

Lecture

SINGAPORE ACADEMY OF LAW ANNUAL LECTURE 2018 – “AN ESSENTIAL DEDICATION TO HONOUR AND SERVICE”

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I. Introduction

1 Distinguished guests, fellow members of the Academy and friends, let me first express my sincere gratitude to the Annual Lecture Organising Committee and its Chair, Justice Vinodh Coomaraswamy, for inviting me to deliver the 25th Singapore Academy of Law (“the Academy”) Annual Lecture. The inaugural lecture was delivered by the Rt Hon Lord Taylor of Gosforth, then Lord Chief Justice of England, and this rostrum has since been graced by the Chief Justices of several major Commonwealth as well as some non-Commonwealth jurisdictions, with one notable exception: no Singaporean has ever delivered the Annual Lecture.¹ I am therefore very greatly honoured and humbled to have been accorded this privilege. Given that the Academy celebrates its 30th birthday this year, I can think of no better topic for this lecture than the Academy itself, whose life and development over the last 30 years have been closely intertwined with that of the legal profession.

2 Soren Kierkegaard famously said, “Life must be lived forwards, but can only be understood backwards.” As we look back on the sometimes colourful and tumultuous life of the Academy, we will, I hope, understand more fully how far we have come, what unites us as a profession, and how we might prepare to meet the challenges that lie ahead of us.

* I am most grateful to my law clerk, Sarah Siaw, and my colleague, Assistant Registrar Scott Tan, both of whom assisted me greatly with the research for and preparation of this Lecture.

1 For instance, Anthony Mason CJ of Australia delivered the 1995 Annual Lecture; Beverly McLachlin CJ of Canada delivered the 2000 Annual Lecture; Dame Sian Elias CJ of New Zealand delivered the 2004 Annual Lecture; Konakuppakatil Gopinathan Balakrishnan CJ of India delivered the 2008 Annual Lecture; Andrew Li CJ of Hong Kong delivered the 2009 Annual Lecture; and Mogoeng Mogoeng CJ of South Africa delivered the 2014 Annual Lecture.

3 My lecture is in three parts. First, I will trace the Academy's journey from troubled infancy to mature adulthood in the hope that it will remind us of how improbable, and therefore how precious, an achievement this is. Next, I will turn to the motto of the Academy, *honor est in honorante*, and reflect on what the values of honour and service mean and how they have united us in the noble venture to administer justice. Finally, I will look ahead to the challenges of the future and explain why I think the Academy could be integral to their resolution.

II. Foundation: The first 25 years of the Academy

4 I begin with the past, which, it has been said, is a foreign country.² Legal practice in Singapore at the close of the 1980s was still clothed in the trappings of the English legal system. Our judges were addressed as “my Lord” and “your Lordship”; lawyers wore stiff wing collars and bibs; and judges and prosecutors also wore horse-hair wigs.³ Whatever their sartorial merits, I do not think anyone would disagree that wing collars and wigs were simply out of place in the context of our “shirt-sleeves” culture and our tropical weather. But the anachronistic nature of our professional attire was symptomatic of a wider disconnect between the legal profession and the rest of Singapore, then still quite newly independent and already defined by a keen sense of pragmatism.

5 Whereas the rest of society was busy going about the business of building a new nation, the machinery of justice was sclerotic. It was said that judges were known to “grant adjournments on fairly flimsy grounds”, while lawyers would collude to send complex cases “to sleep for years on end”.⁴ An action begun by writ might have to wait five or more years before being tried, and at least another two years before being heard on appeal.⁵ Professional development stagnated due to over-reliance on Queen's Counsel;⁶ and there were criticisms that law

2 Leslie P Hartley, *The Go-Between* (Hamilton, 1953) at p 9.

3 Apparently, it was a 17th Century vogue popularised by French courtiers to mimic the ample locks of their fashionable monarch, King Louis XIV: see “Chief Justice's Response at Opening of the Legal Year” *Singapore Academy of Law Newsletter* (Issue No 12) (February 1991) at pp 1-3; Supreme Court of Singapore, *Supreme Court of Singapore: The Re-organisation of the 1990s* (1994) at pp 117-120.

4 Oral interview of Mr Joseph Grimberg (9 March 2010), conducted by the Singapore Academy of Law.

5 “Chief Justice's Response at Welcome Reference” *Singapore Academy of Law Newsletter* (Issue No 11) (December 1990).

6 See *In the Matter of Section 21 of the Legal Profession Act (Chapter 161) and In the Matter of an Application by Michael Jacob Beloff, Queen's Counsel of England* [1993] SGHC 85; Bertha Henson, “Changes to Legal Profession Proposed” *The Straits Times* (5 January 1991) at p 1; Kevin Y L Tan, *Fiat Justitia: Fifty Years of the Law Society of Singapore* (Straits Times Press, 2017) at p 186; and “Interview with Mr Joseph Grimberg” (1990) 11 Sing L Rev 81 at 85.

graduates were not sufficiently practice-oriented; that practitioners were not interested in continuing legal education; and that the Singapore Legal Service was out of touch with the realities of legal practice.⁷

6 But perhaps most worrying of all was a sense of disunity between the Bench and the Bar, the seeds of which had been sown some years earlier in January 1986. The Law Society had just elected as its president Mr Francis Seow, a former Solicitor-General with a reputation for brazenness and eloquence.⁸ At the Opening of the 1986 Legal Year, Mr Seow delivered a barnstorming speech. He claimed that the Bar was in a “restless mood” and blamed this on the discourtesy that lawyers were shown in court, complaining that they “too often ... encountered the insolence of office, [and] the vicissitudes of temperament and tolerance”. Mr Seow protested that the Bar, together with the courts and the Legal Service, were part of “an equal trinity” and “deserve[d] as much respect as the other arms of justice” failing which, he warned, there would come “a greater restlessness and a deepening gloom”.⁹ An incensed Chief Justice Wee Chong Jin set aside his prepared address and responded *ex tempore*, retorting: “Though we may be a trinity, we are not an equal trinity.” He continued: “Whether or not an individual member of the Bar who appears before the Bench deserves the respect which he claims, depends on him and on him alone. He has to earn it.”¹⁰

7 Over the next few months, the relationship between the Law Society and the Government grew increasingly strained, much of the heat having been generated by a critical press release the Society had issued on the Newspaper and Printing Presses Bill.¹¹ In August 1986, the Government introduced amendments to the Legal Profession Act¹² which, among other things, tightened the eligibility requirements for holding office in the Law Society and limited the Society to commenting only on bills submitted to it.¹³ These reportedly “caused considerable unhappiness within the profession”,¹⁴ and as one consequence of the

7 *Parliamentary Debates, Official Report* (11 August 1988) vol 51 at col 506 (S Jayakumar, Minister for Home Affairs and Second Minister for Law).

8 “The New Champion of the Bar” *The Straits Times* (12 January 1986) at p 13.

9 Kevin Y L Tan, *Fiat Justitia: Fifty Years of the Law Society of Singapore* (Straits Times Press, 2017) at p 111.

10 “Speech of President, Law Society of Singapore, Mr. Francis Seow at the Opening of The Legal Year: 6 January 1986” (1986) 3(1) *Law Society’s Journal* 4 at 4–6.

11 Paul Jacob, “Existing Laws Adequate, Says Law Society” *The Straits Times* (22 May 1986) at p 28.

12 Cap 217, 1970 Rev Ed, 1982 Reprint.

13 Kevin Y L Tan, *Fiat Justitia: Fifty Years of the Law Society of Singapore* (Straits Times Press, 2017) at pp 107–123. See also the Legal Profession (Amendment) Act 1986 (Act 30 of 1986).

14 David Gabriel, “An End to Self Regulation” (1986–1988) 3(3) *Law Society’s Journal* 4.

amendments, Mr Seow, who had twice been suspended from practice, was automatically disqualified from the presidency of the Society.¹⁵

8 Sometime after the amendments to the Legal Profession Act, the Singapore Academy of Law Bill¹⁶ was presented to Parliament. The Academy was to be the first institution in this part of the world to unite the four arms of the legal fraternity – Bench, Bar, Legal Service and academia – under a single aegis.¹⁷ The Second Minister for Law, who delivered the second reading speech, spoke of a *place* modelled on the English Inns of Court where members of the fraternity might “meet in an informal atmosphere”, just as a barrister might “lunch and dine with his fellow members in the Inn Hall, use the Inn library, and join in the social life of the Inn”.¹⁸ The hope was that these interactions would give rise to a “collegiate spirit in the legal fraternity”,¹⁹ lead to higher professional standards, and imbue the profession with a sense of honour and a love of the law.²⁰

9 This early articulation of the Academy’s *raison d’être* might have come across as simplistic, unduly optimistic and even naively hopeful. But hindsight and the wisdom of experience have taught us otherwise. In reflecting on this, I was especially struck by something that Chief Justice Wee said in his *ex tempore* response at the Opening of the 1986 Legal Year, where he warned that:

Unless there is unity and a willingness to co-operate among all who have anything to do with the administration of justice, there will be no success for anyone.

10 I extract from that statement, the following propositions:

(a) all members of the Academy are engaged in a mission to administer justice, which is a high mission that transcends our individual hopes, ambitions and desires;

15 Kevin Y L Tan, *Fiat Justitia: Fifty Years of the Law Society of Singapore* (Straits Times Press, 2017) at p 123.

16 Bill 15 of 1988.

17 “Academy Officially Opened” *Singapore Academy of Law Newsletter* (Issue No 10) (October 1990) at p 1.

18 *Singapore Parliamentary Debates, Official Report* (11 August 1988) vol 51 at cols 505–506 (S Jayakumar, Minister for Home Affairs and Second Minister for Law).

19 *Singapore Parliamentary Debates, Official Report* (11 August 1988) vol 51 at col 506 (S Jayakumar, Minister for Home Affairs and Second Minister for Law).

20 “Supreme Court Celebrates New Legal Year” *The Straits Times* (8 January 1989) at p 1; Lee Kuan Yew, “Address by the Prime Minister, Mr. Lee Kuan Yew” (1990) 2 SAclJ 155 at 157; “Chief Justice’s Address: Admission of Advocates & Solicitors” *Singapore Academy of Law Newsletter* (Issue No 36) (June 1995) at pp 2–3.

(b) the achievement of this mission depends greatly on the key stakeholders from the Bench, Bar, Legal Service, and academia coming together in unity of purpose and the recognition that the pursuit of justice is a higher calling that demands fidelity and focus; and

(c) the differences that must inevitably arise from time to time are far less important than the need to prioritise that higher purpose which should bind us all.

11 I think that Chief Justice Wee, who by that time had already spent 23 years as Chief Justice laying the judicial foundations for a system of justice that would serve a new nation, saw a real risk that those involved in its execution were stratified and disunited. The establishment of the Academy was driven by the need for an institution that would *unite* the whole profession in that common purpose which I have spoken about and imbue it with a genuine appreciation of its central values. Although the emphasis at the time was on a “place” where the members of the profession could meet and interact, that was only part of this wider mission.

12 That was the context in which the Academy came into being on 11 August 1988. However, there remained disaffected and distrustful segments of the profession that saw it as part of a plan to emasculate the Law Society and subject lawyers to greater censorship and closer supervision.²¹ Some lawyers refused to pay their subscription fees as a form of protest, hoping to be kicked out of the Academy altogether,²² while others boycotted its premises, refusing even to step in when invited. As late as 1995, one senior lawyer, speaking to the *Straits Times*, described the establishment of the Academy as “an attempt to divide the profession.”²³ When the Academy’s endowment committee went canvassing for donations, they came back “empty-handed ... and with egg on their faces.”²⁴ As a result, the Academy was forced to increase its fees to stay afloat, but this only stoked the enmity of the Bar.

13 The animosity was felt strongly enough that Chief Justice Wee saw the need to reassure the Law Society at its Annual Dinner in 1988 that the Academy was not meant to displace it, but was instead a

21 Brendan Pereira, “Law Academy: Will It Hurt the Legal Fraternity?” *The Straits Times* (4 February 1996) at pp 1 and 4.

22 Kevin Y L Tan, *Fiat Justitia: Fifty Years of the Law Society of Singapore* (Straits Times Press, 2017) at p 136.

23 Brendan Pereira & Tan Ooi Boon, “Some Lawyers Refuse to Pay Fees to Signal Protest” *The Straits Times* (21 January 1995) at p 27; Tan Ooi Boon, “Lawyers Sued over Unpaid Fees and Food Bills” *The Straits Times* (14 January 1995) at p 25.

24 Audrey Lim & Serene Wee, “In Conversation with the Honourable the Chief Justice Yong Pung How” *Inter Se* (May–June 2004) at p 6.

complementary body that sought to promote fellowship amongst the entire fraternity and to instil in each member “a love for the law and a deep sense of *dedication* and pride” [emphasis added].²⁵ Elaborating on this at the Opening of the 1990 Legal Year, Chief Justice Wee hailed the Academy as being “representative of all that the administration of justice and the legal profession stand for: honour, integrity, industry and competence”.²⁶ Whatever his audience may have thought then, the Academy has in the past three decades overcome the inauspicious circumstances of its birth to prove the truth of those words. Time will not permit me to recount this at length, but I propose to capture a sense of this through three broad themes. The first is the move from the parochial to the panoramic; the second is the transition from colony to autochthony; and the last is the turn from complacency to excellence.

A. *From the parochial to the panoramic*

14 Let me start with the move from the parochial to the panoramic. The original aim of the Academy was modestly stated: it was to foster collegiality through social interaction after the fashion of the English Inns of Court. The centrepiece of this interaction would be the Academy Restaurant, which was an elegant establishment that served Western food. When the Restaurant opened its doors in January 1989, the newspapers thrilled about the Restaurant’s “ceiling, wood panelling and maroon carpets” and its “graceful ambience”.²⁷ One headline announced that “[j]unior lawyers can now lunch alongside the Chief Justice and High Court judges in the new restaurant of the Singapore Academy of Law”.

15 The trouble was that although they *could*, they rarely *did*. Notwithstanding Chief Justice Wee’s valiant attempt to attract business by taking his fellow judges to the Restaurant, lawyers mostly stayed away.²⁸ What was worse, the lawyers were seeing the Academy *as* the Restaurant and no more. To them, the Academy was little more than a social club with few facilities and a conscripted and unenthusiastic membership, and the Restaurant was a symbol of its irrelevance. In short, what was meant by some to be the emblem had become the

25 Kevin Y L Tan, *Fiat Justitia: Fifty Years of the Law Society of Singapore* (Straits Times Press, 2017) at p 139.

26 “The Honourable Chief Justice’s Address at the Opening of the New Legal Year 1990” *Singapore Academy of Law Newsletter* (Issue No 6) (February 1990) at pp 1–2.

27 Charmaine Chan, “Academy of Law Gives Legal Fraternity a Home” *The Straits Times* (14 March 1989) at p 16.

28 Lee Kuan Yew, “Address by the Prime Minister, Mr. Lee Kuan Yew” (1990) 2 SA LJ 155 at 158.

entirety to others. Speaking of the Academy many years later, Chief Justice Yong Pung How said, with his characteristic frankness:²⁹

The highlight of [the Academy] was a Bash at the restaurant at the end of every court term, and each time they sent me a sheepish note that a couple of rowdy drinkers had destroyed part of the restaurant. Over the years, there were more and more cigarette-burn holes in the carpet. That was the sum total of our achievements, to my present recall. But it was impossible to run a respectable institution in the long term on that basis.

16 It would have been tempting to either throw in the towel or stubbornly persist in marketing the Restaurant as the way to deliver on Chief Justice Wee's vision of a profession that would overcome its divisions, despite the obvious lack of success that had been seen thus far. But the Academy did neither. Instead, it broadened its vision to develop new ways of meeting the profession's needs. Let me briefly outline three ways in which it set out to do this.

(a) First, the Academy took steps to develop the intellectual capital of the profession. In 1989, it launched the Singapore Academy of Law Journal to promote local scholarship; in 1994, it began organising its Annual Lectures; and in 1995, it organised its first conference on the development of Singapore law. These formed a powerful three-pronged effort to promote Singapore legal scholarship and encourage continuing professional development.

(b) Second, the Academy spearheaded commercial mediation in Singapore. In 1996, a sub-committee was formed to look into the establishment of a commercial mediation centre. Finding a niche that had not been filled, the Academy itself set out to provide a commercial mediation service in 1997.³⁰ This service was later corporatised, and the Singapore Mediation Centre ("SMC") was established. Last year, the SMC mediated disputes involving sums in excess of S\$2.7bn.³¹

29 Audrey Lim & Serene Wee, "In Conversation with the Honourable the Chief Justice Yong Pung How" *Inter Se* (May-June 2004) at p 7; see also "Singapore Academy of Law: Responding to the Changing Face of the Legal Industry" *Inter Se* (January-February 2007) at p 16.

30 "Commercial Mediation Services" *Singapore Academy of Law Newsletter* (Issue No 45) (December 1996) at p 1; Goh Joon Seng, "Client Needs in the New Millennium - A Singapore Perspective" *Singapore Academy of Law Newsletter* (Issue No 57) (November/December 1998) at p 14.

31 Singapore Mediation Centre, "News Release: Total Disputed Sums Mediated at Singapore Mediation Centre Crosses \$2.7 billion in 2017 - The Highest Ever in the Centre's History", news release (16 January 2018) <<http://www.mediation.com.sg/assets/Uploads/News-Release-Total-disputed-sums-mediated-at-Singapore->

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(c) Third, the Academy has contributed to the review and reform of Singapore law through the work of its law reform committee, which has reported on salient legal issues like the status of children born through artificial conception, the corporatisation of law partnerships and mistakes of law in restitution, among many others.³²

17 Aside from these examples, the Academy also publishes the official law reports; advances computerised legal research; and promotes Singapore law.³³ Its suite of services has grown over the years to become truly panoramic, and one would be hard-pressed today to think of an area of legal practice that has not benefited from the Academy's contribution.

18 In 2014, 25 years after it first began operations, the Academy Restaurant, which by then had been renamed the Academy Bistro, closed down. This took place without much fanfare, probably because the *idea* of the restaurant had ended long before the physical premises shuttered. By that time, the Academy had long transcended the original vision of its birth as a facsimile of the Inns of Court, and the restaurant had become, like wigs and wing-collars, a symbol of a bygone age.

19 The Academy's willingness to reimagine itself parallels the broader shift in the legal profession, which has grown not only in size but also in sophistication, competence and reputation. I point to just three indicia to make this point:

(a) First, the growth of the practising profession: Over the past three decades the size of the practising Bar has more than trebled³⁴ and our largest firms have grown by ten times or more.³⁵ Some have emerged as full-fledged regional powerhouses, and

Mediation-Centre-crosses-2.7-billion-in-2017-the-highest-ever-in-the-centres-history-FINAL.pdf> (accessed 24 September 2018).

32 Singapore Academy of Law, "Law Reform E-Archive" <https://www.sal.org.sg/Resources-Tools/Law-Reform/Law-Reform-e-Archive> (accessed 24 September 2018).

33 Kevin Y L Tan, *Fiat Justitia: Fifty Years of the Law Society of Singapore* (Straits Times Press, 2017) at p 141.

34 In 1988, 1,466 practising certificates were taken out: "Speech by Prime Minister Mr Goh Chok Tong at the Law Society of Singapore Annual Dinner and Dance" *Singapore Academy of Law Newsletter* (Issue No 21) (December 1992). In 2017, the number of practitioners was 5,191: Law Society of Singapore, "General Statistics as of 31 August 2017" <https://www.lawsociety.org.sg/About-Us/General-Statistics> (accessed 24 September 2018).

35 In the late 1980s, there were about six large law firms averaging 30 lawyers or more: "Editorial" (1986–1988) 3(5) *Law Society's Journal* 1. Singapore's largest firms today number over 300 lawyers.

several of our best lawyers are recognised as regional or international leaders in their respective fields.

(b) Second, the Legal Service: The Service has grown in size as well as in the range of opportunities it offers. Today, it is an employer of choice for new graduates who see it as one of the best places to get the early training that is so crucial for their formation as lawyers, and it also attracts some of the best lawyers from the private sector at all levels. The Service endeavours to ensure that the Government receives legal services of the highest possible quality to meet its ever more complex needs.

(c) Third, Singapore's emergence as a centre for legal services: We have taken the lead in a number of regional and international legal initiatives, but perhaps nothing speaks louder of our emergence as such a centre than the dramatic rise and growth of the Singapore International Arbitration Centre ("SIAC"). The SIAC did not even exist in 1988, but 30 years later, it is one of the most respected arbitral institutions in the world and the standard-bearer of our aspirations to serve our region.

20 Of course, I am not suggesting that the Academy has been responsible for all this. But its development has occurred in tandem with that of the profession, and I believe this has been part of a mutually beneficial and reinforcing virtuous cycle.

B. From colony to autochthony

21 This leads me to the second transition, from colony to autochthony. In the 1980s, the legal profession, like the Academy, remained tethered to its colonial roots. Between 1975 and 1985, 70% of the precedents cited in judgments of the Singapore High Court were English.³⁶ But this changed in the 1990s, as we began to realise the need for a truly localised *corpus* of law and took steps to make this a reality.³⁷ The first step was the publication of the Singapore Law Reports ("SLR") in 1992, which was followed swiftly by the enactment of the Application of English Law Act³⁸ in 1993 and the abolition of appeals to the Privy

36 Most of these involved routine deductions from English legal principles: see Lau Kok Keng *et al*, "Towards a Singaporean Jurisprudence" (1987) 8 Sing L Rev 1 at 6–7.

37 Yong Pung How CJ, "Speech Delivered at the Singapore Academy of Law Second Annual Lecture – 12 September 1995" in *Speeches and Judgments of Chief Justice Yong Pung How* (Singapore: FT Law & Tax Asia Pacific, 1996) at pp 193–194.

38 Cap 7A, 1994 Rev Ed.

Council in 1994.³⁹ In three short years, Singapore seized the reins of her legal destiny and brought her law reports, her statutes and her apex court to her shores. After this, local decisions were cited more frequently and local jurisprudence really started to evolve.⁴⁰ In 1999, *Halsbury's Laws of Singapore* was launched – a testament to the fact that our domestic law had developed to such a point that it was longer safe to rely solely on English sources.⁴¹

22 The Academy was integral to the first, and in some ways the most important, development, which was the publication of the SLR. Prior to 1992, we depended on the generosity of the *Malayan Law Journal*, which published only a few judgments of the Singapore courts each year.⁴² But this was untenable if we were to achieve our vision of autochthony. As Chief Justice Yong said at the launch of the first issue of the SLR in 1992: “Under our system which works on the principle of judicial precedent, our courts cannot function properly unless they are supported by regular and complete law reports of court decisions.”⁴³ This drove the Academy to partner with Butterworths Asia to publish the SLR, which was dedicated exclusively to Singapore cases.⁴⁴

23 In 2002, the Academy purchased the publishing rights to the SLR because of its conviction that the SLR should be published not for profit but as a service to the profession. To ensure consistency and quality, it then set about the mammoth task of re-headnoting all 84 volumes of its back catalogue, which consisted of the judgments issued from 1965 to 2002.⁴⁵ After this had been done, the Academy was

39 Judicial Committee (Repeal) Act 1994 (Act 2 of 1994); Supreme Court of Judicature (Amendment) Act 1993 (Act 16 of 1993); Constitution of the Republic of Singapore (Amendment) Act 1993 (Act 17 of 1993). See also Mavis Chionh, “The Development of the Court System” in *Essays in Singapore Legal History* (Kevin Y L Tan ed) (Marshall Cavendish Academic for the Singapore Academy of Law, 2005) at pp 115–117.

40 Goh Yihan & Paul Tan, “An Empirical Study on the Development of Singapore Law” (2011) 23 SAclJ 176 at 213–214, para 78.

41 “Speech by the Honourable the Chief Justice Yong Pung How” *Singapore Academy of Law Newsletter* (Issue No 58) (January/February 1999) at p 12.

42 Goh Yihan & Paul Tan, “An Empirical Study on the Development of Singapore Law” (2011) 23 SAclJ 176 at 189, para 20; Geoffrey W Bartholomew & Kevin Y L Tan, “A History of Law Reporting” in *Essays in Singapore Legal History* (Kevin Y L Tan ed) (Marshall Cavendish Academic for the Singapore Academy of Law, 2005) at p 154.

43 “The Honourable Chief Justice’s Response” *Singapore Academy of Law Newsletter* (Issue No 17) (March 1992) at p 3.

44 Corinna Lim, “Chan Sek Keong: The Honourable Attorney-General of Singapore” *Inter Se* (November–December 2002) at p 9.

45 “Legal Workbench” *Inter Se* (November–December 2002) at p 17.

able to publish the Singapore Law Reports (Reissue) and so make the entire *corpus* of Singapore cases available at an affordable price.⁴⁶

24 It was this same egalitarian conviction, that local legal knowledge should be as affordable and as widely available as possible, that drove the Academy to launch the Legal Workbench in 1998. For the first time, all primary sources of Singapore law, including the Singapore Law Reports, Malayan Law Journal, versioned legislation, unreported judgments, and parliamentary reports were available on a single online platform.⁴⁷ The aim was to level the playing field by allowing small and mid-sized firms the same access to legal materials that large firms enjoyed. When the idea was first mooted, it was met with general scepticism but the Academy wisely persisted and today approximately 85% of the profession are users of the platform, which is now known as LawNet.⁴⁸

25 The Academy's efforts did not stop there. In 2007, Academy Publishing was established with a threefold mandate to (a) disseminate Singapore law to a wider audience; (b) provide affordable legal materials to the legal profession;⁴⁹ and (c) provide local academics with an additional avenue to publish their work.⁵⁰ In ten short years, Academy Publishing has produced a wide range of textbooks, specialised texts, and monographs, including the invaluable *The Law of Contract in Singapore* by Justice Andrew Phang⁵¹ and Professor Jeffrey Pinsler's *Ethics and Professional Responsibility*.⁵² It is no exaggeration to say that Academy Publishing has single-handedly elevated Singapore to a level of legal publishing comparable to other significant jurisdictions, all while holding true to its mandate of keeping its titles affordable.⁵³

46 Sundaresh Menon, address at Academy Publishing 10th Anniversary Lunch (11 August 2017) at para 6.

47 "The First Year of Legal Workbench" *Singapore Academy of Law Newsletter* (Issue No 58) (January/February 1999) at p 20; "Speech by the Honourable the Chief Justice Yong Pung How" *Singapore Academy of Law Newsletter* (Issue No 53) (March/April 1998) at p 4.

48 This figure was provided by the Singapore Academy of Law.

49 "Academy Publishing Unveiled" *Inter Se* (July–December 2007) at p 49. Books published by Academy Publishing cost 50% less than comparable volumes.

50 Singapore Academy of Law, "Publications – Overview" <https://www.sal.org.sg/Resources-Tools/Publications/Overview> (accessed 24 September 2018).

51 *The Law of Contract in Singapore* (Andrew Phang Boon Leong gen ed) (Academy Publishing, 2012).

52 Jeffrey Pinsler SC, *Ethics and Professional Responsibility: A Code for the Advocate and Solicitor* (Academy Publishing, 2007).

53 *Imprints of Singapore Law: A Brief History of Legal Publishing in Singapore* (Academy Publishing, 2017) at pp 12–13.

26 The law reports, academic treatises and journal articles together embody the combined learning of all who have preceded us and they enable us to be, as Chief Justice Yong said in 1997, not just “the fortunate inheritors” of the English legal system but also “the masters of our own destiny and standards”.⁵⁴ The wisdom of those who resolved to indigenise our case law is vindicated by the confidence with which our courts have, where appropriate, pursued a course that is different from those taken in other jurisdictions to better suit *our* needs and circumstances.

27 For instance, in *The Permina 108*,⁵⁵ we declined to follow the House of Lords in imposing a requirement of “common ownership” on the doctrine of the “sister ship” arrest,⁵⁶ and instead held that ships beneficially owned by the *charterer* of the offending vessel could also be arrested.⁵⁷ In the *Thahir* case,⁵⁸ the High Court led the way for the Commonwealth when it held that someone who accepts a bribe is a constructive trustee of the sums received. In refusing to follow settled English authority to the contrary, it declared boldly that “a court in Singapore when exercising its equitable jurisdiction must reflect the mores and sense of justice of the society which it serves”.⁵⁹ In *Xpress Print*,⁶⁰ we departed from century-old English authority in holding that the right of support extended not only to land in its natural state, but also to the buildings on it. We said then that the proposition that “a landowner may excavate his land with impunity ... [is] inimical to a society which respects each citizen’s property rights” and particularly dangerous in Singapore, where land is used to a “high intensity”.⁶¹ Recently, our High Court rejected the classic *Gibbs* principle, which states that the discharge of a debt under the bankruptcy law of a foreign jurisdiction is only effective if it amounts to a discharge under the law applicable to the debt, as being out of step with the modern consensus on modified universalism in insolvency law.⁶²

28 We have also held our ground even as England has taken new paths. For instance, we have retained the classic test set out in *Hadley v*

54 Yong Pung How, “Speech at Asia-Pacific Courts Conference 1997” in *Speeches & Judgments of Chief Justice Yong Pung How* (Supreme Court, 2006) at p 128.

55 [1974–1976] SLR(R) 850.

56 This was the decision in *The Eschersheim* [1976] 2 Lloyd’s Rep 1; see, generally, Steven Chong, “Charting Our Own Courses: The Australia, New Zealand, and Singapore Journeys in Maritime Law” (2016) 30 ANZ Mar 1 at paras 22–25.

57 *The Permina 108* [1974–1976] SLR(R) 850.

58 *Sumitomo Bank Ltd v Thahir Kartika Ratna* [1992] 3 SLR(R) 638.

59 *Sumitomo Bank Ltd v Thahir Kartika Ratna* [1992] 3 SLR(R) 638 at [241], *per* Lai Kew Chai J.

60 *Xpress Print Pte Ltd v Monocrafts Pte Ltd* [2000] 2 SLR(R) 614.

61 *Xpress Print Pte Ltd v Monocrafts Pte Ltd* [2000] 2 SLR(R) 614 at [37] and [48].

62 *Re Pacific Andes Resources Development Ltd* [2018] 5 SLR 125 at [46]–[52].

*Baxendale*⁶³ as the touchstone of our doctrine of remoteness over the broader and more open-textured approach favoured in *The Achilles*.⁶⁴ Earlier this year, we declined to follow the UK Supreme Court's new approach to the doctrine of illegality articulated in *Patel v Mirza*⁶⁵ in favour of a stricter rules-based approach that promotes certainty and clarity.⁶⁶ In patent law, we declined to follow the decision of the UK Supreme Court in *Actavis*⁶⁷ given its incompatibility with our statutory regime and its potential to lead to undue uncertainty.⁶⁸ And about two months ago, in the *Lee Tat*⁶⁹ decision, we declined to recognise abuse of process and the malicious prosecution of civil proceedings as distinct torts on the ground that such a step would be undesirable for reasons of principle and policy.⁷⁰

29 Today, our jurisprudence is well respected and, in some areas, like arbitration, is widely followed and cited internationally.⁷¹ This is a rich legal patrimony – its development having been significantly aided by the Academy's efforts – and it has allowed us to punch far above our weight on the international plane. For this, we owe the Academy a deep debt of gratitude.

C From complacency to excellence

30 Thirdly, the Academy has partnered with the profession in its transition from complacency to excellence. In the 1980s, law firms often took on more cases than they could cope with⁷² and would apply for

63 *Hadley v Baxendale* (1854) 9 Exch 341; (1854) 156 ER 145.

64 We declined to follow *Transfield Shipping Inc v Mercator Shipping Inc* [2009] 1 AC 61 (better known as *The Achilles*) in *Out of the Box Pte Ltd v Wanin Industries Pte Ltd* [2013] 2 SLR 363 at [26]–[39] and *MFM Restaurants Pte Ltd v Fish & Co Restaurants Pte Ltd* [2011] 1 SLR 150 at [140].

65 *Patel v Mirza* [2016] UKSC 42.

66 *Ochroid Trading Ltd v Chua Siok Lui* [2018] 1 SLR 363, in particular [125]. See also Sir Geoffrey Vos, “Preserving the Integrity of the Common Law”, lecture to the Chancery Bar Association (16 April 2018) at paras 17–23.

67 *Actavis UK Ltd v Eli Lilly and Co* [2017] UKSC 48.

68 *Lee Tat Cheng v Maka GPS Technologies Pte Ltd* [2018] 1 SLR 856 at [50]–[53].

69 *Lee Tat Development Pte Ltd v Management Corporation of Grange Heights Strata Title Plan No 301* [2018] 2 SLR 866.

70 *Lee Tat Development Pte Ltd v Management Corporation of Grange Heights Strata Title Plan No 301* [2018] 2 SLR 866 at [128] and [161]. For the position in England, see *Crawford Adjusters (Cayman) Ltd v Sagcor General Insurance (Cayman) Ltd* [2014] AC 366 and *Willers v Joyce* [2016] 3 WLR 477.

71 *Singapore Law: 50 Years in the Making* (Goh Yihan & Paul Tan gen eds) (Academy Publishing, 2015) at para 16.7.

72 “Speech by the Honourable Chief Justice, Justice Yong Pung How” *Singapore Academy of Law Newsletter* (Issue No 46) (February 1997) at p 8.

adjournments or vacate trial dates at the slightest excuse.⁷³ Little was done to move matters along expeditiously. By the end of 1990, about 2,000 writ actions were awaiting hearing dates,⁷⁴ and 100 outstanding judgments, some of which had been reserved for as many as nine years, had yet to be written.⁷⁵ But the next decade saw an attitudinal shift.⁷⁶ Under the direction of Chief Justice Yong, the courts employed robust case management practices. Haphazard adjournments were no longer acceptable; regular pre-trial conferences were introduced;⁷⁷ and the growing workload of the High Court was alleviated through the appointment of more judges and the transfer of more matters to the lower courts.⁷⁸ By 1997, so many cases had been disposed of that the then Attorney-General, Mr Chan Sek Keong, felt constrained to urge the Law Society to study what he called an “unusual state of affairs” – namely, that the Court of Appeal was hearing appeals faster than counsel could argue them.⁷⁹ The Senior Counsel scheme was launched by the Academy in the same year, further attesting to the maturity and expertise that our profession had by then acquired.⁸⁰

31 However, the Academy and the profession did not rest on their laurels. After the exigencies of the moment had been dealt with, sights were set on the future, most notably with the introduction of the Electronic Filing System (or “EFS”), the predecessor of the eLitigation system, in 1997.⁸¹

73 “Chief Justice’s Address: Admission of Advocates and Solicitors” *Singapore Academy of Law Newsletter* (Issue No 46) (July/August 1997) at p 22.

74 “Chief Justice’s Response at Welcome Reference” *Singapore Academy of Law Newsletter* (Issue No 11) (December 1990) at p 2.

75 “The Honourable Chief Justice’s Response” *Singapore Academy of Law Newsletter* (Issue No 17) (March 1992) at p 2.

76 In the words of Minister Indraneel Rajah, those were our “Formula One years ... [where] we went from zero to 100 in something like under three seconds”: see Indraneel Rajah SC, quoted in “Jaya Credits CJ Yong for Model Judiciary” *The Straits Times* (4 April 2006) at p 2.

77 “The Chief Justice’s Response” *Inter Se* (January–February 2006) at p 9; “The Honourable Chief Justice’s Response” *Singapore Academy of Law Newsletter* (Issue No 17) (March 1992) at pp 1–3.

78 “National Day Awards – A Tribute to Chief Justice Yong Pung How’s Contribution to the Administration of Justice in Singapore” *Singapore Academy of Law Newsletter* (Issue No 62) (September/October 1999) at p 3.

79 Attorney-General’s Speech, *Singapore Academy of Law Newsletter* (Issue No 46) (February 1997) at pp 1–3.

80 Announcing the launch of the Senior Counsel scheme in 1997, Yong Pung How CJ said: “Over the last few decades, our legal profession has grown in experience and expertise; and I think the time has come when we are ready to endorse those at the apex of the profession”: “Speech by the Honourable the Chief Justice Yong Pung How” *Singapore Academy of Law Newsletter* (Issue No 40) (February 1996) at p 2.

81 “The Electronic Filing System” *Singapore Academy of Law Newsletter* (Issue No 47) (March/April 1997).

32 The Academy was tasked with rolling out the EFS to law firms, promoting it and training lawyers to use it. Like any sweeping change, the introduction of the EFS met with opposition, and it was beset with teething issues. When it was launched, some members of the Academy gathered excitedly in the office of the then Registrar of the Supreme Court, Mr Chiam Boon Keng, to await the transmission of the very first document. Champagne was on hand for the moment of arrival. Growing impatient at the lack of activity, the team decided to start on the champagne first. After two hours of waiting, they saw the bottom of the bottle but there was no sign of the document, so they gave up and went home.⁸² Experiences like this were widespread in the early years. The feedback was discouraging, and lawyers complained that the EFS had in fact increased the time spent preparing and filing documents, thereby increasing the costs of litigation.⁸³

33 A review was called for, and it culminated in a crucial meeting in 2003 at which the fate of the EFS was to be decided. Surprisingly, *all* of the participants voted for it to continue. Despite their frustration, the gathered members of the Bar recognised its potential and supported it as an investment in the future. In a sense, that episode was a microcosm of the wider story of the Academy, and that of the profession as a whole. While the Judiciary initiated the push towards the EFS, it was only after the Law Society Council, the Attorney-General's Chambers and the Academy came alongside that a success was made of it.⁸⁴ The EFS is the realisation of Chief Justice Wee's promise some 17 years earlier that great things can be achieved so long as there is "unity and a willingness to co-operate among all who have anything to do with the administration of justice".

III. Spirit: Honour and service

34 In these ways, the Academy has won over many, perhaps most, of its sceptics. One of these was my law school classmate at the National University of Singapore and a lecturer there in 1989, when the Academy was into its second year. In an article he penned for the *Law Society's Journal*, Kevin Tan imagined a busy lawyer looking askance at the Academy and asking, "Why should I bother?" This was a question, he said, that could not be answered by "pious platitudes and idealistic notions ... [but] must be backed by concrete evidence". He concluded

82 This was an anecdote shared by Ms Serene Wee, Chief Executive of the Singapore Academy of Law, to Mr Scott Tan and Ms Sarah Siaw on 27 April 2018.

83 Supreme Court of Singapore, "Media Release: Update on the Review of the Electronic Filing System (EFS)" (29 September 2003) at pp C-5-C-10.

84 Kevin Y L Tan, *Fiat Justitia: Fifty Years of the Law Society of Singapore* (Straits Times Press, 2017) at pp 169-171.

with these words: “I am optimistic and hope ... that in a quarter of a century, I will be around to finish this piece by assessing the impact of the Academy on our legal system and culture.”⁸⁵ Well, he did get around to doing that, albeit three years later than he promised. Writing in 2017, this was his assessment:⁸⁶

... [The Academy] has done many things which the Law Society was neither mandated nor [had] infrastructure to undertake: publishing official law reports; spearheading computerized legal research; organizing huge ‘annual review of the law’ conferences; promoting arbitration and mediation; and publishing professional books for lawyers and students. Above all, it has provided an all-inclusive platform for all members of the legal fraternity ...

35 I think it would be profitable, here, to reflect more deeply on the spirit with which the Academy attended to its mission. Each of these three transitions – from the parochial to the panoramic, from colony to autochthony and from complacency to excellence – required courage, commitment and self-sacrifice. What compelled the Academy to undertake these initiatives, many of which went unacknowledged or were even openly derided at the time? I suggest it is to be found in two animating forces: honour and service, which lie at the heart of our work. They are what make us professionals. Nothing demands honour more than the cause of justice. And if we embrace justice as our mission and calling, we must acknowledge ourselves as her servants. These are the values that have brought us to where we are, and they must continue to anchor us in our next chapter as a profession.

A. *Honour*

36 Let me begin with honour. The motto of the Academy, *honor est in honorante*, was first proposed by Chief Justice Wee in 1988, at the address he delivered at the annual dinner of the Law Society that year.⁸⁷ It is one-half of the old juridical axiom, “*honor est in honorante, injuria in injuriato*”, and can be translated, somewhat loosely, as “honour is in honouring”. There is a significant order of precedence at work here, which I think repays careful attention. The motto reminds us that one becomes honourable *through* the honour one bestows upon others.⁸⁸ How is this so? Because to honour something is to accord it the esteem

85 Kevin Tan Yew Lee, “The Singapore Academy of Law: Into Its Second Year” (1989) 5(1) *Law Society’s Journal* 1 at 13.

86 Kevin Y L Tan, *Fiat Justitia: Fifty Years of the Law Society of Singapore* (Straits Times Press, 2017) at p 141.

87 “Speech of the Chief Justice Wee Chong Jin at Annual Dinner of Law Society of Singapore 1988” (1989) 4(1) *Law Society’s Journal* 3.

88 Gregory Vijayendran, President of the Law Society, speech at the Opening of the Legal Year 2017 (9 January 2017) at para 23.

which it properly deserves. In our case, that *something* is justice itself, and the person who prizes and pledges to uphold it is deemed honourable in turn. This is what makes it an apt motto for the Academy, which is rooted in an unshakeable conviction of the value of the law and the dignity of the call to practise it.

37 But honour is not only the motto of the Academy; it is the lodestar of the profession itself. The law is an honourable profession because her members are allied in an honourable cause, which is to seek the common good through the administration of justice and the rule of law. One of our most eminent lawyers, Mr David Marshall, proudly proclaimed at the end of his career that “[o]urs is not a business; ours is a calling, a calling in the service of humanity”.⁸⁹ Let me unpack this by discussing the ways in which honour imbues every aspect of legal practice.

38 First, the members of the profession honour each other when they conduct themselves with the respect and courtesy that befit their common calling. In court, we address each other as *learned friends*. We should see this not merely as a quaint linguistic affectation but as a reflection of a deeper truth. In using this term of address, we recognise our fellow counsel as brothers and sisters engaged in the same pursuit of a learned art in the spirit of public service.⁹⁰

39 Second, the legal profession honours itself when it honours the court. As Prof Jeffrey Pinsler put it: “The advocate and solicitor must honour the court, for the court is an institution which has the ultimate authority and responsibility to dispense justice. An advocate and solicitor who fails to honour the court fails to honour himself as an officer of the court.”⁹¹ The lawyer who overlooks – or worse, conceals – pertinent arguments or relevant authorities not only harms a client’s case but also betrays the legal legacy of which he is a custodian.⁹² An example will illustrate the point. Mr David Marshall was once briefed in a criminal case. Noticing that the charge was defective, he told his instructing solicitor he would object to the charge so it could be amended. The solicitor was taken aback. “Mr Marshall”, he said, “don’t you think we shouldn’t take an objection in the Magistrate’s Court? If our client is convicted, then he could be acquitted on appeal.” David

89 “His Excellency Mr David Marshall at the Annual Dinner of the Law Society on 8 September 1984” (1985) 2(1) *Law Society’s Journal* 16.

90 Roscoe Pound, *The Lawyer from Antiquity to Modern Times* (West Publishing Company, 1953).

91 Jeffrey Pinsler SC, “Ethics in Chamber Hearings: Observations on Certain Practices” (2008) 20 SAclJ 746 at 748–749, para 5.

92 Lau Kwan Ho, “Creating Access to Quality Legal Representation – The Queen’s Counsel (Re)Appears in Singapore” (2012) 42 HKLJ 195 at 210.

Marshall firmly rebuffed him, saying, “We are officers of the Court. Our duty is to assist, not to mislead.” It did not matter to him that the solicitor then decided to brief another counsel.⁹³

40 Third, a lawyer must honour her clients by never betraying their trust and confidence. Advocates and solicitors are entrusted – by reason of their expertise, integrity, fairness, and judgment – to do that which their clients either cannot or will not do for themselves. This is a weighty responsibility. There have been times when the practice of law was associated with greed and avarice.⁹⁴ Public distrust is a very serious issue, because a society that loses confidence in its legal system soon descends to mob rule and vigilante justice. We *earn* the confidence of the public by conducting ourselves with integrity and fairness; by advising our clients thoroughly and honestly; and by charging them a reasonable fee for services rendered, and no more.⁹⁵

41 These three chords of honour – to one another, the court, and the public – form the foundation of legal practice. The truly excellent lawyer is one who discharges her duty in a manner beyond the reproach not only of her client but also of her conscience. She does her level best for her client, without misstating or suppressing the points against her. In so doing, she commands the enduring respect of her peers, the trust of the Bench, and the peace of a clear conscience. These are the crowns of honour, and they are worth infinitely more than any victory.

B. Service

42 Let me turn to the value of service. When it was founded, the Academy had no resources of its own, save for a modest endowment and the goodwill of its members. It conducted much of its work through committees comprising representatives from all four arms of the profession, who poured their time and money into these projects for no pecuniary reward because of their commitment to a cause that was greater than themselves.

43 It was in service that the first committees were constituted: 105 women and men drawn from diverse parts of the legal fraternity to

93 David Marshall, “Some Thoughts on Legal Ethics” (1986) 6 Sing L Rev 79 at 82.

94 Sylvia Lim & Ong Ken Sen, “A Time to Confront the Malaise: A Review of Post-graduate Legal Training in Singapore” (1985) 6 Sing L Rev 87 at 112. Phyllis Tan, the first woman president of the Law Society of Singapore, was called a “bloodsucker” by her secondary school principal when she said she wanted to study law: see Eleanor Wong, *Legal Tenor: Voices from Singapore’s Legal History, 1930–1959* (Academy Publishing, 2014) at p 197.

95 See the decision of the Singapore High Court in *Lim Mey Lee Susan v Singapore Medical Council* [2013] 3 SLR 900 at [52].

fill a total of 146 positions. I myself served on the Committee on Legal Education & Studies with some other familiar names including Mr K Shanmugam, now Minister for Law and Home Affairs, Justice Belinda Ang, Mr T P B Menon, and Dr Thio Su Mien, among others.⁹⁶ The work was tedious at times, and it had to be done over and above the responsibilities of practice; but it was work we did uncomplainingly, being ourselves beneficiaries of the generous guidance of those who came before us.

44 It was in service that Mr Vincent Hoong, then an assistant registrar of the Supreme Court, went about the mundane task of recruiting staff for the Academy Restaurant. He and a colleague took to patronising various restaurants in an attempt to hunt for suitable wait staff. They were unsuccessful until they found one willing waitress, who then filled the rest of the spots with her friends.

45 It was in service that over 100 justices' law clerks, academics, and legal officers from the courts and the Attorney-General's Chambers spent nearly seven years rewriting the headnotes for nearly 50 years' worth of cases, in order that the Academy might be able to reissue the SLR and make it available to the profession at low cost.⁹⁷

46 And it was in service that a small group of individuals came together to staff the secretariat of the Academy. The leader of that group, Chief Executive Serene Wee, has been with the Academy for 25 years. Hers has been a life's labour of love and devotion to the Academy and today, she leads a team of over 100 committed, energetic and capable women and men.

47 I could go on. Time will not permit me to tell of those who solicited donations from a begrudging and sometimes suspicious profession; or those who worked late into the night for the various committees; or those who coaxed, cajoled and persuaded a sceptical profession to embrace the promise of technology. Some have already left us without seeing the fruits of their toil; and yet others will leave us before reaping the harvest they have sown. All those who have contributed to the work of the Academy, and those who continue to do so today, are co-workers in the quest for a better and more just society, and a profession deserving of being called honourable. All that the Academy has achieved over the past three decades it owes to you – the members of the legal fraternity – and as its President, I offer you my most heartfelt thanks. All of this – nothing less than the distinction and

96 *Singapore Academy of Law Newsletter* (Issue No 1) (March 1989).

97 *Imprints of Singapore Law: A Brief History of Legal Publishing in Singapore* (Academy Publishing, 2017) at p 23.

repute which the Singapore legal system and her lawyers enjoy today – is your legacy; and it is the gift that we will collectively hand to those who will in time succeed us.

48 These efforts that were poured into developing the Academy happened in tandem with another critical development that has transformed the practising profession over the course of the last 30 years. I am speaking of the rise of *pro bono* services in Singapore. It would be remiss of me, on an evening like this, and when discussing the value of service, not to mention the sterling efforts of the women and men responsible for what has been described as the “crown jewel”⁹⁸ of the Law Society’s efforts to serve the people of our country: the Criminal Legal Aid Scheme or “CLAS”.

49 When the Legal Aid and Advice Ordinance⁹⁹ was enacted in 1956, it contemplated the provision of legal aid in both criminal and civil cases. However, the provisions relating to criminal cases were held in abeyance because of the perceived incongruity of devoting state resources to both the prosecution and the defence of accused persons.¹⁰⁰ Deeply troubled by the chronic lack of representation among those who could not afford it, the Law Society took it upon itself to provide free legal assistance in criminal cases to the poor and needy. The younger members of the Society in particular, led by Mr Harry Elias SC and several other notable lawyers, played a pivotal role in establishing CLAS, which was launched in September 1985 with the support of 168 volunteer lawyers and \$30,000 in private funding.¹⁰¹ Although CLAS was originally limited to theft cases, the overwhelming response from volunteer lawyers allowed it to widen its remit to include all non-capital Penal Code offences.¹⁰² In 2013, the Ministry of Law pledged S\$3.5m yearly to CLAS, as a result of which it has been able to vastly

98 Gregory Vijayendran, President of the Law Society, speech at the Opening of the 2017 Legal Year (9 January 2017) at para 13.

99 Ordinance 19 of 1956.

100 Second reading of the Legal Aid and Advice Bill 1995 (Bill 15 of 1995): *Parliamentary Debates, Official Report* (7 July 1995) vol 64 at col 1349 (S Jayakumar, Minister for Law and Minister for Foreign Affairs); see also Kevin Y L Tan, *Fiat Justitia: Fifty Years of the Law Society of Singapore* (Straits Times Press, 2017) at p 99 and Yeo Hwee Ying, “Provision of Legal Aid in Singapore” in *The Singapore Legal System* (Kevin Y L Tan ed) (Singapore University Press, 2nd Ed, 1999) ch 13 at pp 460–461.

101 The Law Society of Singapore, *The Law Society of Singapore: Twenty-fifth Anniversary* (Mary Khoo *et al* eds) (Law Society of Singapore, 1992) at p 15; Kevin Y L Tan, *Fiat Justitia: Fifty Years of the Law Society of Singapore* (Straits Times Press, 2017) at pp 102–103 and 105.

102 Law Society of Singapore, *The Law Society of Singapore: Twenty-fifth Anniversary* (Mary Khoo *et al* eds) (Law Society of Singapore, 1992) at pp 15 and 22.

expand its reach.¹⁰³ In 2016, CLAS provided legal services to 1,373 people, or about 60% of all applicants, compared to just 431, or 25% of all applicants, in 2014.¹⁰⁴ CLAS was and still remains, in the words of the Law Society, “a symbol of the legal profession’s commitment to equality and the principle of natural justice”.¹⁰⁵ I am heartened to note that a third of our lawyers do some form of *pro bono* work, and hope to see this trend continue.¹⁰⁶

50 In the final analysis, I believe that it is these values of honour and service that have given our profession that unity of purpose that Chief Justice Wee spoke of. This was essential if we were to get to where we are today; and I have no doubt that they remain essential to get us to where we next want to go.

IV. Legacy: Looking to the future

51 This brings me to the third and final part of my lecture, which concerns the future. The Academy has by and large realised its original vision of uniting the disparate parts of the Singapore legal fraternity. Today, lawyers, academics, legal service officers, and judges work and socialise together in the Academy’s many committees and at its events. There is a distinctly local flavour to the interactions. Instead of starched linen, silverware, and glasses of port, you are much more likely to find buffet lines, disposable cutlery, standing tables, and iced jelly. However, the same air of conviviality and good cheer pervades these gatherings, and one can perceive a genuine sense of common purpose. With that, the Bistro became no longer necessary, and that is why I think that its closure in 2014 marked the close of the first chapter of the Academy’s life.

52 So what lies ahead in its next chapter? Today, the Academy sees itself as the “promotion and development agency for the Singapore legal sector” with the vision of making “Singapore the legal hub of Asia”.¹⁰⁷

103 Lim Yi Han, “Criminal Legal Aid Scheme Helping More Accused People” *The Straits Times* (29 February 2016); The Law Society of Singapore, *Annual Report 2017* at p 12; Kelly Ng, “More Help for Those Who Can’t Afford Lawyers in ‘High Stakes’ Court Cases” *TODAY Online* (27 December 2016).

104 Indranee Rajah, Senior Minister of State for Law, speech at the Committee of Supply Debate 2017 (3 March 2017); Lim Yi Han, “Criminal Legal Aid Scheme Helping More Accused People” *The Straits Times* (29 February 2016).

105 Law Society of Singapore, *The Law Society of Singapore: Twenty-fifth Anniversary* (Mary Khoo *et al* eds) (Law Society of Singapore, 1992) at p 25.

106 Ng Huiwen, “‘Sandwiched Class’ Too May Need *Pro Bono* Legal Help” *The Straits Times* (15 October 2017).

107 Singapore Academy of Law, “Introduction” <https://www.sal.org.sg/About-Us/Introduction> (accessed 24 September 2018).

In the continuing endeavour to achieve this goal, I think we will need, in the quite near term, to respond to three challenges in particular: (a) the internationalisation of legal practice; (b) the advent of legal technology; and (c) the challenge of maintaining professional standards.

A. Growing internationalisation of legal practice

53 Let me begin with the internationalisation of legal practice. Historically, our profession has met globalisation with resistance. In 1980, when the Government decided to allow foreign firms to practise in Singapore, the Law Society presented its objections to the Minister for Law, anxiously reminding the authorities of “their duty not to demoralise the local Bar”.¹⁰⁸ Such was the anxiety that an audience was even sought with the Prime Minister!¹⁰⁹ Twenty years later, when he announced the possibility of joint ventures between local and offshore law firms, then Attorney-General, Mr Chan Sek Keong, observed that some lawyers were concerned that their fate lay in his hands, but he disabused them of this notion, saying: “Their fate is in their own hands. They can either wring them or they can clap them.”¹¹⁰

54 There is wisdom in these words. The Asian Development Bank has projected that Asia could account for half of global gross domestic product (“GDP”) by 2050.¹¹¹ By that time, ASEAN is projected to become the world’s fourth-largest economy and China’s Belt and Road initiative is expected to cover one-third of global GDP and one-quarter of total global trade in goods and services.¹¹² This growth in trade and investment will be accompanied by a concomitant increase in the demand for legal services, and Singapore has a unique opportunity to position herself as a neutral, efficient and trustworthy dispute resolution centre for the region.¹¹³ This is an age of possibility, and it is up to the lawyers of today to decide what they will make of the opportunities around them.

108 Sit Meng Chue, “Protest over Foreign Lawyers’ Go-ahead” *The Straits Times* (7 May 1980) at p 31.

109 Law Society of Singapore, *The Law Society of Singapore: Twenty-fifth Anniversary* (Mary Khoo *et al* eds) (Law Society of Singapore, 1992) at p 13.

110 “Speech by the Attorney-General” *Singapore Academy of Law Newsletter* (Issue No 64) (January/February 2000) at p 4.

111 Asian Development Bank, “Asia 2050: Realizing the Asian Century – Executive Summary” at p 5 <http://www.adb.org/sites/default/files/publication/28608/asia-2050-executive-summary.pdf> (accessed 24 September 2018).

112 Senior Minister of State for Law and Finance Indranee Rajah SC, “Lawyers Go Global” (27 March 2018) <<https://www.mlaw.gov.sg/content/minlaw/en/news/legal-industry-newsletters/note-by-sms-indranee-rajah-lawyers-go-global.html>> (accessed 24 September 2018).

113 Sundaresh Menon, “Origins and Aspirations: Developing an International Construction Court” (2014) *The International Construction Law Review* 341 at 341.

55 Over the past 30 years, the essential ingredients of our success have been a single-minded drive for excellence and our resilience in the face of adversity. While those same qualities will continue to serve us well, they must be complemented by a global perspective which recognises the gains to be had from cross-border collaboration. This extends beyond remaining competitive within Singapore to developing competencies that can be applied in other jurisdictions. Initiatives like the “Lawyers Go Global” programme jointly organised by the Ministry of Law, Law Society and International Enterprise Singapore, which aim to provide Singapore law practices with the opportunities to meet, access and link up with foreign businesses or law firms are therefore invaluable.

56 But our calling goes beyond simply capturing a bigger slice of regional work. Rather, we have an opportunity to advance the regional rule of law by promoting a rules-based order and the convergence of Asian business law.¹¹⁴ In this regard, I highlight two initiatives of the Academy. The first is the International Promotion of Singapore Law (“IPSL”) committee, which was constituted in 2006 with the objective of promoting the use of Singapore law as the governing law of choice for cross-border transactions. Singapore law retains the commercial strengths of the common law originating in England and Wales, with its emphasis on upholding the validity of bargains, and its transparency, neutrality, and predictability; but as our law has developed, it has acquired the added advantage of being more familiar to users in the region. It is therefore well suited for use in regional commercial transactions, and in a 2016 survey, it was named by 25% of survey respondents as their preferred choice of governing law for cross-border contracts – second only to English law.¹¹⁵ The other initiative is the Asian Business Law Institute, which is a research centre established by the Academy to promote thoughtful legal convergence in the region. It has embarked on a range of exciting projects concerning the enforcement of foreign judgments, data privacy and regulation, and cross-border insolvency, among others. In such an environment, we as lawyers ignore the forces of globalisation, cross-border trade, and the free movement of goods, services and people at our own peril.

114 Sundaresh Menon, “International Commercial Courts: Towards a Transnational System of Dispute Resolution”, opening Lecture for the Dubai International Financial Centre Courts Lecture Series 2015 (19 January 2015) at para 8(d).

115 Singapore Academy of Law, *Study on Governing Law & Jurisdictional Choices in Cross-border Transactions* (11 January 2016).

B. *Legal technology*

57 This brings me to the next challenge, which is legal technology. As Chief Justice Yong said at the launch of the EFS some 21 years ago, information technology has come to influence every aspect of our lives, and “[i]ndifference will not hasten its departure but rather, our own obsolescence”.¹¹⁶ In short, to stand still is to move backwards. Worryingly, however, it appears that this is just what is happening. Artificial intelligence assisted transcription, two-way translations facilitated by technology, and virtual courts feature prominently in some Chinese courts.¹¹⁷ However, we are some way from implementing these in our courts. We were once world leaders in legal technology, but that is no longer so.

58 The potential of legal technology is enormous, and its effects can already be felt. The Boston Consulting Group predicts that legal-technology solutions could eventually perform as much as 30–50% of the tasks carried out by junior lawyers today.¹¹⁸ The advent of technology has already contributed to a reduction of around 31,000 jobs in the UK legal sector, and it is thought that another 39% of legal jobs are at “high risk” of being made redundant over the next two decades.¹¹⁹ To remain competitive, law firms are outsourcing routine legal tasks to third parties with the technological capability to perform these more cheaply, freeing up time for lawyers to focus on higher value-added activities.¹²⁰ Regrettably, our response to legal technology has been lukewarm. A 2017 study by the Law Society found that just 9% of small and medium-sized Singapore law practices used technology-enabled productivity tools, let alone artificial intelligence software.¹²¹

59 This is where the Academy will endeavour to nudge the profession. The Academy launched the Future Law Innovation Programme or “FLIP” this January to assist law firms in integrating

116 “Chief Justice’s Address at the Launch of the Electronic Filing System, Saturday, 8 March 1997” *Singapore Academy of Law Newsletter* (Issue No 47) (March/April 1997) at p 4.

117 Kayleigh Ziolo, “Chinese New Year 2018: How China’s Legal Tech Scene is Breaking New Ground” *The Attic* (7 February 2018).

118 Boston Consulting Group & Bucerius Law School, “How Legal Technology Will Change the Business of Law” (January 2016) at pp 3 and 8.

119 Jane Croft, “More Than 100,000 Legal Roles to Become Automated” *Financial Times* (10 February 2018).

120 American Bar Association, Commission on the Future of Legal Services, *Report on the Future of Legal Services in the United States* (2016) at p 27.

121 Senior Minister of State for Law Indranee Rajah SC, “Tech Start for Lawyers” (16 May 2017) <<https://www.mlaw.gov.sg/content/dam/minlaw/corp/News/Note%20to%20Legal%20Profession%20On%20Technology.pdf>> (accessed 24 September 2018).

baseline technology into their processes, encourage an exchange of ideas between the tech and legal sectors, and organise and develop Singapore's legal technology ecosystem.¹²² However, FLIP alone will not be enough; successful change will also require a mindset shift. Besides using software to improve efficiency,¹²³ the future of larger firms may lie in diversifying the legal services available to clients and using technology to differentiate themselves. While investment into legal technology may be expensive – just as EFS was – it will be integral to future-proofing our profession and, if undertaken wisely, will be an important legacy that we bequeath to our successors.

60 The increasing diversification of legal services is inevitable and its confluence with globalisation and the use of communication channels afforded by technology will mean that the spaces traditionally occupied by domestic lawyers and once closed off to competition will come under growing pressure and shrink. How will we deal with this?

61 A large part of the answer is education. Many US law schools educate law students about innovation in legal services delivery, offering courses on outcome prediction, legal project management, virtual lawyering and so on. More than 35 law schools offer a post-graduate incubator experience, giving recent students and graduates the opportunity to provide legal services to low- and moderate-income clients.¹²⁴ By contrast, there is presently limited collaboration between the legal profession and major research institutions in Singapore.¹²⁵ The Academy believes that law schools should collaborate with computer science or other faculties to give students an interdisciplinary foundation and grounding in the use of legal technology.¹²⁶ To that end, it has signed a memorandum of understanding to partner with the Singapore Management University, in examining issues relating to legal innovation and the future practice of law.¹²⁷

122 Sundaresh Menon, speech at Singapore Academy of Law Appreciation Dinner 2017 (11 July 2017).

123 Art Daryanani & Vanessa Phang, "CLIO: Making Lawyers Efficient, Paperless and Mobile" *Law Gazette* (October 2017).

124 American Bar Association, Commission on the Future of Legal Services, *Report on the Future of Legal Services in the United States* (2016) at p 25.

125 Singapore Academy of Law, *Legal Technology Vision: Towards the Digital Transformation of the Legal Sector* (2017) at para 136.

126 Singapore Academy of Law, *Legal Technology Vision: Towards the Digital Transformation of the Legal Sector* (2017) at para 139.

127 Singapore Management University & Singapore Academy of Law, "SAL Launches Future Law Innovation Programme, Signs MOU With IMDA and SMU", media release (10 January 2018) <https://www.smu.edu.sg/sites/default/files/smu/news_room/Media%20Release_SAL%20Launches%20FLIP%2C%20signs%20MOU%20with%20IMDA%20and%20SMU_9Jan18.pdf> (accessed 24 September 2018).

C. *Professional standards*

62 The final area I wish to touch on is professional standards. We must never stop trying to improve ourselves. Small firms cannot stay where they are, hoping in vain that the twin tides of globalisation and technology will not reach them; nor will it do for large firms to cast about hungrily for clientele without also cultivating the skills and values necessary to ensure continuity and quality in their practice. In this context, let me draw your attention to two of the Academy's initiatives.

63 The first is the Legal Industry Framework for Training and Education or "LIFTED" application, which is designed to promote continuing legal education and learning. The app can be used on mobiles and computers and recommends suitable courses for each learner customised to his present role, aspirations and competencies. The available courses are drawn from the Singapore Institute of Legal Education Calendar of Accredited Learning Activities, the SkillsFuture Course directory, conferences and events, as well as the offerings of higher education institutions.

64 The second is the Academy's specialist accreditation scheme, which recognises practitioners who excel in their fields. Since its launch, 24 lawyers have been accredited as building and construction law specialists. The scheme is both a mark of distinction and a useful reference for potential clients, including those from outside our jurisdiction. This year, the scheme was extended to maritime and shipping law, and there are plans to extend it to other areas of specialised practice.¹²⁸

65 The Academy will play its part and work with other stakeholders, including the Law Society, to help the profession meet these challenges. But all these efforts will come to naught if we do not take advantage of the available help. The challenges we face today should not be underestimated. I address myself particularly to the smaller firms who have found the going especially tough. Some of them have suggested in smaller discussions that the development of a *pro bono* culture in Singapore is impacting their ability to make a living. I do not believe this is correct.

66 It is vital for us to remember that *pro bono* work is generally applied for the benefit of those who could not otherwise afford a lawyer, and in truth, it is one of the greatest achievements of the practising

128 Poh Lay Hoon, "Pioneer Batch of 24 Lawyers Receive Professional Certification in Building and Construction Law" *Lianhe Zaobao* (11 July 2018).

profession. This is our privilege and our responsibility. In the words of Mr Philip Jeyaretnam SC:¹²⁹

Pro bono work is a way of keeping faith with the public; honouring the public's trust in agreeing that lawyers' work should not be open to all, but subject to strict entry requirements. In return for a collective monopoly on a type of work, the profession given that monopoly must ensure, together with [the] government, that the public can afford its services. This is particularly critical for the legal profession because access to justice is so important to the rule of law.

67 I suggest then that the search for the root of the problems voiced by these firms must take us elsewhere. In business education, the Kodak case study is used to explain the dangers of not adapting one's business to the changing patterns of consumer demand and behaviour. The good people who ran Kodak did not see the changes coming with the intensity and speed with which they came. When digital photography made film obsolete, Kodak was not prepared, and it went from being a company with a market capitalisation of nearly US\$30bn in 1997 to filing for bankruptcy in 2012.¹³⁰ If it can happen to Kodak, it can happen to any of us. I have been saying for some years now that our profession needs to be prepared for the changes that are coming and I renew that call with even greater intensity this evening.

V. Conclusion

68 If all of this seems daunting, do not despair. Instead, take heart, for we have been here before. In 2001, the Ministry of Law announced its plans to abolish conveyancing scale fees.¹³¹ The announcement sent shockwaves throughout the profession. Many lawyers predicted a "blood bath" as firms engaged in vigorous price competition. It was estimated that earnings would drop by two-thirds or more, and that small firms would have to merge or face closure.¹³² In January 2003, the year of the complete abolition of scale fees, *The Business Times* carried a headline entitled "Lawyers Hit by Worst Shakeout in Decades". A combination of the abolition of scale fees, the entry of foreign lawyers and an economic downturn sent the profession into deep despondency over its future.

129 Brenda Chua & Anita Parkash, "Checks and Balance: Philip Jeyaretnam SC on Raising Professional Standards" *Inter Se* (July–December 2007) at p 25.

130 Shira Ovide, "Kodak Ugliness, in Chart Format" *The Wall Street Journal* (4 January 2012).

131 "Liberalisation of Conveyancing Fees in Singapore" Singapore Government Media Release <http://www.nas.gov.sg/archivesonline/speeches/view-html?filename=2001020501.htm> (accessed 6 September 2018).

132 Lee Han Shih, "Conveyancing Lawyers Brace for Fees Battle" *The Business Times* (10 October 2000).

A senior counsel who was interviewed for the article commented, “This is the worst, I have not seen another era like this.”¹³³

69 Painful though it was, that was a necessary step in our evolution. Until then, conveyancing had been our cash cow. Local law firms charged substantial sums for relatively simple and routine work. And because the living was easy and good, they had little incentive to expand into more challenging areas, like infrastructure project financing, which were dominated by the international firms.¹³⁴ I recall asking the managing partner of a large offshore firm at the time why no Singaporean law firms had a meaningful share of the international transactional space; he looked at me incredulously and said simply, “But you have conveyancing fees.” Given a choice, he said, he would happily be a conveyancing lawyer too.

70 That conversation left a deep impression on me. In the past, titles were lodged in various forms and in different places, and a conveyancing lawyer had to trawl through decades of records to establish a “good root of title”. However, a combination of the digitisation of government services, the simplification of conveyancing processes, and the almost complete conversion of land to registered title had all greatly streamlined this process, and lawyers could no longer justify the sizeable fees they used to be paid.¹³⁵ This, in a sense, is the same challenge that we face today, as the twin forces of globalisation and technological advancement reshape the legal industry and render obsolete many of the old ways. Many in 2001 thought that the abolition of scale fees sounded the death knell for local firms, but they were wrong. Instead, we grew stronger by investing in new processes and moving up the value chain,¹³⁶ allowing many of our firms to evolve into regional powerhouses. To the pessimists, therefore, I say this: we have been here before, and we overcame; we are here again, and we *shall* overcome, provided we summon a new spirit of unity, honour and service, and rededicate ourselves to the cause of justice.

133 Catherine Ong, “Lawyers Hit by Worst Shakeout in Decades” *The Business Times* (6 January 2003).

134 Lee Kuan Yew, speech at The Millennium Law Conference gala dinner (11 April 2000), which was published as “Effective Law Underpins New Order of Business” *The Straits Times* (13 April 2000).

135 “Liberalisation of Conveyancing Fees in Singapore” Singapore Government Media Release <http://www.nas.gov.sg/archivesonline/speeches/view-html?filename=2001020501.htm> (accessed 6 September 2018); Lee Han Shih, “Conveyancing Lawyers Brace for Fees Battle” *The Business Times* (10 October 2000).

136 Marissa Chew, “Conveyancing Fees to Be Freed Up in Two Years” *The Business Times* (6 February 2001).

71 My dear fellow members of the Academy and friends of the Singapore legal fraternity, I have every confidence that we will ultimately prove equal to the challenges that lie ahead. Our legal history, like our journey as a nation, has been nothing short of astounding. Two centuries ago, we were a backwater fishing village. Sir Stamford Raffles, describing his time in Singapore, wrote:¹³⁷

My time is at present engaged in remodelling and laying out my new city, and establishing institutions and laws for its future constitution. A pleasant duty enough in England where you have books, hard heads, and lawyers to refer to, but here by no means easy, where all must depend upon my own judgment and foresight. Nevertheless, I hope that though Singapore may be the first capital established in the nineteenth century, it will not disgrace the brightest period of it.

72 He need not have worried. Singapore today is a world-class cosmopolitan city of her own people, governed by laws tempered to her unique values and needs and a legal system that is robustly honest. We are so very blessed to play our individual parts in the mission to administer justice in *this* land, our home. Ours is the duty to bring justice to our fellow citizens, and what a privilege that is! In 30 years, we have moved as a community from confrontation and disunity to a common purpose underpinned by honour and service. The Academy, the Law Society, and all our stakeholders have played their parts in this journey. With the lodestars of honour and service to guide us, I daresay that the brightest period of our legal history yet lies ahead.

73 Thank you all very much.

137 Charles Burton Buckley, *An Anecdotal History of Old Times in Singapore* vol I (Fraser & Neave, Limited, 1902) at p 78.