

**OPENING OF THE LEGAL YEAR 2007
SATURDAY 6 JANUARY 2007**

RESPONSE BY THE HONOURABLE THE CHIEF JUSTICE CHAN SEK KEONG

Mr Attorney, Mr Jeyaretnam,

As this is my first speech for the Opening of the Legal Year as Chief Justice, it is fitting that I should begin by thanking all who are here this morning. Your presence and pledges of support for the Judiciary that you, Mr Attorney and Mr Jeyaretnam, have just expressed will sustain us in our role as custodians of the rule of law and dispensers of justice to all who seek justice from us.

At the Welcome Reference last April, I focused on certain aspects of the justice system in Singapore that required special care and attention, such as the imperative of efficiency in court administration, consistency and proportionality in sentencing, the fostering of a good working relationship between Bench and Bar, and developing Singapore law. We have made progress in these areas.

Maintaining efficiency in court administration

To ensure that there will be no retrogression, we have decided to set a benchmark for the disposition of civil cases, which make up more than 90% of the workload of the Supreme Court. Our target is the disposal of at least 85% of writ actions within 18 months of filing. We have selected writ actions in the High Court as the basis of this benchmark because, unlike other matters, they normally take the longest time to resolve. To achieve this benchmark, we will have to maintain a similar pace of disposal as that of the last few years. For writs filed during the period July 2004 to June 2005, the High Court was able to achieve the target disposal of 85% within 18 months of filing. This benchmark matches those of the most efficient courts in the developed countries, such as the Federal Court of Australia and the California State Courts of the United States.

Further, we will also monitor closely two other key performance indicators. The first is the clearance rate. In 2006, the clearance rate was 99%, with about 377,000 new matters filed and about 375,000 existing matters disposed of in the Subordinate Courts and the Supreme Court. This represents a slight improvement from the average clearance rate of 98% for the period 2003 to 2005. With the continued co-operation of the Bar, we should be able to maintain an equally high clearance rate this year.

The second key indicator is the availability of trial dates. Hong Kong has a target of 90 days of setting down, while that of the Supreme Court of Victoria in Australia is 90 days for 80% of the cases on their general trial list. Our current target is within 8 weeks or 56 days of setting down. In 2006, we were able to meet this target in both the Subordinate Courts and the Supreme Court.

Using technology to lower the cost of managing cases

We will continue to raise the efficiency of the court systems in the most cost-effective way. In the second half of this year, we will launch the Applications and Cases E-Management System. With our fondness for apt acronyms, we call this system "ACES". This IT system will electronically monitor every case against the timelines set by the courts. ACES will provide the courts with real time updates of compliance and non-compliance with timelines.

With ACES in place, we can do away with pre-trial conferences where parties have complied with the timelines. Where PTCs are needed, we hope to conduct more of them through e-mail and reduce the need for physical attendances. In October last year, we introduced a pilot programme known as E-PTC, which allows PTCs to be conducted by e-mail. We started E-PTC for Admiralty cases. This year, we will see if it can be extended to cover other kinds of proceedings. Freeing solicitors from having to attend PTCs in court will enable them to optimise the utilisation of their professional time. There will be an appreciable reduction in the economic cost to the courts, lawyers and their clients.

The Justice On Line system (JOL) currently in use in both the Supreme Court and Subordinate Courts will also be upgraded. JOL presently provides a web-conferencing platform for lawyers to communicate to the courts, clients and other parties. In 2007, an enhanced JOL 2 will be introduced to allow lawyers to present, share and edit documents online with other parties. JOL 2 will also offer a 3-G mobile phone service for lawyers to video conference with the courts whilst on the move.

Before moving to the next subject, I would like to congratulate the Subordinate Courts, which handle 95% of the judicial work in Singapore, for their impressive achievement for being awarded in 2006 the Singapore Quality Award for organisational excellence. They are the first state organ to receive this award. I should also mention that in 2006, the Supreme Court successfully renewed its Singapore Quality Class award for business excellence standards for a further three years.

Balance between justice delayed and justice hurried

We will continue to maintain a judicious balance between justice delayed and justice hurried. Last year we introduced the docket system to manage the more complex cases, such as the Prebone Yamane series of cases, the Asia Pacific Breweries and Chia Teck Leng series of cases, and some others. Under this system, interlocutory matters are heard before a dedicated registrar or judge, while appeals against interlocutory matters are heard by a dedicated trial judge. This system will reduce the reading time of the judge dealing with the case and increase his familiarity with the factual and legal issues as the case proceeds. In the Subordinate Courts, judges are assigned early under the Specially Managed Commercial List for complex civil commercial cases to allow for a more effective management of such cases. In the area of trials, the Judges will continue to be pro-active in managing the trial process to achieve optimal economy in the presentation of evidence, with due regard to the complexity of the case. No counsel will be hurried or harried in the presentation of his case.

Accessibility of the law and enhancement of the legal system

We also want to make our case law more accessible to the people and to the legal

communities in other jurisdictions. In 2006 we introduced some measures to demystify the work of the courts and to enable the public to have greater access to court processes and decisions. We now post newly released judgments and information on court processes for the general public on both the Supreme Court and Subordinate Courts websites. We also started the practice of issuing media releases in plain English for important judgments of the Court of Appeal and the High Court. This will assist court reporters who have to work under tight schedules to digest the judgments and publish timely and accurate accounts of the cases in the media. The judgments and the media releases are also posted on the Supreme Court website.

With a view to enhancing our legal system, we have restructured the Singapore Academy of Law to focus on three strategic clusters of work - Legal Knowledge, Legal Technology and Legal Industry. The Legal Knowledge Directorate will provide a full suite of seminars and conferences to keep our lawyers updated on legal developments in the common law world. It will also embark on the publication of legal titles for the profession and law students. The first commissioned work, by Professor Jeffrey Pinsler on Professional Ethics, will be released in the middle of this year. The Legal Technology Directorate will build on our technology infrastructure. In a few months' time, it will launch LawNet2, which will offer international materials. Users will be able to draw on judgments from the United Kingdom's The Law Reports and The Weekly Law Reports as well as our Singapore Law Reports, using the same LawNet interface. The Legal Industry Directorate will work with all stakeholders to promote Singapore law internationally and the growth of Singapore as a regional legal hub. Their combined efforts will raise the professionalism and skills of Singapore lawyers, build a strong legal community and support Singapore as a legal hub for the region.

Criminal Justice

At the Welcome Reference last year, I announced the formation of a sentencing review panel. There has been much interest shown in its work. The panel's main objective in this exercise is to achieve consistency and fairness in sentencing and imposing bail. The panel has so far issued internal sentencing guidelines for the following Penal Code offences: s 304A (traffic deaths) and s 354 (outrage of modesty). Work has been completed on the guidelines for mentally disordered and intellectually challenged offenders, for persistently recalcitrant offenders, for s 6 and s 15 of the Immigration Act (long-term over staying and unlawful entry) and for s 42 of the Animals and Birds Act (cruelty to animals). The panel will try to complete the review the guidelines for the more prevalent offences within this year. I must emphasise that these are internal guidelines and how they will be applied will only be seen in the sentences imposed by the courts and the judgments they delivered. Sentencing is a complex and sensitive exercise which requires great skill and judgment on the part of the sentencing judge to arrive at an effective and fair sentence. It is not the aim of the sentencing review panel to promulgate a dominant or particular sentencing philosophy, but to guide the sentencing judge into taking into account all the relevant factors. The courts will continue to deal firmly, but fairly, with criminals, with the punishments imposed fitting the crime and the offender. As you have pointed out, Mr Attorney, this is "desirable in the wider interests of society".

Relationship between Bench and Bar

There is sufficient anecdotal evidence for us to believe that the current relationship between Bench and Bar, and here I include the Subordinate Courts, has never been better. We are members of a learned community, albeit in a rather narrow field of knowledge, but committed to providing the services that society needs for the enforcement and protection of civil and property rights of its members. We all have pledged to maintain the highest ethical and professional standards in the discharge of our responsibilities. Given these shared values and a common cause, that is to say, the cause of justice, it is natural that Bench and Bar should work together. More can be achieved in this way.

In an article published in October last year entitled "Raising the Bar – Spotlight on changes in the legal system" (ST, 27 October 2006) Mr Jeyaretnam was quoted as having said that for lawyers, it will be "a joy" to appear before the court, knowing that judges will listen to their full arguments. Indeed, I do not believe that any judge or judicial officer has been remiss in this respect. It may be that, in the odd case or two, counsel may feel that he has not been given a full hearing, but that may only mean that the judge felt that he has heard enough. Certainly, in the Court of Appeal, we have been reading longer written submissions and sitting longer hours. We have also reserved more judgments to ensure that we address all relevant issues made in the written and oral pleadings. I have seen many leading counsel continuing to smile even when their clients' appeals were dismissed. We will continue to abide by the best traditions of the Bench: to listen and decide, in that order.

State of the Bar

Last year saw a spate of disciplinary cases involving lawyers from small firms. The nature of impropriety disclosed by these cases suggests that the income gap between the medium and large sized law firms on one hand, and the small law firms on the other, is getting wider. The small law firms play an essential social role in supplying legal services to the poorer sections of the public. However, they have not benefited from globalisation and the fruits of Singapore's economic progress. They have yet to recover from the loss of scale fee conveyancing, as a result of which some of them have become beholden to real estate agents or even illegal moneylenders. This situation has become bad enough for some lawyers to get themselves entrapped by offers of legal work on a commission basis.

So, whilst there have been improvements in the quality of legal services, both in litigation and corporate practice, there is also cause for concern over the deterioration in professional values and ethics at the lower end of law practice. It is therefore imperative that the Law Society make a special effort this year to ameliorate the problems of the small law firms. The Singapore Academy of Law will also provide such assistance as they may need, such as a knowledge management service to help them to keep up with current legal developments. This year, the Academy will try to organise more workshops that will assist lawyers in smaller firms to improve their legal and client skills.

Errant Lawyers and Disciplinary Proceedings

Last year the public standing and reputation of the Bar was severely damaged by a single act of embezzlement. The fact that a substantial amount has been reported to have been recovered in court proceedings is a happy development. But it will take many years for the Bar to regain the trust of the public, especially in the integrity of the small

law firms to keep their clients' monies safe. In this connection, I note that the Law Society has taken steps to tighten up the procedures for the disposition of clients' monies by law firms. If the new safeguards fail to stem further embezzlements, the final solution is to bar lawyers from receiving clients' monies.

You, Mr Attorney, have mentioned that in the United Kingdom an independent Office of Legal Complaints has been set up to deal with consumer complaints against legal professionals. I agree with you that our circumstances do not require such a radical change. However, we do need to speed up our disciplinary process. Our records show that the average time taken for disciplinary committees to complete their cases has doubled from 7.5 months in 2002 to 15.4 months in 2006. Two major reasons accounted for this. The first is the time taken to arrange for the four members of a disciplinary committee to meet, and this is particularly difficult where the DC Chairman is a Senior Counsel. The second is the time taken for the DC to make its report, especially in a case where the Chairman is a Senior Counsel. We need to reform the structure of the DC. A working committee has already studied the problem and has made some preliminary recommendations. I will in due course convey my recommendations, after consulting the Law Society, to the Minister for Law for amending legislation, if necessary.

Pro bono work

At the Welcome Reference, I referred to the Law Society's proposal to promote pro bono work. I am pleased to note that the Law Society is now ready to start the scheme which if implemented successfully will greatly relieve the plight of those who cannot afford legal services. The Law Society is to be congratulated for its success in securing assurances from their members, especially those in the large firms, to provide 25 hours of pro bono work per year. These are generous commitments which can also be converted into financial assistance if for some reason or other the pledged services cannot be provided.

Senior Counsel

I come now to the appointment of Senior Counsel. At the Welcome Reference, I used the expression "noblesse oblige" to describe their obligations to the younger members of the Bar. This idea goes back more than 4,000 years to the Code of Hammurabi, c. 1780 BCE, in the king imposing his obligation to provide recourse for all people before the law. So it is particularly apt for Senior Counsel to act as role models. In this connection, I would like to express my gratitude for the keen support of the Forum of Senior Counsel for the Specialist Judge scheme in the Subordinate Courts.

This year, the Selection Committee has decided to appoint three members of the Bar as Senior Counsel. In the order of precedence provided under section 31 of the Legal Profession Act, they are:

- a. Sant Singh;
- b. Nehal Harpreet Singh; and
- c. Toh Kian Sing.

Election of Mr Yong Pung How as Fellow for Life of SAL

I am also pleased to announce the election by the Senate of the Singapore Academy of

Law of Mr Yong Pung How as an Honorary Member and Fellow for Life of the Singapore Academy of Law. The full citation for this honour is found in the Singapore Academy of Law Annual Report. Here, I would read a portion of the citation:

"... the changes that have been brought about by Mr Yong Pung How over the last sixteen years have become so much a part of today's legal landscape that it is easy to forget how different it once was. It is easy to forget that it required a man with great clarity of vision, resoluteness of character, and a tremendous talent for building systems, to bring all this about. ...Today, we honour him."

Conclusion

This brings me to the concluding part of my speech. We believe that we have a justice system in which the public has confidence. In 2001, the results of an independent survey confirmed this belief. Last year, we commissioned another independent survey which was carried out between September and October and involved interviewing a total of 1002 Singapore citizens and permanent residents from various walks of life. The results of the 2006 survey, as compared with the 2001 survey, are as follows:

- a. 95% agreed that there is trust and confidence in the fair administration of justice in Singapore, up 3%;
- b. 97% agreed that the court facilities and information about the courts are easily accessible, up 17%;
- c. 97% agreed that the courts administer justice fairly to all regardless of language, religion, race or social class, up 6%;
- d. 96% agreed that the courts administer justice fairly to all regardless of actions by or against individuals, companies or the government, up 9%;
- e. 95% agreed that the courts carry out justice according to the law without influence of others, no change; and
- f. 95% agreed that the court dealt with cases in a timely and expeditious manner, up 7%.

We will continue to maintain an efficient and effective legal system. We will be able to do it easier if we have the full co-operation of the Bar and the Legal Service. I therefore look forward to your unstinting support as we dedicate ourselves to dispensing justice with fairness, impartiality and without fear or favour. Let me, on behalf of the Judiciary, wish you all a happy new year and thank you once again for being here this morning.