

ADMISSION OF ADVOCATES AND SOLICITORS

CHIEF JUSTICE'S ADDRESS
SATURDAY, 18 MAY 2002

First of all, may I say how pleased I am to preside over these proceedings. I would like to congratulate all of you on your admission as advocates and solicitors of the Supreme Court of Singapore. I should also congratulate your parents, who must be feeling as proud and happy as you are. Your parents have been your strongest supporters and counsellors all these years. They are the ones who have brought you up to become the fine young ladies and gentlemen whom we have before us today.

2. The total number of persons being admitted today comes to 145. Before today's proceedings, the number of advocates and solicitors in Singapore holding practising certificates for this year stood at 3,218. With the admission this morning, that figure will rise to 3,363.

Singapore at the crossroads – The global economic matrix

3. You will all have heard it said that Singapore is now at the crossroads of her economic development. There are a lot of reports and analyses on the economic potential and magnetism of North-East Asia, in particular, China. The consequent worry is that countries in South-East Asia will be side-lined as investors transfer their funds and companies move their operations out of this region to North-East Asia. History has shown, however, that Singapore has always risen to the occasion in the most trying situations against all the odds. I am confident that we will once again succeed. The government will set out the broad macroeconomic policies. Most important of all, our people must come together as a nation, as we have in the past, to overcome the hurdles before us.

Challenges of Singapore's legal services sector – Under-utilisation of resources

4. The Judiciary and the legal profession, too, have a responsibility in this regard. A somewhat alarming trend, however, in legal services is developing – in the consistent under-utilisation of valuable resources of the courts and the Bar.

5. In 1999, 334 court days were lost; this number grew to 346 court days in 2000. The "lost court days" are usually a result of eleventh hour vacation of trial dates because of ill-preparation for trial or settlement by the parties, and lack of cases in the court docket which can proceed for trial. This problem was compounded by the fall in the number of writ actions filed in the High Court. Between 1998 and 1999, there was a drop of 25% in the number of writs filed. This fell by a further 25% in 2000. Now, the daily operational cost of a court is \$7,200. This translated into about \$2.4 million in 1999 and \$2.5 million in 2000 in wastage of public funds. This loss is not confined only to the Judiciary. Looked at from the lawyers' perspective, there is a bigger loss to the Litigation

Bar as a whole. If the 334 and 346 court days lost in 1999 and 2000 respectively had instead been used for trials, each set of lawyers could have earned about \$6.8 million for the two years combined. This is based on an average of a minimum of \$10,000 in costs per day. With at least two sets of lawyers, and in many cases an average of three sets of lawyers involved in each case, the total income which otherwise could have been earned if the 680 court days in the two years had been used would range between \$13.6 to \$20.4 million. The income lost to the Litigation Bar as a whole is also lost to our economy.

6. Our justice system is rated as one of the most efficient in the world and is envied for having no backlog of cases. The irony is that our tremendous success in case management to clear the backlog of cases and to reduce the waiting period before trial has brought about a unique problem of inadequate use of scarce judicial resources. This problem was well encapsulated in the headline of an article published in The Straits Times on Christmas Day last year. This read, “Judges waiting to hear High Court cases”. Starkly, the caption below the headline stated “15 courtrooms were empty for a total of 346 days last year because judges clear cases quickly but lawyers cannot keep up.”

A case for the optimal utilisation of judicial and legal resources – An economic analysis

7. This situation has to be arrested. The Judiciary monitors the caseload very closely and adjusts the amount of its resources to ensure that the demands on the Judiciary are met, while at the same time curbing the incidence of overcapacity. From a peak of 20 trial courts a few years ago, the number of trial courts in the Supreme Court has been reduced to 11 this year. At the same time, there was an increase of about 18% in the volume of writ actions filed in 2001 over the previous year. As a result, cases in the High Court now proceed to trial nine months from the date of their commencement. In the years when we had to battle the problem of the backlog, cases were going for trial six months from the date of commencement. We are now able to set more comfortable court timelines, with the decrease in the number of trial courts coupled with an increase in the number of writ actions filed. However, we should not fall into the trap of complacency and allow a backlog to creep in again. The Judiciary’s primary duty in the administration of justice is to ensure an effective, efficient and economical dispensation of justice in accordance with the rule of law. An efficient court system is what the litigants and our society expect and deserve.

8. The Judiciary cannot tackle this problem alone without the cooperation of the Bar. As a result of adjustments to the supply of judicial resources, the number of “lost” court days fell to 164 last year and to 130 todate this year. This means a further wastage of public funds by the Judiciary, a further loss of income to the Litigation Bar as a whole and a further loss to the economy. The fact of the matter is that the courts are ready and willing to hear cases, but there are not enough cases coming through the system at a commensurate rate. From our detailed study of the caseload in the High Court, the level of judicial resources presently available meets the volume of cases and the time taken to get the cases ready for trial. If the need arises, judicial resources can always be increased easily. Consequently, the capacity of the Litigation Bar to generate more income for

themselves and the economy is increased. The problem lies in the distribution of these cases among the law firms, resulting in inadequacy in the getting-up of many cases in time for an expeditious trial. Let me explain. You must have read numerous newspaper reports on lawyers quitting the profession because of their inability to cope with stress and the courts' tight timelines. More recently, lawyers are quitting the profession because "they were given the quiet boot", to quote the Law Society President's message in the April 2002 issue of the Law Gazette. The reality of the situation is that the distribution of litigation work among law firms as well as lawyers is uneven. Litigation business is dominated by the big firms. Within these firms, distribution of work is in turn dependent on the resources available. The less lawyers there are, the heavier the workload each and the public. There is also a loss of income for the Litigation Bar as a whole. This is income which could have been generated if court resources were optimally utilised. Of course, lawyers who take on too much work will not complain that there is any loss of income as they can charge clients for it. However, there are other firms and other lawyers who have the capacity to take on these cases and prepare for trial expeditiously. They simply do not have any or enough work. There is an ironical mismatch of too much litigation work in the hands of very busy lawyers and too little or none of it in the hands of "hungry" lawyers with a lot of spare capacity. There is hence an aggregate loss of revenue for the legal services sector and the Singapore economy as a result of the lost court days. The problem is more acute presently when the whole economy is experiencing difficult times and when the unemployment rate is at its highest since the recession in the mid-1980s.

9. This situation does not bode well for the development of a centre for international legal services. Judicial resources are under-utilised and legal resources are inefficiently used or deployed. Many lawyers are unable to earn the income which could have been earned if they were given the work. On the other hand, the legal market is cornered by a handful of law firms who are not able to cope with the influx of work, leading to undue pressure on their lawyers and a consequent exodus of talent from the legal profession. I would urge those lawyers who take on too much work to consider passing them on to others who may not have enough work. In the manufacturing industry, for example, sub-contracting work to contract manufacturers leads to higher efficiency, lower costs and ultimately, monetary benefits for all concerned. Similarly, work can be farmed out to smaller law firms or lawyers who are less busy. The farming out of litigation work is an accepted practice in the legal profession. Often, Senior Counsel, and on some occasions, Queen's Counsel, are briefed or engaged to conduct trials and appeals. What is now required is for more litigation work to be farmed out by lawyers who are very busy to those who are less so. By doing this, we improve our utilisation of valuable judicial and legal resources.

10. A diminished litigation Bar leads eventually to a diminished Judiciary and a diminished legal system. The Judiciary and the Bar must work together to curb this phenomenon and build up a first-rate legal services sector, in litigation and all other areas of legal work. Towards this end, optimal market efficiency must be achieved. The vibrancy of our legal services sector should prevail over the individual law firm's interest. In the final analysis, everyone will benefit from a more vibrant and competitive Bar.

Transforming Singapore into a vibrant and competitive centre for international legal services

11. Since independence in 1965, our tiny island nation has time and time again proven the critics wrong. We have shown that we are not only able to be economically viable as an independent state, but we have risen to have one of the highest per capita GDP in the world. We have achieved this with no natural resources. We have achieved this through the dedication, resilience and diligence of our people, and we will continue to strive for a better future. In a similar vein, our strong legal framework and the well-admired administration of justice are the results of the dedication, resilience and diligence of the members of the Bench and the Bar. You, and your seniors who were called to the Bar before you in this very courtroom, are the key stakeholders in our continuous journey to achieve greater heights of excellence in the provision of legal services. Together, I am confident that we will transform Singapore into a vibrant and competitive centre for international legal services.

12. Finally, let us not forget that your first and foremost duty as a member of this honourable profession is to uphold the principles of honesty, integrity and professionalism. Wherever the road of life may take you, I hope that you will always hold on to these time-honoured virtues.

13. Once again, my warmest congratulations and best wishes in your future endeavours.