he did the lives of all who were fortunate to know him. His passing has deprived us all of one of whom it could truly be said: This was a man. 990

### **Justice A. N. E. Amissah - a biography** 991

Austin Neeabeohe Evans Amissah was born on 3rd October 1930. He was the third of eight children born to Mr. Ambrose Bennacle Amissah (Barrister at Law of the Inner Temple) and Mrs. Dinah Amissah. 992

Austin was educated at Achimota School and continued his education in St Bees School, Cumbria, England. He proceeded to Jesus College, Oxford University, where he graduated in 1954 with a Bachelor of Law degree. In 1959 Oxford University conferred on him his Masters Degree. He was called to the English Bar by the Honourable Society of 993

Lincoln's Inn in June 1955. He then did his pupillage in the Chambers of Sir Dingle Foot Q.C. and began a public service career in the law profession on his return home.

In October 1955 he was employed as Assistant Crown Counsel by the then Government of Ghana. He rose rapidly through the ranks, becoming in quick succession Crown Counsel, Senior State Attorney, Principal State Attorney and Director of Public Prosecutions. Early in 1966, after a period of almost 11 years service, he reached the pinnacle as a State Prosecutor when he was appointed as the Attorney General of Ghana. In October 1966, at the age of 36, he was appointed a Judge of the Court of Appeal and his career on the Bench began. In 1969 the Judicial Service ran the risk of losing him to another public institution, namely the University of Ghana, where he was already a part-time lecturer in Criminal Law. It is common knowledge that the Judicial Service after much pleading from the University of Ghana, Legon, seconded him to the University as Professor and Dean of the Faculty of Law. His secondment was intended to last two academic years, but lasted twice as long as the Judiciary was prepared to release him. This can only be regarded as a testimony of excellent performance in the academic world. 994

Austin loved to read and was usually surrounded by books. He read widely outside the confines of the Law. He believed that the training of lawyers was of paramount importance for the State. Consequently he shared his rich experience with students through his books *Criminal Procedure in Ghana* and *The Contribution of the Courts to Government - A West African View*. The first of these, which won him the coveted Noma Award in 1983 and also the Ghana Book Award, has become a widely used textbook. 995

While in the University he trained a number of law students, some of whom have become prominent members of the profession both in and out of the country. During his tenure of office at the University, he spent a year and a half in the United States. First in Washington as a fellow of the Woodrow Wilson Center for Scholars at the Smithsonian Institution and then as Visiting Professor at the School of Law in the University of Virginia. He also taught at the famous Harvard Law School. 996

Austin was anything but a recluse and kept a busy schedule outside adjudication. He was the chairman of the Law Reform Commission for six years, Chairman of the Council of Law Reporting, Chairman of the Academic Advisory Committee of the University of Cape Coast, Chairman of the Presidential Commission of Inquiry in Sri Lanka on the Araly Point Explosion, Consultant to the Commonwealth Secretariat on South African constitutional matters, Leader of the Commonwealth Observer Mission to South Africa and Chairman of the Committee appointed into the organisation and operation of the Ghana State Insurance Corporation. In addition to these, he held membership of and contributed to the realisation of the objectives of a number of local and foreign organisations. These included the General Legal Council, Legal Class Appointment Board, Police Council, Executive of the Commonwealth Legal Education Association, Advisory Committee appointed by the National Academy of Sciences of the United States, Committee appointed by the Commonwealth Secretary General to review forms of legal co-operation in the Commonwealth and the United Nations Group of Experts on Tax Treaties between Developed and Developing Countries. 997

Even though Austin appreciated the vital importance of the administration of justice to 998

every nation, including Ghana, his interest became increasingly focused on law as an infrastructural support for development, on international income taxation and on legal aspects of the Economic Community of West African States. As questions on these matters do not normally come before our courts for determination, he decided, after ten years of service on the Bench, to retire to pursue these interests. He accordingly retired in December 1976 and set up a consultancy in Accra which he later moved to London in 1982. As a result of operating his consultancy from London, he travelled extensively. In 1981 he was appointed to the Court of Appeal of Botswana and in 1988 became the President of the Court. He served the court in that capacity until his untimely demise.

On his retirement from the Ghana Bench, the then Head of State wrote:

999

I have reviewed with profound appreciation the priceless contribution Mr. Justice Amis-  
sah has made to jurisprudence of Ghana throughout his twenty years of dedicated and  
exemplary service and particularly during the ten years he served as a judge of the  
Superior Court of Judicature. His pronouncements on legal matters, in and outside the  
legal service, bear ample testimony of his erudition and clarity of thought for which he  
will long be remembered.

1000

The then Chief Justice, Justice Azu Crabbe, wrote in similar vein:

1001

I wish on my own behalf, and on behalf of your other colleagues on the Bench, to place  
on record our deepest appreciation of your valuable contribution to the jurisprudence  
of this country. Our Law Reports will forever remain an eloquent testimony of your  
erudition and clear thinking.

1002

Personally, I think that this country owes you a debt of gratitude for your inestimable  
service not only in legal service generally but also in other fields where your expertise  
as a lawyer was required.

1003

Austin was a family man, a perfect gentleman and a man of principle. He was generous  
to a fault and served as a role model, not only for his younger siblings, but also to a  
large number of people. His colleagues found him to be a friendly person, endowed  
with great wisdom yet with a pleasing informality of manner, which put everybody at  
ease. He did not take anyone for granted and was respected by most people who came  
into contact with him. He was much loved by many and left behind friends the world  
over. In recent times, he was elevated to the status of grandfather and nothing pleased  
him more than playing with the grandchildren.

1004

He left behind a wife, Stella, and three children: Ralph, Tonesan and Juliet. He was also  
blessed with two delightful grandchildren - Leah and Erika.

1005

MAY HE REST IN PERFECT PEACE

1006

**To: The TIMES NEWSPAPER Death Notice Section**

1007

AMISSAH - Austin Neeabeohe Evans, died in London on 20th January 2001 aged 70. Ser-  
vices at Lincoln's Inn Chapel, London on Friday 9th February at 2.00pm and at Ridge

1008

Church, Accra, Ghana on Tuesday 27th February. No flowers please but donations if desired to the Imperial Cancer Research Fund c/o Chelsea Funeral Directors, 260b Fulham Road, London SW10 9EL, 020 7352 0008.

## **Curriculum Vitae of Austin Neeabeohe Evans Amissah**

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### **Occupation:**

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Legal Consultant/Judge.

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**Born:** Accra, Ghana; October 3, 1930.

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### **Educated:**

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Achimota School, Ghana;

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St. Bees School, Cumbria, England;

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Oxford University (B.A., 1954; M.A., 1959);

1016

Lincoln's Inn, London (Barrister-at-Law, 1955).

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### **Professional Career:**

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**1955-62** Crown-Counsel/State Attorney, Attorney General's Department, Ghana;

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**1962-66** Director of Public Prosecutions, Ghana; 1966 (Feb-Oct) Acting Attorney General;

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**1966-76** Judge of the Court of Appeal, Ghana (except in 1969-71, the final appellate court in Ghana); retiring voluntarily from the Court on December 31 1976;

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**1977-78** Legal Consultant - dealing with investment and commercial matters;

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**1979** Commissioner (Minister) of Justice and Attorney General, and Commissioner for Local Government, Ghana;

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**1979 (Oct.)** resumed as Legal Consultant in Ghana;

1024

**1981-** Judge of the Court of Appeal, Botswana; President of the Court (since Jan.1988);

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**1982-** Also pursuing professional activities as Legal Consultant from base in London.

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**1992-97** Arbitrator in case between an American corporation as claimant and Republic of Ghana and Ghana Railways Corporation as respondents.

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**1998** Arbitrator, Commonwealth Secretariat Arbitral Tribunal

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### **Other Positions Held in Ghana**

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**1969-74** Professor and Dean of the Faculty of Law, University of Ghana (on secondment from the Ghana Court of Appeal).

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**1967-82** Chairman or Sole Commissioner of several Commissions or Committees of Enquiry, on matters including: the organisation and operation of Ghana State Insurance

1031

Corporation; the External Loans contracted by Ghana Government between 1977 and 1978; advising the President and Parliament on the remuneration of the principal officers of State; advising on the review of the Master Agreement and other agreements entered into between the Government of Ghana, Valco, the World Bank and governmental agencies in the U.S. and U.K in connection with the financing and construction of the Volta River Project;

**1969-75** Chairman, Ghana Law Reform Commission; 1032

**1970-82** Member of several Councils and Committees, including: Council for Legal Reporting (1970-72) - (Chairman, 1974-76); Council of the University of Cape Coast and Chairman, Academic Advisory Committee (1971-76); Legal Class Appointments Board (1968-72) - (Chairman, 1979); Police Council (1979-81); Ghana Medical School Council (1980-82); 1033

**1969-81** Managing Trustee, Valco Fund (Trust fund established by the Volta Aluminium Co. Ltd. of Ghana, subsidiary of Kaiser Aluminum of U.S) for the promotion of education, health social welfare etc. in Ghana). 1034

**1977-78 and 1981-85** Director, UAC (Ghana) Ltd., the largest private commercial concern in Ghana. 1035

**International Activity** 1036

**1968-79** Member, U.N. Expert Group on Tax Treaties between Developed and Developing Countries; (Chairman of Group, 1975-79); 1037

**1971-75** Member, Executive Committee of the Commonwealth Legal Education Association; 1038

**1973 (Jan-Dec)** Fellow, Woodrow Wilson International Center for Scholars, (based in the Smithsonian Institution Building) Washington D.C, U.S.A. (during period also conducted some seminars and lectures at the Harvard Law School, International Section); 1039

**1974 (Jan-June)** Visiting Professor of Law, University of Virginia Law School, Charlottesville, Virginia, U.S.A; 1040

**1974** Member of Advisory Committee appointed by the U.S. National Academy of Sciences, Washington D.C., U.S.A on the future of the Peace Corps; 1041

**1974** Member of three-man Committee appointed by Commonwealth Secretary General under chairmanship of Sir Roy Marshall (with Professor John L.I. Edwards as third member) to review forms of cooperation in legal matters within the Commonwealth; 1042

**1979** Chairman of World Intellectual Property Organization (WIPO), Geneva seminar on Trade Mark problems in Developing Countries; 1043

**1992 (Oct-Dec)** Leader, Commonwealth Observer Mission to South Africa; 1044

**1993** Chairman, Presidential Commission of Inquiry (with Sir Kenneth Keith of New Zealand and Justice Muhammadu Uwais of Nigeria, since then Chief Justice) on the 1045



Araly Point Explosion, which resulted in the death of several Senior Military Officers, Sri Lanka.

**1994-** Director, Foreign and Colonial Emerging Markets Investment Trust PLC. (U.K) 1046

**1996-** Member, The Commonwealth Secretariat Arbitral Tribunal. 1047

**2000** Member, Presidential Commission of Enquiry (with Lord Mackay of Clashfern as Chairman and Dr. L. M. Singhvi as the other member) into the Administration of Justice in Trinidad and Tobago. 1048

**Clients provided with Legal Consultancy Services include:** 1049

Bank of Ghana (1977-78 and 1980); Social Security Bank, Ghana (1977-78); National Investment Bank, Ghana; Council for Scientific and Industrial Research (CSIR), Ghana (1978); Ministry of Finance, Ghana (1980); Volta River Authority (VRA), Ghana (1980-82) (and again since 1997); African Export Import Bank (Afrexim) (1993-) (pre-inception founding documents); Selmer-Sande A/S of Norway (1980-); FMO, the Netherlands (1981); Nordic Fisheries Management Company (NORFICO) A/S of Norway (1984-); WIPO, Geneva, (1985): consultant on the compilation of The Situation of Industrial Property in the Countries of Africa (published in 1985); African Caribbean and Pacific Group of States (ACP) General Secretariat, Brussels (ACP) (1987-91) on the development of the General Conditions for Contracts of Construction, Supply and Services for EDF funded projects and the drafting and negotiation with the EEC of the ACP/EEC Arbitration Rules; Elders Resources Finance Limited (ERFL), Australia, through their lawyers Freehill, Hollingdale & Page in Perth, Western Australia: (1988-90); Fidelity Bank of Philadelphia, U.S.A. (1990); 1050

**1989-90** Commonwealth Secretariat, Technical Assistance Group, London: advised the Government of Swaziland in negotiations with foreign companies and the Commonwealth Development Corporation (CDC) over transfer/acquisition of shares and public policy issues involved in the ownership of Usutu Pulp Co. Ltd., the largest single industry in Swaziland; 1051

**1991** Commonwealth Secretariat assignment as Senior Legal Consultant to advise the Preferential Trade Area of Eastern and Southern African States (PTA) with respect to its Tribunal for the settlement of disputes between Member States and with respect to its Appeals Board for the hearing of appeals of staff members from the administrative decisions of the Secretary-General; 1052

**1992-94** Engaged on USAID funded project to provide legal infrastructural support for financial sector in The Gambia, involving drafting of financial and commercial legislation (together with Dr. Albert Fiadjoe of the Law Faculty, Barbados, University of West Indies); 1053

**1993** Also engaged as Consultant to review the scope and functions of the Ministry of Justice, The Gambia. 1054

**1994** Consultant to the Commonwealth Secretariat on South African constitutional matters. 1055

**1994** Engaged by Commonwealth Secretariat (ELAS) (with Professor Ross Cranston of the London School of Economics) to review the Ghana Companies Code in relation to the legislation of the Ghana Stock Exchange. 1995-96 Engaged by the Commonwealth Secretariat (ELAS) to join Dr. K. Date-Bah and Mr. Makbul Rahim of ELAS to do a diagnostic survey of the commercial laws which impede investment in Ghana. 1056

**1996-97** Consultant in a GTZ funded project to look into the reorganisation of the Attorney-General's Chambers of Namibia. 1057

1997- Consultant to the Volta River Authority of Ghana. 1058

**1997-** Member of a Consultancy selected by the Government of Ghana, for a World Bank funded project on human resource development and law library facilities in the legal sector. 1059

**Membership of Professional Organisations etc.** 1060

**Member:** - Ghana Bar Association; - British Institute of International and Comparative Law; - American Society of International Law; - International Bar Association; - Commonwealth Lawyers Association; - London Court of International Arbitration - President of its Pan African Council; 1061

**Member:** - Chartered Institute of Arbitrators; 1062

**Member** - WIPO Arbitration and Mediation Center Domain Name Dispute Resolution Panel 1063

**Fellow:** - Ghana Academy of Arts and Sciences. 1064

**Publications include:** 1065

Criminal Procedure in Ghana (Sedco Press) (1982): Winner of the NOMA Award for Publication in Africa, 1983 (venue of presentation-Harare, Zimbabwe); also winner of the Ghana Book Award, 1983; 1066

The Contribution of the Courts to Government: A West African View (Clarendon, Oxford University Press) (1982); 1067

Arbitration in Africa (joint editor with Judge Cotran) (Kluwer Law International) (1996). 1068

Several articles in Legal Journals and books on various topics, including the history of the Courts of Ghana, the administration of justice, arbitration and patents. 1069

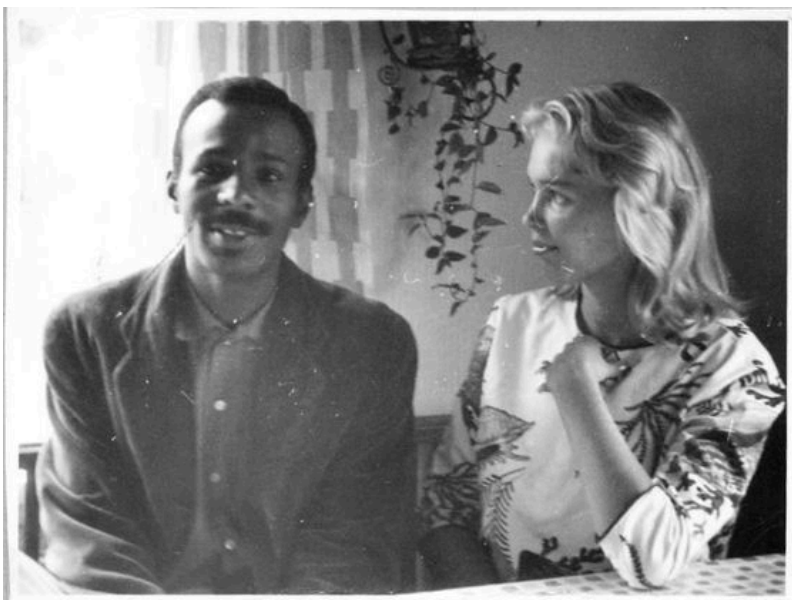
**Personal Status** 1070

Married, 1956, to Stella (nee Mattsson); one son, Ralph, and two daughters, Tonesan (Amisshah-Furbert), and Juliet. 1071

~~Address: 1 Westgate Terrace, London SW10 9BT, England.~~ 1072

**From Stella to Austin** 1073

1074



"Austin Stella Amissah"

Tomorrow

1075

And tomorrow the sun will shine again and on the path I follow it will unite us again in our happiness in the midst of this earth which breathes the sun...

1076

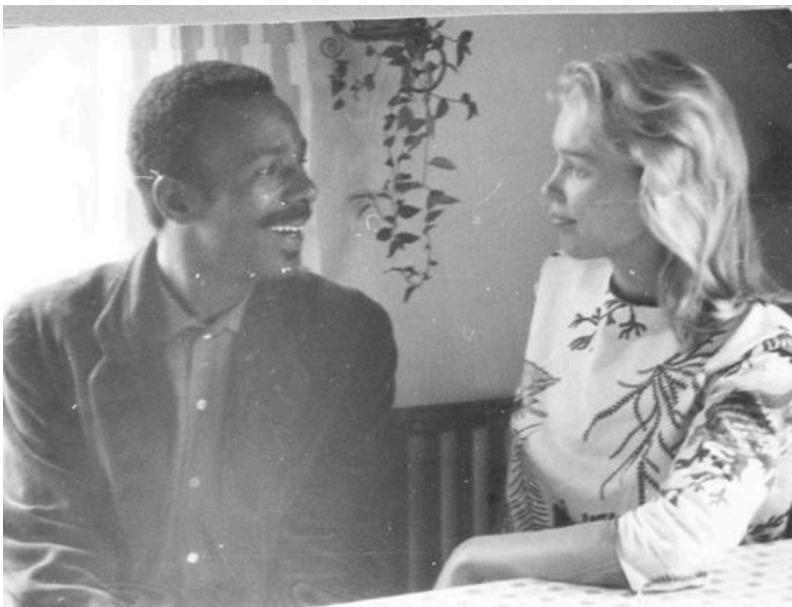
And to the broad shore, blue with waves, we shall walk down, slowly and quietly; we shall look into each other's eyes without a word, and the wordless silence of happiness will fall over us.

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John Henry Mackay set to music, in German, by Richard Strauss

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Endnotes