



This was the speech delivered by the President at the Opening of the Legal Year on 7 January 2011.

Speech for the Opening of the Legal Year 2011

Before I start, I would like to welcome our guests from our sister bar associations – Mr Huen Wong, President of Hong Kong Law Society, Mr George Varughese, Secretary of Malaysian Bar Council and Mr Glenn Ferguson, President of Law Council of Australia to the Opening of Legal Year 2011.

Last year, for the first time saw the President of the Society relinquishing his office in mid-term. Michael Hwang had told me in December of 2009 that he could be stepping down as President if he should be appointed Chief Justice of the Court of the Dubai International Financial Centre (“DIFC”). In June 2010, Michael Hwang was indeed appointed as Chief Justice of the DIFC, and so he stepped down as President of the Law Society on 1 August 2010.

Aside from the change within the Society itself, last year saw a new Permanent Secretary at the Ministry of Law. I would also like to welcome our new Permanent Secretary to the Ministry of Law, Mr Pang Kin Keong. At the same time, I would like to thank the former Permanent Secretary Ms Chan Lai Fung for her contributions to the profession. We had a very good relationship with Ms Chan, and I am confident that we will establish also a very good relationship with Mr Pang. We also had a new Attorney-General, Mr Sundaresh Menon, Senior Counsel. We congratulate Mr Menon on his appointment, and look forward to working closely with him too. Both Mr Pang and the Attorney-General have already had lunch with some of the Council members and Society members, and so I think we are off to a good start.

Holding Clients’ Money: A New Chapter?

A major change initiated last year will be finalised sometime this year. This is the scheme initiated by the Ministry of Law to stop the practice of lawyers holding on to clients’ moneys in conveyancing transactions. Under this scheme, the moneys will now be placed in special escrow accounts either with the Singapore Academy of Law or selected banks. The power to disburse the funds from these escrow accounts will no longer lie exclusively with the lawyers who open these accounts. The objective is obviously to reduce the incidence of lawyers running off with clients’ money. Although the scheme was received by lawyers with a lot of trepidation and uncertainty, I believe the emotional resistance to what is obviously a good scheme has begun to evaporate. The first pilot trial to test out the scheme received only about 47 law firms signing on. But the second pilot trial has about

112 law firms signing up. Once that second pilot trial has run its course, legislation will be introduced to cement the practice.

I personally believe that the practice of lawyers holding on to clients’ money in property transactions, and in many other transactions, is an archaic practice; and as has been demonstrated in other jurisdictions, an unnecessary practice. There will of course be certain transactions and situations which may require lawyers to hold clients’ moneys, but these should be the exception rather than the rule. Some lawyers actually welcome a ban against lawyers holding clients’ money as they do not want to worry about their partners’ trustworthiness in this area. So at the risk on continuing to upset some practitioners, I would ask all lawyers to approach this issue logically and not emotionally.

But the year ended badly for the legal profession in so far as defalcations by lawyers are concerned. There were no defalcations in 2008 and 2009 but late last year, two lawyers came under investigation by CAD for taking clients’ money. The Society intervened to take over management of their clients’ accounts. These two cases again called into sharp focus the risk of allowing lawyers to keep their clients’ moneys. Hopefully, such cases will be minimised by the introduction of legislation in the new year to disallow lawyers in conveyancing transactions from holding their clients’ money.

“CLAS” – A “Class Act” of Our Own

Last year also saw the celebration of the 25th Anniversary of the Criminal Legal Aid Scheme or CLAS for short. This is one of the most successful schemes run by the Society and is part of the wider *pro bono* programme of the Society. Members of the Society take extremely great pride in the scheme and in the wider *pro bono* programme, as the scheme and the programme give members the opportunity to “give back” to society. I believe that our *pro bono* programme is the largest and most far-reaching programme run by any profession in Singapore. Last year alone, our Pro Bono Community Legal Clinic programme received 3,142 applications for assistance, and our CLAS received 1,064 applications for assistance of which 212 applications were approved. So I would say for all practitioners that we do have a “class act” of which we can justly be proud of, and which we can call our own. I want to thank once again all those members who have brought the scheme and the programme to the high level of acceptance

and success today. I would also want to point out that lawyers from the smaller firms far out-number the lawyers from the big firms who volunteer to participate in the programmes.

Small Law Firms – Life-blood of a Modern Society

On this issue, I would like to add one rather important observation: small law firms are in many ways the life-blood of a modern society. They are the avenues by which the less-advantaged members of our society can have access to justice. These members of society will not step into the big firms as they do not feel comfortable in the environment of the big firms. So our small law firms have a very important role to ensure that the less-advantaged members of Singapore's society will have access to justice. And this is why the lawyers from the smaller firms play such a big role in our *pro bono* and CLAS programmes. But to ensure that the access to justice will be meaningful, we will have to find ways to upgrade the standards of our small firms. Some of these small firms lack the resources to have dedicated office managers, and lack the infrastructural support for good research. I am thinking that we should also provide training for the secretaries and clerks in the small firms so that the management of these firms can improve. I can imagine how useful it would be if a lawyer sole-proprietor returning from Court finds a set of letters prepared by his secretary or clerk for his signature without his having to give instructions to do so.

On *pro bono* initiatives, we had also been kept busy. Early last year, Our Pro Bono Services office and Young lawyers Committee launched an "Incredible Lawyer" campaign at the Singapore Cricket Club with the objective of raising awareness of the ways in which young lawyers and law students could engage in *Pro bono* work. It was well attended by both young lawyers and law students both from NUS and SMU. Later in the year, we launched a new *pro bono* initiative, known as the "Community Organisations Legal Clinic" to provide free basic legal advice and information for non-profit organisations.

I will discuss with the Academy of Law how both our institutions can work together to assist the small firms. I will also discuss with the Law Deans of both NUS and SMU on how they can assist in the research area. I would like the lawyers from the smaller firms to look at this issue with an open mind, and to write to me if they have any ideas on how their practice can be improved.

Foreign Lawyers – Integrating Them

In late 2009, the licences for the QFLP scheme were issued, so last year was the first full year of the scheme. Under this scheme a foreign law firm can apply for a licence to practise Singapore law in transactional matters, hence the name "Qualified Foreign Law Practice" or QFLP. A total of six such licences were issued. So, whether members like it or not, the presence of foreign lawyers in Singapore, whether in QFLP

firms or in other firms is a reality. I understand that there may be as many as 1,000 foreign lawyers in Singapore. We have extended invitations to foreign lawyers to join the Law Society as Non-Practitioner Members. And at my initiation last year, we invited foreign lawyers to purchase tickets for our Annual Dinner. The response was not overwhelming but for those foreign lawyers who did purchase tickets, I think they enjoyed themselves; and so we will continue to invite foreign lawyers to our various functions. I will certainly discuss with the Ministry other ways of integrating the foreign lawyers into our practice and system.

The New Year – Changes and Opportunities

So what of the new year? Council will continue with the changes outlined in my various Messages in the *Law Gazette*. In particular, Council will continue to look into how best the Secretariat and Council can improve our work methods and systems.

There is also the issue of better finance planning, and with the Society's new CEO being an accountant, I believe we should see some improvements in that area. However, members should not expect results overnight. A holistic approach is necessary, and a proper look into the matter will take some time. In addition to better financial planning, I am also looking into the possibility of exporting our training programmes and expertise to other jurisdictions in the area. My limited investigation suggests that the Singapore Bar is more advanced than many other jurisdictions in the training of lawyers, and in the way we manage difficult issues such as anti-money laundering. Hopefully, this can be a source of income to the Society.

On the regional and international fronts, the election of Mr Akira Kawamura from Japan as the incoming President of International Bar Association ("IBA") gives Asian law associations a window into the international legal scene that was not previously available. Last year, I raised with Council of 2010 some of the things Singapore can do in this respect. Of course we will set our sights more modestly and concentrate on what IBA can do for Asia. Of particular interest to me is the role that IBA can play in providing education to children in the poorer countries of Asia.

In addition, our very own Singaporean Ms Malathi Das will take over the helm of LAWASIA in October 2011. I have discussed with her greater co-operation between Singapore and LAWASIA, and I believe LAWASIA can play a role alongside IBA. The Inter-Pacific Bar Association ("IPBA") was helmed by another Singaporean Mrs Lee Suet Fern, and again, I believe Singapore can work more closely with IPBA. So given the confluence of Singapore leaders in the regional bar associations and a Japanese leader at IBA, I look forward to a stronger role for Asia and Singapore in particular.

Nearer to home, the Malaysian Bar and Hong Kong Law Society and Bar Association have discussed with us the possibility of having more discussions of mutual interest in the new year. This will of course mean each jurisdiction will host two meetings each

year. Again, I believe that closer co-operation and interaction within these three jurisdictions will result in better ideas all round without our having to re-invent the wheel. For a start we have shared with our Malaysian colleagues our experiences on the opening up of the legal profession.

At home, the Society continues to work closely with the Singapore Academy of Law and the Ministry of Law. Relations continue to be good, and the Judiciary and the Attorney-General's Chambers also continue to lend their support and assistance. Informal discussions will remain the main avenue to resolve differences and misunderstandings, of which I am happy to report are few and relatively unimportant. Ministry of Law has also invited us to meet with some of their visitors from the region where there may be matters of mutual interest to discuss. Hopefully this will result in better contact with the authorities of these countries so that in future, lawyers intending to set up offices in these countries may have a name to call.

We will of course continue to see how best we can engage the foreign lawyers. As I mentioned earlier, we will look for ways to involve them in our activities. At the moment some foreign lawyers participate in our sports events, but I have no doubt that their abilities go beyond kicking a football. We should get them to sit on some of our committees such as insolvency and arbitration. In the longer term, I certainly look forward to a more meaningful integration of the foreign lawyers into the Society.

Pro bono and Continuing Education will keep the Society rather busy in the new year. With changes in the law, and the establishment of the Singapore Institute of Legal Education ("SILE"), the legal scene will undergo a major change in the way lawyers are trained and re-educated. The Society and the profession have a stake in this change and will continue to play a meaningful role in the process.

One final issue. I am pleased to report that after five years of practically no growth in the population of practising lawyers between 2004 and 2008 with the number of practising lawyers hovering around 3,500, we had a slight increase to 3,700 in 2009. In 2010, we had 3,846 practising lawyers.

In conclusion, may I assure Your Honour of the support of my members for the Judiciary in all Courts. I also reaffirm our commitment to co-operate with the officers of the Attorney-General's Chambers in the administration of justice and to combine efficiency with justice in all cases coming before the Courts. I also extend to Your Honour, Chief Justice, and all your colleagues on the Bench, as well as the Senior Minister, the Minister for Law and the Attorney-General our best wishes for a successful year ahead.

► **WONG MENG MENG, SENIOR COUNSEL**

PRESIDENT

THE LAW SOCIETY OF SINGAPORE