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SINGAPORE PRIME MINISTER'S SPEECH TO THE UNIVERSITY OF

SINGAPORE LAW SOCIETY ANNUAL DINNER AT ROSEE D'OR ON

18TH JANUARY, 1962 AT 8.30 P.M.

It is more than two years since I last had the privilege of addressing your Society at its Annual Dinner. In those two years, your Society has advanced. Very soon your members will be taking their places in the legal fraternity in Singapore, although it may not be till September before they can take their places in the legal fraternity in the Federation if the arguments advanced by the Bar Council for a strict interpretation of the amendments to the Federation Advocates and Solicitors Ordinance are upheld.

I want to congratulate you on your coming of age. I am sure that there is no dearth of talent or ability to make this Law School as renowned for high standards and contribution to the learning and the practice of the profession as its counterpart, the Medical School.

For a diversity of reasons, in British colonial societies of the past, law and medicine were the two professions with a glamour all of their own. They gave the local English-educated elite a status, a handsome income, and because both professions required little capital for its practice, an independence of occupation. And the history of the first constitutional anti-colonial struggles of Asia were adorned with the names of many illustrious scions of the Oxbridge Universities and later of the law schools of India.

After their experience in India, the British were reluctant to establish law schools in other parts of their empire. In that first phase of the anti-colonial era, the British feared that an abundance of local lawyers would inevitably lead to more political agitation for constitutional reform and progress towards independence.

For us in Malaya, it was not until after independence was in fact won that the first law school was established in Singapore. Because the law school was established only after independence you have been denied what might have been a glorious and illustrious role for many of your members. That phase is nearly over, and the spectre that confronts colonial empires is no longer just one of legally trained orators arousing the people to fury at the iniquity of the British colonial system. For in the last analysis the British have no choice but to

surrender sovereignty to those who can take over and work the liberal forms and system of Government the British have nominally established in their colonial outposts.

Now the bitter challenge comes not from people who have read Dicey and rule of law, but from those who have studied the theories of world revolution, the theorems of dialectical materialism which applied to feudal or capitalist societies means class conflict and inevitable revolution by violence until Communist victory is gained. They have their orators trained in these concepts, and their authorities stem not from the rules of law and precedent, but from the tried propaganda mechanics of a struggle for supremacy of a combat party.

Although you have missed the original role of the classic anti-colonial revolutionary, the role that awaits you is no less exacting and worthy. As legal architects trained in the principles of law and the administration of justice, you will help to shape out of the raw material available here, the ideal pattern of law to regulate the Malayan relations between subjects inter so and between subjects and the state in the Malayan nation.

Our architects learn of classical forms of Grecian colonnades and the Roman forum, of the grace and beauty of Christopher Wren's St. Pauls, buildings

of beauty and grace built out of marbles and sandstones, of ancient Greece and ancient Rome and not so ancient London, to fit the style and climates of their time and their people. But then architects have to come back to Malaya and mould from granite and cement the buildings to fit our people and our climate.

There is a gulf between the principles of the rule of law, distilled to its quintessence in the background of peaceful 19th century England, and its actual practice in contemporary Britain. The gulf is even wider between the principle and its practical application in the hard realities of the social and economic conditions of Malaya. You will have to bridge the gulf between the ideal principle and its practice in our given sociological and economic milieu. For if the forms are not adapted and principles not adjusted to meet our own circumstances but blindly applied, it may be to our undoing. You must bridge this gulf quickly if you are not to spend the first few years of your practice after graduation floundering in confusion.

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The rule of law talks of habeas corpus, freedom, the right of association and expression, of assembly, of peaceful demonstration, concepts which first stemmed from the French Revolution and were later refined in Victorian England. But nowhere in the world today are these rights allowed to practise without limitations, for blindly applied these ideals can work towards the undoing of organised society. For the acid test of any legal system is not the greatness or the grandeur of its ideal concepts, but whether in fact it is able to produce order and justice in the relationships between man and man and between man and the State. To maintain this order with the best degree of tolerance and humanity is a problem, which has faced us acutely in the last few years as our own Malaysians took over the key positions of the Legislature, the Executive and the Judiciary.

The British colonial system was a pragmatic one. Its legal system used the trappings and some of the forms of Westminster, but its content was adapted to meet local circumstances. The skill of the colonial legal and judicial system rested not in the straight-forward application of the forms and rules spelt out in the Courts of Justice at Westminster and in the Inns of Court, but in ensuring that these rules were adapted to ensure the maintenance of good Government with the largest practical measure of individual freedom. For accompanying the written rules was a set of unwritten ones which was handed down within the service.

Let me give you an example how a blind application of the forms and rules of law and the rules of evidence led to a complete and utter miscarriage of justice in Singapore. Some three years ago a storekeeper of a bus company took a can of petrol, burst into the Directors' room when a meeting was in progress, spilt the can and set the whole room and building in flames. Several persons were literally burnt alive. The jury convicted without hesitation. But after the fumbling and bungling of the rules of procedure and evidence and the summing up, the court of appeal according to the rules of precedent allowed the appeal. Another charge on a second murder committed in the same actus reus followed. A plea was made to the Attorney-General to observe the best traditions of his high office and the practice of the law in never asking a man to stand trial on a capital charge twice for the same act. In response to such an appeal a nolle prosequi was entered. Five bereaved families swore vengeance in their rage at the utter miscarriage of justice which resulted from a blind application of the forms and rules. For if the State cannot maintain the balance between the subjects and if the public wrath cannot be settled by the courts, then private vengeance becomes inevitable and lawlessness must increase.

Those of you who are just embarking on the study of the law will learn the phrase "law and order". In a settled and established society, law appears to be a precursor of order. Good laws lead to good order, that is the form that you will learn. But the hard realities of keeping the peace between man and man and

between authority and the individual can be more accurately described if the phrase were inverted to “order and law”, for without order the operation of law is impossible. Order having been established and the rules having become enforceable in a settled society, only then, is it possible to work out human relationships between subject and subject, and subject and the State in accordance with predetermined rules of law.

And when a state of increasing disorder and defiance of authority cannot be checked by the rules then existing, now and sometimes drastic rules have to be forged to maintain order so that the law can continue to govern human relations. The alternative is to surrender order for chaos and anarchy.

So it is that we have to allow the use of extraordinary powers of detention first in the case of political offenders under the P.P.S.O., and next in the case of secret society gangsters under the Criminal Law (Temporary Provisions) Ordinance.

It must be realised that if you abolish the powers of arrest and detention and insist on trial in open court in accordance with the strict laws of evidence of a criminal trial, then law and order becomes without the slightest exaggeration utterly impossible, because whilst you may still nominally have law, order and the wherewithal to enforce it would have disappeared.

The choice in many of these cases is either to go through the motions of a trial and let a guilty man off to continue his damage to society or to keep him confined without trial.

These extraordinary powers do not measure well against the ideals of habeas corpus and the precedents of individual liberty embroidered in two centuries of peaceful non-revolutionary England. But the sociological and political conditions in which we find ourselves make it vital that there should be radical departures from the British patterns.

A curious position that has arisen in Malaya is that the temporary alliance of the pure academic who talks in terms of the absolute qualities of freedom, liberty and the rights of man, finds himself a strange fellow traveller with the

Communist revolutionary, whose whole philosophy is a complete denial of these liberal concepts. The academic liberal may or may not believe in the

practicability of his enunciations of absolute ideals. But the Communist revolutionary certainly does not. He is utterly contemptuous of this philosophy of a what he believes to be a decadent free society. But the Communist is sufficiently cynical to calculate that if he joins forces with the liberal in the name of human rights and human liberty, he is more likely to be able to work up more

hostility and dissatisfaction. For “liberty” and “freedom against the authority of State”, are better rallying slogans than Communism and the dictatorship of the proletariat.

The realities of the sociological and political milieu of Malaya and of the world of 1962, if you allow these shibboleths of “law and order” to be uttered out of context and without regard to the actual social and political conditions we are in, you may unwittingly make these words be your own undoing. For in the last analysis if the State disintegrates then the rules of all laws must vanish.

One of the problems of the teaching of law in Malaya is that so many of your teachers have to be people from abroad, people whose training and experience relates to conditions obtaining in a different society. It is one thing reading reports and accounts of a local litigation, it is another when you have been born and bred in that milieu. This unfortunately is an inadequacy which is inevitable in the first phase of this Law School.

The local men with the training and the ability are all making a good life out of the practice of the law, and are loathe to leave these rich pastures for the more restricted ones in the University. This is an inadequacy which must be remedied if you are to be trained in law not only in the principles, but also in the practice. You must have more teachers amongst you who have, so to speak, not

only knowledge of the important principles of navigation but also of the more important presence of the local rocks and the shoals, knowledge which can only be gathered in the bitterness of personal experience.

Justice and fair play according to pre-determined rules of law can be achieved within our situation if there is integrity of purpose and an intelligent search for forms which will work and which will meet the needs of our society. Reality is relatively more fixed than form. So if we allow form to become fixed because reality cannot be so easily varied, then calamity must be befall us.

It is our constant work to adapt our forms and precedents using the skill and the materials at our disposal.

Our duty is to bring home the real and urgent problem of ensuring the survival of the qualities of tolerance and reasonableness in our society. It will be your task to work the machinery of law and justice either as judges, magistrates, prosecutors or defence counsel, or just counsellors on the rights of the individuals. Your work done well can ensure that the legal and judicial system works fairly and expeditiously for the benefit of all in society.

In this work, I wish you a fruitful and rewarding experience in an exacting but interesting profession.

19th January, 1962.

(Time issued 1800 hours)

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