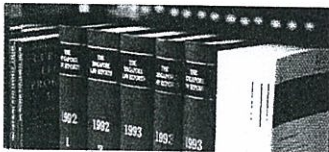


1998



Opening of the Legal Year 1998

SPEECH BY

## The Honourable Attorney-General

Saturday 10 January 1998 Victoria Concert Hall



*The Honourable Attorney-General  
Mr Chan Sek Keong*

MAY IT PLEASE YOU, CHIEF JUSTICE,  
JUDGES OF APPEAL, JUDGES AND  
JUDICIAL COMMISSIONERS OF THE  
SUPREME COURT

The opening of the legal year is the annual showcase for the achievements of the Judiciary in the previous year. It is always a pleasant surprise for the public and the Bar to find out how much has been done every year to improve efficiency in the administration of justice. In information technology, for example, the Judiciary has continued to be a major contributor of innovative ideas and applications for court processes. I believe that last year was no exception. As a result, public esteem in the Judiciary as a service provider has remained high, even among those demanding customers of legal services, namely, the business community.

But we continue to have many challenges ahead for our legal services sector. The current financial turmoil in Asia has made it necessary for every sector of our economy to work harder to retain its competitive edge. Singapore has prospered because it can provide competitive services to the global economy, whether they be in international finance, communications, manufacturing or transport.

Legal services in Singapore are part of the infrastructure necessary to support the services sector. Many people, including lawyers, tend to identify the legal services sector in Singapore with the legal profession. It is much larger. In Singapore, this sector comprises advocates and solicitors, foreign lawyers, in-house counsel, the academic lawyers, arbitrators and mediators, including not least the judges. State legal officers are also service providers but they do not have a significant role in the private law sector.

Most people associate the Judiciary with justice. It **dispenses justice**. But justice in private law is the giving to every man the compensatory or contractual rights legally due to him. In a market economy where people are free to enter into economic transactions, justice is no more than giving to each exchanger his due under such transactions. But the nature of the judicial function limits the role of the Judiciary as a service provider as it can only do so when called upon by the contending parties.

Economic transactions are entered into in the expectation that they will succeed. Only a miniscule number will fail for various reasons. As a form of aftercare service for failed transactions in a market economy, the value of court adjudication to users is judged like any other service, by reference to its efficiency and economic cost. The business



community, in a survey conducted last year gave top marks to the Judiciary in this regard.

Lawyers provide a front-end legal service, unlike adjudicators and mediators. The nature of the lawyer's function in society places no limitations on his capability to meet its legal needs. However, the domestic legal profession faces greater difficulties and more challenges in some areas of practice than in others. The financial services sector is one such area. The financial market in Singapore needs responsive, high quality legal services, oftentimes innovative, to generate the high value added financial products that the region needs for economic development.

Singapore is a premier financial centre in the region. One reason for this is the availability of adequate legal services. The current financial crisis in the region has heightened the need to examine whether and how our financial services sector, including all its varied support services, can expand and retain its competitive edge in the years ahead. The domestic legal services sector has to play its proper role in this enterprise. The dominant exporter of legal services in the international financial markets, viz., England and the United States, have legal systems based on the common law, just like Singapore's legal system. But there, the similarity ends. Our legal system is largely irrelevant to the international or regional financial transactions. We have good legal institutions and an adequate legal services sector. But our lawyers are trained to provide services in Singapore law, and Singapore law is not the preferred choice as a governing law in international or regional transactions. And even if Singapore law becomes an acceptable choice, our lawyers will need the capacity to meet the complexities of many of these types of transactions.

This situation has always posed real and difficult challenges to the domestic legal profession and will continue to do so. What can it do to meet them? A few months ago, the Straits Times' reported that 400 lawyers had ceased practice, "many of them victims of the dismal property market." The Law Society has confirmed that the actual figure is 402. We have about 3,200 lawyers in active practice today. We also have about 450 qualified lawyers ready to join the profession this year. So, we will continue to have a sizeable Bar. But an exodus from the profession of more than 10% of its members in one year is a matter for self-examination by the Bar. Why did these lawyers not practise in other fields of law? Does the profession have aptitudinal, structural or other problems? Whatever the exodus means, it is a matter for concern if it reflects a serious misallocation of highly qualified manpower resources which could have been better deployed elsewhere.

The data on the distribution of lawyers as at August 1997 shows that there were 13 law firms with more than 31 lawyers each as compared with 317 one-man firms, 124 two-man firms, 218 firms with less than 10 lawyers each and

38 firms with 11 to 36 lawyers each. It is generally acknowledged that bigger law firms tend to be more efficient and are able to provide higher quality legal services than smaller law firms. Actual experience also shows that more claims for negligence are made against smaller firms than bigger firms on a per-job basis. In other words, small firms are less competitive for difficult work, and not necessarily more competitive even for low level routine work. Small firms will not be the provider of the kinds of legal services which a financial centre, like Singapore, needs.

The Law Society has to look after the interest of its members. But it is also a public institution which has a role, if not an obligation, to help in maintaining Singapore's competitiveness as a market economy. The current problems besetting the Asian financial markets should lead to radical changes in their financial systems. Investments may slow down but they will not stop in these countries. The new financial environment can provide opportunities to Singapore lawyers to expand legal services in Singapore law. It will challenge the legal profession to develop and enhance its services to take advantage of these opportunities. The Law Society can serve the long term interests of its members if it can identify and surmount any professional inadequacies the profession may have and seek to improve and capitalise on its strengths in this harsh new world.

I leave these thoughts with the new Council of the Law Society, headed by its new President, Mr George Lim. I congratulate him and his Council members on their election to office. They have a lot to do and need all the help they can get in these trying times for the profession. I wish them great fortitude and success during their term of office.

Last year, 3 lawyers from the Legal Service, Messrs Chan Seng Onn, Lee Seiu Kin and Tay Yong Kwang, were appointed as Judicial Commissioners. I congratulate them on their appointments. Two bring with them invaluable work experience from their previous professions and a corpus of scientific and technical knowledge denied to all of us who are trained only in the law. Their influence on the application of IT to legal services has already been felt in the Legal Service. Their elevation to the Bench will provide an additional dimension and perspective to the excellent judicial services that we have been used to.

I also congratulate the advocates and solicitors whose appointments as new Senior Counsel will be announced later. They have a commitment to live up to their new standing in the profession, and thereby add more lustre to the Bench.

Finally, on behalf of the Legal Officers, and in my own behalf, I wish to affirm our continuing support for the Judiciary in its work and also wish you, Chief Justice and your fellow Judges, good health and more success in the coming year.