

1993

## Speech by MR PETER CUTHBERT LOW President of the Law Society

At a similar occasion, nineteen years ago, my learned predecessor said:

"The Law Society does not only exist  
for the benefit of lawyers; it also exists  
for the benefit of the public for whose  
benefit in turn the lawyers exist."

That statement is equally valid today. In fact, it is a statutory duty of the Society to assist the public.

One of the ways the Society discharges this duty is through the Criminal Legal Aid Scheme. This project was launched in 1985 to provide legal aid to impecunious members of the public on non-capital charges. As of last month, 369 lawyers have volunteered to provide their services free of charge.

Secondly, the Society produced a series of law awareness pamphlets in the four official languages for the lay public. The pamphlets have been widely distributed. Favourable feedback has been received. Four more pamphlets will be launched by next week dealing with:

- (1) the Singapore legal system;
- (2) giving evidence;
- (3) divorce; and
- (4) custody and maintenance.

Last year, in response to the changing legal environment, the Society formulated a publicity code. It will replace the current rules on publicity.

The code allows lawyers to develop their practices without undue restraint. The public will be provided with more information on lawyers. For example, their areas of practice.

The code has been scheduled to come into operation next Friday. Thereafter, a copy of the code will be sent to every member.

Three other projects undertaken by the Society in 1992 were: First, the revision of another set of its rules — the Law Society's Conditions of Sale 1981. My Council is now considering the recommendations of the Conveyancing Committee. I expect the revised conditions will be published shortly.

Second, the commissioning of a software for the integrated law office management system. The software was launched at the IT Day Exhibition organised by the Society last November. Lawyers who wish to be spared the agonies of computerisation may avail themselves of this software. Easy purchase terms have been arranged for members.

Third, the bi-monthly publication of the Singapore Law Gazette. The Gazette sets out in a professional and easy to read format news relevant to our professional practice. From the middle of this year, the Gazette will be published monthly. It is distributed free of charge to all members of the legal fraternity.

In 1993, my Council will give priority to two tasks. First, the codification of all our rules on professional practice, etiquette and conduct — so that we may have a clear and comprehensive statement of principles easily accessible to both lawyers and their clients.

The Society's Professional Practice Committee is already working on four guide books on professional practice.

Second, our continuing legal education programme.

The format of the CLE programme will now give emphasis on teaching the art of advocacy. This is because, today, the practice of an advocate is more demanding. The turn-over for both civil and criminal litigation is faster. There are more court dates available and more requirement to practise advocacy.

Honourable Chief Justice, the Society cannot live in the past. We must respond to changing circumstances. We must look to the future.

But when we up-date our rules or create new ones, when we assist our members to modernise their practices, enhance their knowledge and upgrade their skills, we do so in the public interest, and we do so, in order that we can be more effective in fulfilling our role in the administration of justice.

Honourable Chief Justice, on behalf of the Bar, I offer you my assurance of support in the administration of justice and the maintenance of the Rule of Law.

On behalf of the Bar, I also offer you, your brother judges and judicial commissioners and all present here this morning a happy and successful 1993.

## Speech by

ONCE again we, the members of the bar, the legal and judicial officers of the State and the Judges of the Supreme Court, gather together to usher in the new Legal Year. It is a unique occasion in that it is the only time in the year when the Judges and Judicial Commissioners of the Supreme Court sit *in banco*, so that Your Honour, the Chief Justice may deliver judgement on the administration of justice in the preceding year, and set the goals for the current year.

The opening of the Legal Year is now an annual tradition. On the occasion of the opening of the Legal Year 1971, my predecessor observed that the tradition was somewhat obscure and that the delight of delving into its origins was a task that must be left to the eager student with a predilection for research. I am happy this morning to share with this assembly the fruits of my research.

On 8 April 1946, a ceremony was held to mark the re-opening of the Supreme Court. The British Military Administration of Singapore, which followed immediately upon the Japanese occupation, had just ended. The ceremony was presided over by the recently appointed Acting Chief Justice (Mr C W V Carey), sitting alone. The occasion also doubled up as a welcoming ceremony for him. That probably explained why the Acting Attorney-General was accorded the privilege of speaking first, followed by a member of the bar speaking on behalf of the bar. The occasion was not recorded as the opening of the Legal Year.

No ceremony is recorded for 1947 and 1948. In 1949, the Assizes were ceremonially opened by the Acting Chief Justice (Justice Gordon-Smith). He alone addressed the gathering. For that year there was a total of 105 criminal cases on the list for disposal, 74 of them having been brought forward from the previous year. One can see then the beginning of a backlog of assize cases.

The 1950 Assizes were opened on 17 January 1950, even later than this year, by the Chief Justice (Mr Murray-Aynsley). He alone addressed the gathering of law officers and members of the bar.

No ceremony is recorded for 1951, 1952 and 1953. In 1954, the Assizes were opened by the Acting Chief Justice (Justice T A Brown). He alone addressed the gathering. In his speech, he made particular reference to the fact that in the preceding year "30 cases were settled at the eleventh hour when it was too late to put another



# *the Attorney-General*



case on the list and the one or two days, and it may be more ... which had been allocated for the case ... were entirely wasted and all that public time was lost."

At the opening of the 1955 Assizes the Chief Justice (Sir Murray-Aynsley) addressed the gathering for about a minute or so and the Solicitor General replied as follows: "On behalf of the Bar and all present, I am very much obliged for what your Lordship has said."

There is no record of the opening of the Assizes in 1956, but in 1957, the new Chief Justice (Sir John Wyatt) opened the Assizes for that year. In his address, he expressed concern about the backlog of criminal and civil cases. On this occasion, the Attorney-General replied on behalf of the members of the Bar and the law officers.

In 1958, the Chief Justice, in opening the Assizes, reported an improvement in the disposal of cases, but warned that there was no room for complacency. The Attorney-General made his customary reply. For the first time, there appeared the Chairman of the Bar Committee (Mr R L Eber) who replied on behalf of the Bar. He disclosed that the Bar had about 150 lawyers and that some people had expressed an opinion that the Bar had reached saturation point. This was in 1958 when people like two of your Honours and myself were still in the first year of law school.

The opening of the Assizes for 1959 coincided with the assumption of the Chief Justiceship by Sir Alan Rose. Perhaps for this reason, the opening address was made by the Attorney-General, followed by the Chairman of the Bar Council. The Chief Justice in his reply, said:

"I very much appreciate your kind words of welcome. This gathering of Bench and Bar at the beginning of the legal year is, I think, a very delightful custom, and I am very happy and honoured to find myself personally associated with it."

Thus, the opening of the Assizes was judicially recognised as a tradition and thereafter the opening of the Legal Year superseded the opening of Assizes.

I hope your Honours have not been bored by this digression into the byways of legal history. History is a liberating subject, and as Santayana has said, those who cannot remember the past are condemned to repeat it.

Ever since Your Honour's assumption to the office of Chief Justice, the members

of the Bar and the legal and judicial officers of the State can look forward to the opening of each Legal Year to a detailed and candid account of the work of the courts during the preceding year. This is a significant development in judicial governance. Just as justice is not a cloistered virtue, a court of justice should not be a monastery. Justice is not confined to those involved in a court hearing. How and whether justice is administered affects the whole of the body politic. It is therefore only right that the public be informed each year of the state of our judicial institutions. Your Honour's willingness to move in this direction augurs well for the administration of justice in Singapore.

Last year has been an eventful year in the legal and judicial world. January saw the launching of the Singapore Law Reports, our "official" law reports containing exclusively judgements of our Supreme Court Judges. The 1992 series of reports are contained in two volumes with a total of about 200 cases and over 2 000 pages of text and headnotes. The Singapore Law Reports will not only be the repository of local judicial precedents, its existence will also act as a catalyst in the writing of more and more considered judgments. The common law develops incrementally, step by step, precedent to precedent. Without recorded, and better still, fully reasoned judgments, every legal dispute will be a first journey which starts and ends with the first step. Moreover, precedents will save intellectual effort and reduce wastage of economic resources.

In February 1992 the Revised Edition of the Subsidiary Legislation of Singapore was published. It was mammoth venture and also the first time in the legal history of Singapore that such a revised edition was produced. It is right and fitting that I should today acknowledge the contributions of all those who worked so hard in producing it.

April 1992 saw the institution of the 1-Judge court for capital offences. This was a milestone in the development of the administration of criminal justice in Singapore. There were sound reasons for having a 1-Judge court for trials of such offences. However there were some misgivings on the part of some practitioners, some academics and also some sections of the media that the change was a regressive step in the development of and could be a blot on our criminal justice system. The misgiving was that persons charged with capital offences might not be

able to have a trial as fair as that by a 2-Judge court. Implicit in this belief is that either (1) a single judge is less competent to hear a capital case than two judges, or (2) an accused is more likely to be convicted by one judge than by two judges. There was of course no evidence whatever to support proposition 1. The experience of 1-Judge trials up to today does not support proposition 2 either. In any event, the jury is still out.

A parallel development to the 1-Judge court of significant benefit to persons on trial and the legal profession has been the requirement of 2-counsel representation, whenever such representation is provided by the state. It gives the accused better legal representation and at the same time provides essential practical experience to younger counsel. Such representation has now been extended to the PI stage.

In April, the Chief Justice led a delegation of senior Judges on a goodwill visit to China at the invitation of the President of the Supreme People's Court. It was a very enlightening visit as it enabled the Judges to know first hand how justice is administered in a country which is trying to build up a legal system practically from scratch to establish the rule of law.

This unprecedented event was followed immediately by the retirement of Mr Tan Boon Teik as Attorney-General, resulting in my being privileged to be able to address your Honours today.

I should mention next the change in the publication dates of the Singapore Academy of Law Journal from June/December to March/September of each year. It is not an event of such significance except that it shows that the Journal has come of age. The reason for the change was that the Journal was competing, successfully, with the Singapore Journal of Legal Studies for publishable materials. I think I can say that the Journal has achieved the goal the Academy set out to achieve when it decided to produce it, i.e., to encourage legal writing on practical topics among the lawyers. We have no evidence that by distributing the Journal free of charge, our other goal of encouraging all practitioners to read the Journal has been successful. But we have evidence that our appeals to them for financial assistance were abysmal failures.

In November 1992, LawNet in conjunction with the Law Society launched seven new services, comprising (1) the Case Law Database; (2) the Subsidiary

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Legislation Database; (3) the Lotbase, (4) Biznet, (5) the Bankruptcy Search System; (6) the Supreme Court Notices System, and (7) Legal Practice Management Systems. These computerised services represented a quantum leap in concept and scope from what was then available. There is more to come. As the Chief Justice promised in his keynote speech on that occasion, a comprehensive network of computer services will be established for the legal sector by 1997. LawNet will then consist of six modules, covering all major areas of legal practice. To quote the Chief Justice: "LawNet is the first of its kind in the world — there is no other jurisdiction that we know of that has embarked upon something quite as ambitious as this." The future is clear. Lawyers who fail to avail themselves of such services will find themselves at the fringe of legal practice. They will be left behind by those who will be better informed and become more efficient through LawNet.

One year, the Government also appointed a committee to look at the supply of lawyers in Singapore in the medium term. Unfortunately, the Government's concern that we may have too many practising lawyers by 2000 or 2010 on the basis of the output of law graduates has been misunderstood by some people as a statement that there are too many lawyers today. The Prime Minister neither made nor implied that judgment in his speech to the Law Society at its annual dinner. The Government is never backward in planning forward. The Committee should be ready to submit its report to the Prime Minister shortly.

Now I would like to say something about the Judiciary. I am happy to note that Mr Amarjit Singh who was appointed as a Judicial Commissioner from 2 January 1992 is still with us in the same capacity. Mr Amarjit Singh was my classmate in law school and has been a leading advocate for many years at the criminal bar. I am also happy to note the appointment of Mrs Judith Prakash and Mr T Q Lim as Judicial Commissioners from 1 April 1992. Mrs Prakash has been an outstanding law student and practitioner. Mr Lim was my senior in the firm where I started my practice in Singapore. He has taught much law and more legal method. I would like to offer my warmest congratulations to them. However belated they may be.

To mention, with regret, the return of Mr Michael Hwang to private practice. Mr Hwang has much to contribute to the

## Courtesy Call on the Chief Justice

The Procurator General of Austria, Dr Otto F. Mueller, and his team of officials paid a courtesy call on the Honourable the Chief Justice Yong Pung How at Yam on Monday, 2 November 1992 at the Senate Room of the Academy of Law. Dr Mueller was on a tour of the Far East, having visited China and Hong Kong before coming to Singapore. After the courtesy call, the visitors were taken on a tour of the Supreme Court premises.



development of the law in Singapore in one way or another.

Finally, I would like to mention the retirement of Justice Chua on 15 November 1992, an event of much sadness to Bench and Bar. Justice Chua was appointed a Supreme Court Judge on 15 February 1957 (the year I went to law school) after serving as a legal officer in various capacities from 1937 (the year I was born). He has thus served the State for 55 years, and for 35 years as a Supreme Court Judge. The measure of his service to the State can be appreciated by the fact that his second tenure as Supreme Court Judge (he retired in 1978) is longer than the tenure of any of your Honours. I recall with particular fondness and gratitude that as soon as Justice Chua heard of my appointment as a Judicial Commissioner he invited my wife and me to dinner to meet some of his colleagues. It was an act of great consideration and kindness. Consistent with his character, he has accorded the same welcome to other subsequent appointees to the Bench. We shall miss him. I hope that his long and sterling service to the State will be suitably recognised in due course.

It was said some years ago that we, i.e. the Judiciary, the law officers of the State and the Bar, were a trinity, with the Bench being *primus inter pares*, I would prefer the more mundane, and perhaps even pedestrian, description that the administration of justice rests on three legs. In the past year, Your Honour's leg has outrun the other two legs and had to drag them along to the finishing line. I can give my assurance that that leg which I lead will try its best this year to keep in step with the judicial leg.

With that assurance, I, on behalf of the law officers of the State, wish your Honours a less hectic, more successful and no less happy new Legal Year.



## New Dean Appointed

ASSOCIATE Professor Chin Tet Yung was appointed Dean of the Faculty of Law, National University of Singapore on 2 November 1992. An active member of the Academy, Associate Professor Chin also served as Sub-Dean at the NUS between 1984 to 1987.

As the new Dean, Associate Professor Chin will ensure that the Faculty of Law, NUS remains the primary training institution for lawyers in Singapore.

As for the curriculum, more emphasis will be placed on International Law and International Business Transactions, especially with respect to Asean and Pacific Rim countries. This is in the advent that Singaporeans, following the Honourable Senior Minister Mr Lee Kuan Yew's advice, will start looking further afield for business opportunities. There is also a strong possibility that the laws of the European Community will be delved into as the EC is growing as an important trading block.

During his tenure, Associate Professor Chin hopes to foster closer ties with the Bench and Bar, as well as with the Academy and the Alumni. The Faculty of Law will also continue to work together with the Academy to contribute to the continuing legal education programme.

## CORRECTION

PLEASE note that in our December Newsletter feature on the launch of the Singapore Academy of Law/DBS Corporate MasterCard Charge Card programme, the validity date of the Seoul Garden Korean Restaurant (Bukit Timah Branch) complementary vouchers was incorrectly stated as December 1993. The correct validity date should be March 1993.