

**VALEDICTORY REFERENCE IN HONOUR OF JUSTICE CHAO HICK TIN**  
**27 SEPTEMBER 2017**  
**ADDRESS BY THE HONOURABLE THE CHIEF JUSTICE SUNDARESH**  
**MENON**

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Chief Justice Sundaresh Menon

Deputy Prime Minister Teo,

Minister Shanmugam,

Prof Jayakumar,

Mr Attorney,

Mr Vijayendran,

Mr Hoong,

Ladies and Gentlemen,

1. Welcome to this Valedictory Reference for Justice Chao Hick Tin. The Reference is a formal sitting of the full bench of the Supreme Court to mark an event of special significance. In Singapore, it is customarily done to welcome a new Chief Justice. For many years we have not observed the tradition of having a Reference to salute a colleague leaving the Bench. Indeed, the last such Reference I can recall was the one for Chief Justice Wee Chong Jin, which happened on this very day, the 27th day of September, exactly 27 years ago. In that sense, this is an unusual event and hence I thought I would begin the proceedings by saying something about why we thought it would be appropriate to convene a Reference on this occasion. The answer begins with the unique character of the man we have gathered to honour.

2. Much can and will be said about this in the course of the next hour or so, but I would like to narrate a story that took place a little over a year ago. It was on the occasion of the annual dinner between members of the Judiciary and the Forum of Senior Counsel. Mr Chelva Rajah SC was seated next to me and we were discussing the recently established Judicial College and its aspiration to provide, among other things, induction and continuing training for Judges. Mr Rajah, who had served for a time as a Judicial Commissioner of the High Court, remarked, a tad wistfully, that in his day there was no such thing as an induction program; nor really was there any continuing education for Judges. Then his eyes lit up as he said, “The entirety of my self-education as a Judge was to ask myself every time I had a difficult situation, ‘*What would Hick Tin do?*’”
3. Mr Rajah was not joking and I did not take it as such. Many of us on the Bench will say that this is still our surest guide to resolving a judicial dilemma. And it is so because over the course of nearly three decades on the Bench, Justice Chao has personified the very essence of what it means to be an excellent Judge and to have the right temperament. I refer here to his qualities of patience, humility, compassion, attentiveness and diligence and the very sharp mind together with the abundance of common sense and wisdom with which he has been blessed. I personally have had the opportunity to witness this as an advocate and more recently as a brother Judge. In a short while, we will hear Minister Shanmugam say more about this from his perspective as a former advocate; while Mr Vijayendran will address us on behalf of the profession.
4. But there is more to Justice Chao’s unique place in our legal history than this. It is not lost on us that the Government is represented here today by DPM Teo, who is the Minister in charge of the Public Service. The Singapore Public

Service has, over the last 52 years, been one of the national treasures of this country, and Justice Chao must be among the longest serving public servants in the history of our nation. He joined the Public Service as State Counsel in the Attorney-General's Chambers in June 1967 and, earlier this year, completed 50 years in the Public Service! Over that time, Justice Chao has served with distinction in some of the highest positions within the Singapore legal establishment. In 2008, in recognition of his outstanding service to the nation, he was awarded the Distinguished Service Order (Darjah Utama Bakti Cemerlang). Minister Shanmugam will also speak on behalf of the Government, on Justice Chao's record of public service.

5. The Attorney will say more about Justice Chao's contributions specifically as a member of that critical institution. But let me just sketch some broad strokes. Justice Chao of course served as Attorney-General from 2006 to 2008; but between 1967 when he first joined Chambers and 1987 when he was elevated to the Bench as a Judicial Commissioner, he played an instrumental role, particularly in the field of international law and civil matters. Indeed, DPM Teo himself recently recounted to me that as a young navy officer, he was introduced to the intricacies of the Law of the Sea at a briefing conducted by Justice Chao who was, by that time, already revered as a Singapore authority in international law. Prof Jayakumar, himself one of our pioneers in the field of international law who had worked closely with Justice Chao, will say more about this aspect of Justice Chao's career. International law was a matter of critical importance for a young nation struggling to survive and dependent on the law to ensure that right rather than might would prevail.

6. Mr Hoong, who is the most senior serving Legal Service Officer, will address us on behalf of the Legal Service and speak about what Justice Chao means to the Legal Service Officers of Singapore. Justice Chao not only served for two decades as a member of the Service, but also subsequently served as a member of the Legal Service Commission for 8 years. Throughout this time, he took a very keen interest in the development of the Legal Service.
7. Despite the many different capacities in which Justice Chao has impacted Singapore's legal history, it will be the 28 years he spent as a Judge that will likely be remembered most vividly. Justice Chao's first stint on the Bench spanned nearly two decades, from 1987 to 2006. After his term as Attorney-General, he returned to the Bench in 2008 as Judge of Appeal and Vice-President of the Court of Appeal. It was as a Judge that he epitomised the human face of justice, and what a lovely face it has been; it was as a Judge that he contributed a vast tract of jurisprudence that will have an immense and lasting influence on Singapore law for decades to come; it was as a Judge that he expressed his deep love for the law most visibly. It is therefore fitting that the last of the speakers that we will hear from, before we hear from Justice Chao himself, will be Justice Andrew Phang, who has served alongside Justice Chao in the Court of Appeal since 2008, and who I have decided to appoint as the Vice-President of the Court of Appeal to ensure stability and continuity upon Justice Chao's retirement. Justice Phang will share some personal reflections and try to express adequately what a privilege it has been for all of us to serve as Judges alongside Justice Chao.
8. Before I turn the floor over to the speakers who will come after me, I wish to share three particular reflections.

9. First, at a very personal level, I am deeply grateful to Justice Chao. I tried my first large case before him nearly 30 years ago and it was a wonderful experience to have the privilege of doing so before a Judge who was patient, attentive, completely in command of his papers, and yet so willing to listen to what counsel had to say. It was the extraordinary humility of Justice Chao that left a deep impression on me as a young lawyer. And this was a privilege to be repeated time and again in the years that followed. Over the course of nearly 25 years of practice, when I appeared before him in the High Court or the Court of Appeal, I cannot recall a single occasion when Justice Chao was anything other than patient, wise, humble, attentive and utterly fair.
10. After my appointment as Chief Justice was announced, Justice Chao was among the first people I spoke to. I requested him to stay on the Bench and continue to serve, not only because I admired him immensely as a lawyer and as a Judge, but also because I thought to lose him soon after we lost Chief Justice Chan from the Bench would be too heavy a blow for the Bench. I also wanted to have the benefit of his wisdom as I found my way in my new undertaking. Despite the heavy workload, which has continued to grow steadily over the years, Justice Chao answered the call to service. Over the last 5 years, he has not only been a mentor, a close confidant, a trusted advisor and a tireless colleague, but also a wonderful friend. I cannot thank him enough for this.
11. Second, and this is an extraordinary thing to say of a colleague, Justice Chao is not only admired and respected for his work as a Judge and lawyer; beyond this, he is much loved by all of us on the Bench and by the legal community as a whole. Qualities such as decency, fairness and humility might be grossly

under-rated today, but Justice Chao's life and the impact he has had on all of us demonstrates that there is an eternal value in these strengths. Justice Chao is a frequent contributor to the training programs of the Judicial College, and a recurrent theme of these contributions is his advice that we should never say unkind things to anyone. Such is his personal humility that over the course of literally hundreds of cases that he and I have heard together, I have never seen him humiliate anyone. This steadfast composure is simply remarkable and I sincerely pray that it will continue to inspire those of us who will journey on after the retirement of our beloved colleague.

12. My third reflection pertains to why I felt it was so important to hold this Reference. It will not surprise anyone here today that when I first floated the idea, there was widespread acclamation from all, save from Justice Chao himself. He told me that it was just completely alien to his nature to have a fuss made over him; "I would like to leave quietly", he said. Or, as he said yesterday at dinner, "I'm hoping a hole will open in the ground beneath me". He only yielded when I explained why I thought it was important.

13. The law is foundational to society, and nowhere is this truer than in our country which has mapped its path to success on the back of a steadfast commitment to the rule of law, an abhorrence for corruption, a willingness among our citizens to answer the call to serve, and a belief in meritocracy and the equal opportunity for all to thrive. I explained to Justice Chao that these foundational truths might be less obvious to a new generation of Singaporeans and, in particular, to young Singaporean lawyers.

14. This Reference, to me, offers a wonderful opportunity to celebrate the achievements of a real pioneer of Singapore law; to recall with gratitude the honesty with which men and women like Justice Chao devoted themselves to the cause of building a new nation on the rock of faithfulness to the law; to inspire young lawyers of what it is possible to accomplish with a devotion to learning, and to practising our craft in a true spirit of public service; and to remind Singaporeans that there is ultimately immense good in the law.

15. Justice Chao personifies all this and that is why I am so delighted to preside at this Reference in honour of this wonderful Judge, lawyer, colleague, fellow Singaporean and friend.

16. Let me finally close with a word of appreciation to the source of the strength of this exceptional gentleman. It is his family. Sen Li, his children and grandchild have been his comfort and strength on this remarkable journey, and to them we are all deeply grateful. Justice Chao's retirement from the Bench will be our loss and their gain. Hick Tin, we wish you a very happy retirement and the chance finally to enjoy your family to the full!

**VALEDICTORY REFERENCE IN HONOUR OF JUSTICE CHAO HICK TIN**

**27 SEPTEMBER 2017**

**ADDRESS BY MINISTER K SHANMUGAM**

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The Honourable Chief Justice,

Honourable Judges and Judicial Commissioners of the Supreme Court,

DPM Teo,

Prof Jayakumar,

AG,

President, Law Society,

Registrar, Supreme Court,

Ladies and Gentlemen

1. We have come here to honour and celebrate Justice Chao, his exceptional life and service to this country.

2. I thank the Honourable Chief Justice for giving me this opportunity.

3. It is a privilege to join in this tribute, to a person who has dedicated his entire life and career to Singapore.

4. Justice Chao has been in public service for 50 years :

- As a Judge,

- As a lawyer in AGC, ultimately becoming the AG,



- And beyond the law, in the Volunteer Special Constabulary (VSC).

5. As a Judge, he is the only Judge who has served under all 4 of our post-independence Chief Justices.

6. At AGC, he held a wide array of roles, and rose through the ranks, to become the Head of Civil Division. And became AG as well.

7. Beyond the law, Justice Chao served in the VSC for 20 years. He was our first volunteer Commander, something not many people may know.

8. In the limited time we have, it is difficult to do justice to all his contributions. But I will try and sketch out some vignettes.

#### A. IN AGC

9. Justice Chao spent over 20 years in AGC. Joined in 1967, after his pupillage. At that time, AGC had only about 25 lawyers.

10. As a Legal Officer, he protected, advanced Singapore's interests in the international arena.

11. Everyone knows about his involvement in the Pedra Branca case. He was involved right from the beginning, in the late 1970s.

12. Also a key member of the team that negotiated the UN Convention on the Law of the Sea.

13. Professor Jayakumar, who worked closely with Justice Chao on these issues, will say more about both these aspects.

14. The importance of his contributions in these areas cannot be overstated.

15. I will highlight one other significant point, which not many people may know.

16. Within a year of joining AGC, in 1968, at the age of 25, Mr Chao, as he then was, was sent to a meeting in the United Nations (UN), to represent Singapore. It was the UN Conference on the Law of Treaties.

17. The young Mr Chao – found himself in the middle of giants of international law. One of the American delegates was Professor Myres McDougal, a leading authority on international law. Two other delegates, Professor Roberto Ago and Mr Taslim Elias, went on to become ICJ Judges.

18. In Justice Chao's own words, he felt both "considerable excitement and concern" to be part of such an "august gathering of experts".

19. But what transpired showed Justice Chao's wisdom beyond his years.

20. During the discussions, the Malaysian representative acknowledged that:

"Some treaties might be so fundamental to the very existence of States that they simply could not be dispensed with, whatever political differences might arise.

For example, the new island State of Singapore was dependent on Malaysia for its water supply; The treaty under which Malaysia had to supply a certain quantity of water daily to Singapore could not be terminated or suspended between the two States for any political reason."

21. Justice Chao heard this. He seized on it. He had the presence of mind and astuteness to quickly realise that this must be put on record.

22. Water at that time, from Malaysia, was linked to our very survival. Mr Lee Kuan Yew and Mr Eddie Barker played a crucial role:

(1) In drafting the Water Treaties,

(2) Guaranteeing them in the Separation Agreement,

(3) And making sure they were enshrined in the Malaysian Constitution.

23. In that context, to have an acknowledgment from the Malaysian representative, at the UN, in these terms, was very valuable.

24. Justice Chao quickly jumped in, he reiterated what the Malaysian representative had said, and I quote:

“that the representative of Malaysia had said that even the severance of diplomatic relations, which he hoped would never occur, would not affect the water agreement between Singapore and Malaysia.”

25. He made sure it went on official record - Malaysia's express confirmation that our water agreements cannot be terminated, whatever political differences might arise.

26. Lawyers will understand the importance of an acknowledgment, in those terms. And the importance of having that acknowledgment, written into the record, at the UN, in black and white. It still is there.

27. Because in the nature of things, there can be one view in 1968, 3 years after Separation. And another view – 30 years later.

28. Not everyone may recall, but in 2002, 15 years ago, Malaysia's then-PM Dr Mahathir criticised the water agreements, as being unfair. He said, by reference to the water agreements:

“Well, international agreements have been broken before. I have seen people go to war even, which is not by agreement.”

“They don't go to war by agreement. They don't say that this thing cannot be resolved so they go to war, but they still go to war. I am not talking about going to war with Singapore, I am just giving an example.”

29. Various other statements, from time to time, have been made along these lines.

30. When these things are said, across the Causeway, we note with confidence the Treaties and, of course, with confidence - the exchange in the UN, which is there in black and white, for us to refer to, if it ever becomes necessary.

31. And, as Mr Lee had put it, Singapore would have “to go in, forcibly if need be... to restore the water flow”.

32. This is just one vignette, though a critical one, relating to Singapore - you can say relating to one of our arteries.

33. We owe Justice Chao a deep debt of gratitude for this, and many other ways in which he protected and advanced Singapore's interests.

B. AS A JUDGE

34. Justice Chao was appointed a JC in 1987. He spent 28 years on the bench, and authored over 600 written judgments.

35. He was known amongst lawyers for his composure, judicial temperament – kindness, calmness, and a joy to appear before. The Chief Justice outlined his qualities, which all members of the Bar would agree with.

36. In the 1980s, appearing in some of our Courts could be like being caught in a tempest. So the calmness and kindness in Justice Chao's court was like getting a safe refuge.

37. Coincidentally, I appeared before Justice Chao in my first significant High Court case. I was 28 when I took on the case. The case was imprinted in my memory for a number of reasons – will come back to this later.

38. I was acting for the Defendant. The case was passed from a senior Partner to a junior Partner and then to me, then a 2nd yr qualified lawyer. Basically, because no one wanted to do the case.

39. Why? I can put it this way – to put it delicately, the Court would have had considerable difficulties assessing who was being truthful, between the parties.

40. Set for hearing for several days.

41. Given the nature of the evidence, the documents, as objective evidence, would be important.

42. We appeared before Justice Chao, who was fairly new on the Bench.

43. I had applied to strike out the Claim, a very substantial one, for a series of reasons.

44. Counsel on other side was the late Mr Karthigesu, who went on to sit in the Court of Appeal.

45. As I mentioned earlier, this case is imprinted into my memory for a few reasons. For many of us, our first significant case or hearing - we will remember. I will mention two other important reasons why I remember the case.

46. First, I was very fortunate to have come before Justice Chao. At that time, I had many views on the case, and was not reticent about expressing them, sometimes even when it was out of my turn to speak. I think I was a little impetuous - - put it down to my youth. Justice Chao, however, controlled proceedings admirably and with calmness, patience, and kindness. He would give a quizzical look, and sometimes tell me kindly to wait for my turn - all with good humour.

47. The second reason I remember the hearing: Mr Karthigesu was very kind, courtly, gentlemanly and took my interruptions, perhaps impertinence, in his stride. And advised me, now and then, very gently, kindly, on what I should do.

48. Justice Chao and Mr Karthigesu knew each other very well. It was a small profession. I was unknown to either of them.

49. Nevertheless, throughout the several days I received the best treatment a lawyer can expect from a Judge and from Counsel on the other side.

50. In the end, Justice Chao struck out the Claim, in a very detailed judgment. I thought to myself: this is a brave judgment, to strike out a large claim, on the basis of non-discovery. Would have been so much easier to find other ways of dealing with it.

51. But that is Justice Chao - He will do what he believes is right, without fear or favour. He always did what you expect from a Court: to do what he thought was right. You may agree, disagree, but you know he believed in it, and he has taken his time to think about it, and came to a view.

52. I appeared before Justice Chao in many other cases, after that. When I ask myself how he might rule – I leave aside the legal technicalities, and ask: really, what is the common sense answer, what is justice on the facts? And I know that he will try and get to that.

53. That comes through repeatedly. Earlier this year, we read about a case - a mother was charged with criminal breach of trust. The lady had stood as guarantor for a friend, who had borrowed from an unlicensed moneylender. Friend went missing. Moneylender came after her, and threatened her young son. Out of desperation, the lady misappropriated money from her employer. On appeal, Justice Chao reduced her custodial sentence. Said it was understandable that a mother may not act rationally, when confronted with a direct threat to her child's safety.

54. Many in the audience will also remember the case of Pius Gilbert Louis. Then-AG, Mr Chan Sek Keong, filed a criminal reference to clarify the limits of the High Court's sentencing jurisdiction. The sentence in question was meted out by the then Chief Justice. Justice Chao presided over the Court of Appeal coram hearing the reference, which ultimately ruled that the Chief Justice had exceeded his sentencing jurisdiction. Justice Chao delivered the Court's judgment, focusing solely on the legal merits of the case before him. That is the measure of the man - Always does what is fair, and right, no matter the parties, and whatever the case.

### C. IN THE VSC

55. Justice Chao was also actively involved in our volunteer police corp – or VSC, for 20 years, until he went onto the Bench.

56. When he first joined the VSC, part-time NS had just been introduced, bringing young NS-men into the ranks of the VSC. The young Mr Chao offered his expertise, taught law to the young men in the brigade.

57. In 1981, when VSC went back to being a wholly volunteer force, Justice Chao became its first volunteer commander. He was the first volunteer police officer to ever hold the title of “Assistant Commissioner”.

58. He led the VSC during an important transition period. And organised house-to-house recruitment exercises to attract volunteers.

59. Gave of his personal time, for 20 years, even while he was busy at AGC. Reveals his whole-hearted dedication to service.

### CONCLUDING REMARKS

60. I will conclude by quoting what Judge Learned Hand once said, of another judge – it is very apt, for Justice Chao :

“He was wise because his spirit was uncontaminated, because he knew no violence, or hatred, or envy, or jealousy or ill-will...”

I believe that it was this purity that chiefly made him the judge we so much revere; more than his learning, his acuteness, and his fabulous industry.

...[I]t was a rare and good fortune that brought to such eminence a man so reserved, so unassuming, so retiring, so gracious to high and low, and so serene.”

61. I think everyone will agree that these words fit Justice Chao completely.

62. Likewise, it has been Singapore’s good fortune to have had a Judge like Justice Chao. He embodies the noblest aspirations of our profession and how a Judge should be.



63. Justice Chao – for everything that you have done:

For the profession

For the law

And ultimately, for Singapore -

Thank you.

I wish you a very happy and fulfilling retirement.

# VALEDICTORY REFERENCE IN HONOUR OF JUSTICE CHAO HICK TIN

27 SEPTEMBER 2017

ADDRESS BY PROFESSOR S. JAYAKUMAR

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The Honourable Chief Justice,  
Honourable Judges of the Supreme Court,  
Attorney-General,  
President of the Law Society  
Justice Chao and members of his family  
Ladies and Gentlemen

## ***The start of my friendship and working relationship with CHT***

I first got to know Chao Hick Tin 1968 when he was a legal officer in AGC and I was a young lecturer in the NUS Faculty of Law. Then Attorney-General Tan Boon Teik nominated Chao Hick Tin and myself to represent Singapore at the Vienna Conference on the Law of Treaties (26 March to 24 May 1968). We both spent many sessions going through the draft articles prepared by the International Law Commission to think through what our position should be on the contentious issues. Cabinet however approved only one representative to go to the Conference, namely, Chao Hick Tin. But those discussions we had marked the beginning of my working and personal relationship with him. Even then it was clear how thorough and meticulous he was in his preparation.

## ***UN Seabed Committee and the UN Conference of the Law of the Seas (UNCLOS)***

A few years later we both became very much involved in the Singapore delegation to the UN Seabed Committee which later morphed into the UN Conference on the Law of the Sea, known also as “UNCLOS” for short. This spanned many years. Nearly every year we had two sessions of three weeks or four weeks in New York and Geneva. Working at close quarters over many years and closeted in the same hotel, led to the bonding of a cohesive Singapore negotiating team comprising Chao Hick Tin, Tommy Koh, the late Sivakant Tiwari, Michael Cheok, Geoffrey Yu and myself.

Not many of you may know that Chao Hick Tin is an excellent cook! The highlight of each tiring day at the Law of the Seas session was the evening meal at our hotel where Chao Hick Tin would rustle up a fantastic steak or other good meals. Tommy Koh, Michael Cheok, Tiwari and Geoffrey and I had to do the washing up of dishes. On weekends, he would drag us to Chinatown where not only he knew

the best outlet for roast duck but also the precise time when the fresh supply would arrive. Other UNCLOS luminaries heard of his meals and would, shamelessly gate crash on weekends.

In case you are all wondering if our Singapore delegation had nothing better to do than sharpen our culinary skills, I hasten to add that we had to fight many hard battles such as ensuring our navigational interests in the face of extensive national claims made by coastal states, as well as safeguarding our interests in relation to new provisions on archipelagic concepts and on straits used for international navigation. We were also instrumental in forming a coalition of land-locked and geographically disadvantaged states of which we were co-chair. This coalition became an important and influential negotiating bloc in the UNCLOS negotiations.

In all these negotiations, Chao Hick Tin played a pivotal role. He had an almost self-effacing demeanour as he pursued Singapore's national interests. Beneath that calm exterior, was a tenacious fighter. Let me give an example. In the Seabed Committee, we wanted to demolish the myth that extensive claims of 200 nautical-mile maritime zones would benefit all developing countries which was a line touted by many G77 and non-aligned countries. It was untrue, for such extensive claims were against the interests of landlocked countries and some coastal states like Singapore which would be hemmed in by other coastal states.

Thus, we pushed for a study by the UN Secretary-General to show which countries would benefit most and which countries would benefit least from such extravagant extensions. Coastal states shouted us down. The decision making was by consensus and the Chairman banged his gavel dismissing our request. I was then Permanent Representative to the UN. As I drove Chao Hick Tin to JFK airport, he said we should not let these coastal states get away with it. He suggested that at the UN General Assembly, we should table a Resolution requesting the UNSG for such a study and get it voted on.

This was exactly what we did! This was in 1972, at the 27<sup>th</sup> UN General Assembly. It was a hard fought battle. We rustled up enough allies and votes to get the Resolution through. That was the first time in Singapore's diplomatic history where we initiated and shepherded a UN General Assembly Resolution. The credit for that successful initiative goes to Chao Hick Tin.

***I entered politics and became an office holder; His legal service career rose rapidly***

In 1980s, I entered politics and became an office holder while his career progressed steadily in the Attorney General's Chambers, rising to be Head of Civil Division after which he joined the Judiciary. In 2006 he became AG before returning to the Bench.

When I was Minister for Law, during the period when he was AG, we respected and understood each other's roles though we were personal friends. The fact that we had known each other for so many years enabled us to have very frank and candid discussions whenever difficult or tricky situations arose.

During this period when he was AG and I was Minister for Law, we again had to work very closely on the Pedra Branca case where he, Tommy Koh, Chan Sek Keong, and Sivakant Tiwari and I were members of the team working with foreign counsels.

### ***Personal and family relationship***

As our working relationship developed, so did our personal friendship. My wife and his wife Sen Li also became good friends. We admired Sen Li's quiet but abiding support for Chao Hick Tin's endeavours. Their three children were born in the same years as our three children. Our families frequently had get-togethers annually at the PSA chalet at a Lighthouse (not Horsburgh Lighthouse on Pedra Branca but Sultan Shoal Lighthouse!) He was always caring and concerned and became one of my, and my family's, closest friends.

### ***Closing remarks***

Other speakers today will speak of his legal acumen, his landmark judgements and his judicial temperament. For me, his admirable qualities are first his calm and unruffled attitude in addressing any difficult problem or situation.

Secondly, he has a deep sense of what is right and what is wrong and is prepared to defend and articulate his position. Thirdly, since most of the contexts in which we worked together were in international negotiations and in diplomacy, I admired the way he would doggedly protect and promote Singapore's interests. If ever there was a situation where I needed a tough comrade in arms, Chao Hick Tin would be that person.

### ***Closing words***

Few people can claim that they have had a good friend and colleague for almost half a century. That I am able to say that about my relationship with Chao Hick Tin is to say that my life has been enriched.

Chief Justice, I thank you for inviting me to speak on this special event. I join you and others in applauding his outstanding contributions and in wishing him a happy retirement although I suspect, and in fact I hope, he will not completely disappear from the legal landscape.

**VALEDICTORY REFERENCE IN HONOUR OF JUSTICE CHAO HICK TIN**

**27 SEPTEMBER 2017**

**ADDRESS BY THE ATTORNEY-GENERAL**

**MR LUCIEN WONG S.C**

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1. I am pleased to address your Honours on the occasion of this Valedictory Reference for Your Honour, Justice Chao Hick Tin. This Reference is made on behalf of my colleagues at the Attorney-General's Chambers, where Justice Chao left a remarkable legacy.

2. Justice Chao was born on 27 September 1942. He was the scion of a prominent Hainanese family in the Middle Road area, an area known as "Hainan town". His father, Chao Yoke San, operated a local hotel called San Wah Hotel along Bencoolen Street. It was said that as a young man, Justice Chao helped out in this hotel and even stayed up late at night to open the door for hotel guests who returned late. As you can tell, Justice Chao's industry was evident from a young age.

3. Living in the Middle Road/Bras Basah Area, Justice Chao spoke English and Chinese fluently, and he attended St Joseph's Institution as well as the Catholic High School. When he decided to make his career in the law, he studied at University College London, obtaining his Bachelors and then a Masters degree in law in 1961 and 1966 respectively.

4. Returning to Singapore as one of the few fully bilingual lawyers in Singapore at that time, Justice Chao could easily have gone into private practice and made himself a fortune very quickly. But instead, he chose to join the Singapore Legal Service (you can see that unlike myself or the Chief Justice, Justice Chao's call to public service came very early on in his career).

5. Upon joining the Singapore Legal Service in mid-1967, Justice Chao was posted to the Civil Division of the Attorney-General's Chambers ("AGC" or AG's Chambers). He remained in the Civil Division (and rose to become Head of the Civil Division), until he was elevated to the High Court as a Judicial Commissioner in 1987. As you can see, Justice Chao had a long and successful career in the AG's Chambers - some 19 years.

6. Justice Chao chalked up numerous achievements in the AG's Chambers. Apart from playing a key role in national development by advising the Government on numerous land acquisitions for public housing at the time, Justice Chao also had a great interest in Public International Law. During his time in AGC, the international law practice of AGC was undertaken by the Civil Division of AGC, as the International Affairs Division of AGC had not been established yet. In the early years of Justice Chao's career, the practice of Public International Law in AGC was very much in its infancy. Justice Chao was one of the pioneers of international law practice in Singapore. It is safe to say that he did not just take on the role of lawyer-diplomat but that he truly made it his own:

- Within a year of his joining the Civil Division of AGC, Justice Chao was representing Singapore at the United Nations Conference on the law of treaties.
- One of Justice Chao's most memorable early assignments was to fly the Singapore flag at the 1973 Summit of the Non-Aligned Movement (NAM) which was held in Algiers, Algeria. Singapore joined the NAM only in 1970. That was the first NAM Summit which Singapore attended as a member.
- That was also the same year that Justice Chao, as AGC's leading representative in the Singapore Delegation, helped to spearhead the deliberations which led to the formulation of the United Nations Convention on the Law of the Sea (UNCLOS). After Professor Tommy Koh became the Chair of this Convention, Justice Chao led the Singapore Delegation (together with Professor Jayakumar who was then Singapore's representative to the United Nations).
- Justice Chao also played a key role in negotiations with Malaysia and Indonesia to safeguard our freedom of navigation in the Straits of Malacca.

7. Justice Chao's interest in international matters also led him to another area where he was to make his mark: the ASEAN Law Association (ALA). The ALA was established in 1979 to bring together all the branches of the legal professions in the ASEAN Member States. Justice Chao was the first Secretary of ALA Singapore and later became its President. He was central to the growth of this body in Singapore as well as the regional organisation comprising similar bodies in all the other ASEAN

Member States. It was thus fitting that he was subsequently elected to be the President of the regional ALA as well.

8. The ALA is also the source of some particularly fond memories for Justice Chao and AGC. I will just relate two here to jog his memory:

- Justice Chao was a regular participant in ALA activities, including its social programmes, which were important for fostering camaraderie among the ASEAN legal community. But we are all fortunate that Justice Chao, in his infinite wisdom, chose not to participate in one particular activity. This was during the ALA Governing Council Meeting in Cebu in 1985. The Philippines Chapter of the ALA had organised a boat trip around Cebu Bay to view the sunset. The leading legal luminaries of ASEAN all boarded the boat. But Justice Chao chose not to. Then, guess what – the boat was hit by a wave and quickly sank. The top legal minds of ASEAN all had to swim ashore. Justice Chao was of course safely on dry land. This was just as well, as Justice Chao cannot swim. We are thankful that he exercised his discretion that day, as otherwise we may not be having this Reference today!
- Another memorable instance would be when Justice Chao was left behind in Jakarta Airport on the way back from the ALA Conference in Bali in 1989. The Singapore Delegation had transited in Jakarta on the way back from Bali. The leaders of the Singapore Delegation which included AG Tan Boon Teik and Justice Sinnathuray were all ushered into the VIP lounge at Jakarta airport. Justice Chao chose to go shopping instead. When the time came to re-board the aircraft, all the VIPs were ushered back into the plane. However, someone forgot about Justice Chao and the plane took off without him. Needless to say there was panic in the plane when the Singapore Delegation realised what had happened. But there was no distress on Justice Chao's part. Unflappable as always, he just took the next flight back (with his shopping no less).

9. On a more serious note, Justice Chao's contributions to AGC were not confined to civil and international law matters. When the decision was taken to allow foreign lawyers to set up offices in Singapore, AGC was given the task of approving applications from foreign lawyers and foreign law firms to operate in Singapore, and also for ensuring that they comply with the conditions of the approval. The responsibility for this fell on the Civil Division of AGC. Thus for many years, Justice Chao was the *de facto* regulator of foreign lawyers and foreign law practices in

Singapore. He and the AGC officers who worked with him laid the groundwork for the liberalisation of our Legal Profession and for the very dynamic, and economically important, legal sector that we have in Singapore today.

10. AGC lost Justice Chao in 1987 when he was appointed as a Judicial Commissioner of the Supreme Court. We were sad to lose a colleague, a friend and a leader. But AGC recognised that in talent-scarce Singapore, his skills were required in a higher calling. So losing him after 19 years of dedicated service was a sacrifice that AGC was happy to make.

11. Everyone in Chambers was elated when, in a stroke of kismet, Justice Chao returned to AGC (also 19 years later), in 2006, this time as the Attorney-General. He was again able to resume his earlier role as a colleague, friend and leader to all in AGC. As he had done in the past, he displayed not just his considerable legal knowledge and skills, but also his courage and sensitivity in the numerous decisions that he had to make as the Attorney-General and Public Prosecutor. He also extended the international reach of AGC by building relationships with non-Common Law states such as Qatar and enhancing our already strong relationships with the Attorney-General Chambers of Malaysia and Brunei.

12. Justice Chao's term as the Attorney-General of Singapore ended after 2 years. Once again AGC had to bid him farewell (this time to the Court of Appeal). Again, we had to recognise that there were greater needs for him to serve. Again, this was a sacrifice that AGC was happy to make.

13. After all of Justice Chao's contributions to the Nation, it is only fitting that we now come together to pay tribute to a man who had written more pages of Singapore's legal history than many of us could ever hope to be a part of. We hope that in his retirement, when Justice Chao looks back at his remarkable career, he will recall with fondness not just his long judicial career but also his time in AGC – especially the many officers and staff that he had touched and inspired during his time there, and the many friends that he had made there.

14. On behalf of my colleagues at AGC, we wish Justice Chao a well-deserved and happy retirement. We also hope that he will take up swimming in his retirement.

15. Thank you, Justice Chao, for your many contributions to AGC.



# VALEDICTORY REFERENCE IN HONOUR OF JUSTICE CHAO HICK TIN

27 SEPTEMBER 2017

## ADDRESS BY MR GREGORY VIJAYENDRAN THE LAW SOCIETY PRESIDENT

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1. The Honourable the Chief Justice, Sundaresh Menon  
The Honourable Judge of Appeal Justice Chao Hick Tin,  
The Honourable Judge of Appeal Justice Andrew Phang,  
The Honourable Judges and Judicial Commissioners of the Supreme Court  
Deputy Prime Minister Mr. Teo Chee Hean  
Minister for Law Mr. K. Shanmugam  
Former Minister for Law, Professor S. Jayakumar  
Attorney General Mr. Lucien Wong SC  
The Honourable Registrar of the Supreme Court, Mr Vincent Hoong

May it please the Court.

2. How do you do justice to a judge who, without exception, has shown justice to all and sundry who have appeared in his court ? I am privileged to valiantly attempt that on behalf of the Bar in this Valedictory Reference in your honour, Justice Chao Hick Tin.
3. To the Bar, Your Honour first and foremost personified kindness and gentleness. This meant a lot to practitioners particularly to junior counsel. Many senior litigators appeared before Your Honour during the nascent stages of their practice when you served as Judicial Commissioner from 1 October 1987 and thereafter Supreme Court Judge from 15 November 1990. They vividly recall court appearances in Your Honour's Chambers and Courtroom in the old Supreme Court building. Wong Chai Kin writes : *"I remember when I was part-called and appeared before you in Chambers, you were so kind and patient. You remain being kind, patient and fair in all your Judgments and dealings with lawyers"*. In Peggy Yee's words *"You will always be remembered (and spoken about) by me as being the kindest gentlest Judge ! That's not to say you're a pushover. You never were.... I remain in practice to this day (since call in 1988) because you did not scare me off from Year 1 onwards"*. Nicholas Aw's recollection is that *"You were the first High Court judge whom I appeared before after my call in 1994. I remember I was nervous and had butterflies in my tummy. But you were so very patient and even though you said you had to pick up someone, you did not put pressure on me. You were very kind and to this day, I still am glad to see that you have not changed your demeanour"* .Yap Teong Liang describes being *"awestruck"* by the impression Your Honour first had upon him with *"your temperament, calmness and clarity of thought"*. Law

Society Council Member, Chia Boon Teck, summed it up by noting that *“Of all the qualities that you possess, your kindness will always be remembered”*

4. Qualities of kindness and gentleness come from strong inner values. We could glean these values from your judicial observations. For instance in Re Kalpanath<sup>1</sup>, this flowed from your pen and I believe your heart :

*“... ours is a secular society, in the sense that there is no one single religion to which the people of Singapore generally subscribe to. However, this does not mean that there cannot be shared values that our society, as a collective whole, may adopt. We believe that one such common value is forgiving those who have trespassed against us... there is a public interest in encouraging the rehabilitation of those who have gone astray and allowing those who are now reformed, to reenter society and contribute to its well-being”*

5. Many lawyers attest to your famed courtesy and consideration towards counsel, party and witness. As a junior trial lawyer appearing before Your Honour in Yin-Marguerite Murphy and Anor vs PT Jaya Putra Kundur,<sup>2</sup> I witnessed that. Your Honour’s appointment as Judge of Appeal on 2 August 1999 proved a huge loss for trial lawyers. We missed your judicial temperament at first instance. In veteran lawyer, Ms Sujatha Bhargavan’s words : *“It was always a pleasure to appear before Your Honour for hearings. Your sound decisions and the manner the trials were conducted gave assurance and comfort to all of us that even if we did not succeed in a trial it was only because we had a bad case...”*
6. The High Court’s loss was the Court of Appeal’s gain. After your stint of service as Attorney General, from 11 April 2008 onwards, you resumed service as Judge of Appeal. Appellate advocates wax lyrical of how court appearances before Your Honour have been an exquisite pleasure. In Senior Counsel Davinder Singh’s words: *“Justice Chao remained unaffected by the heights that he scaled or the power he wielded. He discharged his duties with honesty and humility and treated one and all with respect and civility”*. Senior Counsel N Sreenivasan candidly shares that :” *When many of us are stressed or lose faith, a hearing before you restores zest and enthusiasm. You have become the administration of justice embodied at its best”*
7. Your Honour continued to advance in your judicial career. In 2008, Your Honour was appointed as Vice President of the Court of Appeal. Yet your incredible patience and kindness diminished not an iota. It was still on display - particularly on appeals you presided over. Discerning observers could see that Your Honour was at pains at times, through carefully considered comments,

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<sup>1</sup> [2009] 4 SLR 1018

<sup>2</sup> [1999] 1 SLR (R) 309

post-delivery of oral judgment, to soften the blow for a losing party or Counsel for the same.

8. If home is where seldom is heard a discouraging word, Your Honour's court was closer than home. When you furrowed your brows during a hearing, it was hardly ever at counsel. It was due to thoughtful consideration of the issue at hand. As if you were trying to solve a jigsaw puzzle of what the truth was in the given case.
9. That leads to a second notable quality that the Bar will remember Your Honour for. Your incisive intellect. Time fails me to do even a snapshot of the close to 1,250 judgments Your Honour either delivered or decided in the Supreme Court. The cases show that you have been one of the apex court's intellectual heavyweights. In lawyer Tan Yew Cheng's words "*Your Honour brought justice, sharp intellect and a keen mind to each case.*" Suffice to say that many of Your Honour's decisions remain good law and have lasted the test of time. No wonder lawyer Peggy Yee recorded in our tribute book that : "*I've always proudly announced that I willingly accept all Judgments by you as they are fair, reasoned, and most of all, meted out in a kind and merciful way.*". Peggy's views are not iconoclastic.
10. Modern courts strongly emphasize efficient administration of justice. Singapore courts are an exemplar. Your Honour struck the right balance in that strong emphasis with an equally strong ethos of commitment to do justly. The late Justice Antonin Scalia of the US Supreme Court said "*If you're going to be a good and faithful judge, you have to resign yourself to the fact that you're not always going to like the conclusions you reach. If you like them all the time, you're probably doing something wrong.*" A commitment to do justice (no matter how uncomfortable) is the hallmark of truly great judges. Former Law Society President Chelva Rajah SC famously quipped at the 1992 Law Society Dinner and Dance that "*When we talk about justice delayed being justice denied, we must also remember that justice hurried is justice buried.*". The Bar feared neither a barrier to, nor burial of, justice in your courtroom.
11. Instead, there was counsel and courage. The third legacy of Your Honour's judicial career. While righteousness and justice flowed from your courts, there was also a steady stream of wonderful counsel on the deeper issues. Your judicial observations revealed a humane touch. To cite two reported examples, one the closing sentences of Your Honour's judgment in the decision in *Kho Jabing v PP*<sup>3</sup>: "*... there comes a point after the appeals have been heard and the applications for reviews have been decided, when the legal process must recede into the background and give way to the search for repose. We think*

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<sup>3</sup> [2016] 3 SLR 1259

*that time has come.*” Secondly, Your Honour’s conclusion in the judgment delivered on behalf of the Court of Appeal in the Republic of the Philippines v Maler Foundation and Others<sup>4</sup> involving conflict of laws issues. There, Your Honour rejected the Human Rights’ victims’ claim to funds but emphasized that the court “*would not in any way wish to deny the moral claims of the Human Rights Victims and acknowledge that the Human Rights Victims deserve redress for the grievous wrongs that they have suffered*”<sup>5</sup>

12. Your Honour also showed the courage of your convictions when you needed to stand alone. For instance, Your Honour’s dissenting judgment in Lee Tat Development Pte Ltd .v MCST Plan No 301<sup>6</sup>. This was vindicated by a differently constituted appeal court a few years later. In Law Society of Singapore v Manjit Singh<sup>7</sup>, Your Honour delivering the judgment of the Court of Three Judges struck off a well-known senior lawyer from the rolls for egregious ethical conduct. In the recent case of Ilechukwu Uchechukwu Chukwudi v PP<sup>8</sup>, Your Honour delivering the judgment of the Court of Appeal ordered a rare review of the court’s earlier decision reversing an acquittal “*due to the unique turn of events*” involving an IMH report making it a “*truly exceptional case*” .
13. Your personability and winsome manner has been there for all to see on extra judicial occasions as well. In the words of practitioner Ms Ellen Lee “ *I am particularly touched by how you could call me by my name whenever we met, even though my appearance in your Court was not very frequent, especially in recent years ! I shall miss you and your friendliness ...*” This made you an ideal Head of Delegation for Singapore at the Bar and Bench Games. It is perhaps a fitting capstone that Team Singapore under your helm won the Judges Cup this year on home soil. We look forward to having your inspirational presence with us in future to lift our game. Even if on the sports court and not in the Supreme Court !
14. You were also one of the founding members of the ASEAN Law Association. You sowed a far-sighted vision in pioneering leadership in this regional organization uniting Bench, Bar and other stakeholders of the legal profession. I believe that these valuable seeds of the past will produce a harvest next year. A golden opportunity for ALA to scale new regional heights under the dynamic leadership of our present Chief Justice when Singapore hosts the General Assembly in July 2018.

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<sup>4</sup> [2014] 1 SLR 1389

<sup>5</sup> (at 96)

<sup>6</sup> [2005] 3 SLR(R) 157

<sup>7</sup> [2015] 3 SLR 829

<sup>8</sup> Criminal Motion No. 4 of 2017 reported as [2017] SGCA 44

15. On behalf of the Law Society, thank you for your stellar service, Justice Chao. It is with sadness that we bid farewell from this Court to Your Honour. We wish you well for your retirement. You are respected greatly by the Bar. Not only for being an outstanding jurist on our Supreme Court Bench. But also for never once letting your greatness make you lose touch with humanity.

**VALEDICTORY REFERENCE IN HONOUR JUSTICE CHAO HICK TIN**

**27 SEPTEMBER 2017**

**ADDRESS BY MR VINCENT HOONG**

**REGISTRAR SUPREME COURT**

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May it please Your Honours, Chief Justice, Judges of Appeal, Judges and Judicial Commissioners of the Supreme Court.

1 It is my greatest honour and privilege on behalf of my fellow 654 legal service officers to pay tribute to one of our profession's finest members and, if I may add, our most illustrious former legal service colleague.

2 Justice Chao, yours has been a long and outstanding career in the public service, the likes of which we may perhaps never see again. Fifty years ago, you joined the legal service as a young officer in the Civil Division of the Attorney General's Chambers. Today, you are about to conclude your term as the vice-president of the highest court of our land. In between, you served 22 years in Chambers, rising to the office of the Attorney-General in 2006. Your significant contributions in the Pedra Branca case before the International Court of Justice defended, shapes and will now forever be a part of Singapore's history. Deservedly, your Honour was conferred the Distinguished Service Order in 2008. The other 28 years of your career were spent on the bench where, remarkably, you served under all four Chief Justices since independence.

History will show that you are the only judge to have done so and today's turnout is testament to the large imprint you have left in that time. Justice Chao, speaking for a moment as a grateful member of the public, thank you for your many years of tireless and selfless service to Singapore. We are deeply indebted to you.

3 Justice Chao, you have shaped Singapore's jurisprudence immeasurably in your time on the bench. I cannot in the limited time today do justice to all of the judgments you have penned—and there have been many, 628 to be precise—but it will suffice to observe that many of these have been landmark. They also span across almost every conceivable area of the law. Indeed, in a time of narrowing

specialisation, you stand as abiding proof that a good grasp of the fundamentals and a passion for learning remain the key ingredients to a satisfying, broad-based career in the law. Certainly, my legal service colleagues and I have been inspired to see that we can only approach a mastery of the law by constantly dedicating and *re*-dedicating ourselves as ardent students of our craft.

4 But, Justice Chao, you leave a legacy larger than your judgments alone. To us, the LSOs and especially those who have appeared in your court, you will be remembered first and foremost as a judge who had an impeccable judicial temperament. A good listener, you were always patient with counsel without being patronising and, if the occasion required, you could be firm without betraying frustration. You also had a knack of cutting right to the heart of a matter in simple terms that the layman could appreciate. But what stood out for me was the sense that you never failed to lend a human touch to the proceedings. The law must be applied dispassionately and, unfortunately, that is how it sometimes earns its reputation as being cold and mechanical. But this notion was easily dispelled in your courtroom. Anyone who has observed the numerous Magistrates' Appeals which you presided over, in particular, will attest to this. Often, you could be seen offering some words of wisdom to an offender—especially a young offender—and it would strike a chord; because of that, his or her life might be turned around for the better. Or you might have some words of encouragement for a family that has tried its best but felt themselves to have failed; because of that, their spirits might be raised. Through small but impactful acts like these, you demonstrated that it was never lost on you that doing justice is fundamentally a human endeavour with oftentimes profound human consequences. This is surely the mark of a great judge.

5 Justice Chao, your steady presence will be missed not only in the courtroom but also by my fellow legal service officers and the wider legal profession. In preparing for today's address, I spoke to some of your former AGC colleagues and they readily shared with me many anecdotes which, I found, really spoke true to your character.

- a. Former LSO and now Deputy Attorney-General Lionel Yee who assisted you on the Pedra Branca case told me of the "picture of calm and serenity" you portrayed when preparing for your oral submissions in The Hague.

There were enormous time constraints arising from a photograph that the Malaysian side had produced a few days earlier, showing that Pedra Branca was geographically closer to the Malaysian mainland than was in fact the case. But you never wavered. As DAG Yee recounted, you displayed clarity and composure throughout and ultimately, delivered your submissions in a measured but devastating fashion.

- b. Chief Counsel David Chong also distinctly remembered how you once said to him that every officer and staff at AGC was vital to the institution. Indeed, he saw you display this deep sense of care and recognition of labour when you specifically enquired after a legal officer who was disappointed by the promotion results. Needless to say, this simple and sincere act of kindness went a long way in encouraging the officer concerned.
- c. Your genuine empathy for those around you has also left a deep impression on ex-LSO and now Judicial Commissioner Pang Khang Chau. He told me of how, as AG, you began noticing typographical errors in the draft legal opinions sent to you. You were concerned that such errors would reflect poorly on the professional image of the AGC. But rather than taking the officers in question to task, you placed the burden of proof-reading each draft that was sent to you on your own assistant, Ravi. This was partly because you could see that your officers were already carrying heavy workloads and rushing to meet deadlines. But more importantly, it was because you *chose* to trust that your officers were trying their best and genuinely interested in doing good work; that the errors were not the result of them failing to take pride in their work.

6 There are many more of such vignettes and, pieced together, they form a picture of a man whom we in the legal service have come greatly to admire and whom we shall dearly miss working with. Indeed, my registrars and colleagues in the Registry and I are reminded daily of the importance of our work when we see you up close making every effort to ensure that the court's processes are administered in a just and efficient manner.



It is truly humbling. We have seen you work long after office hours, often into the weekends, and sometimes even during your well-deserved breaks. I recall that on one occasion during a work trip, you even brought along a draft judgment to work on whilst awaiting your flight home. Justice Chao, it is inspiring to think that you will be turning 75 tomorrow, yet you bring so much youthful energy to your work. Indeed, apart from an indefatigable work ethic, what you also take to any discussion or task is an open mind. This was exemplified by the *Global Yellow Pages* appeal heard last year, where a new cutting-edge software was used which allowed the hearing to proceed largely paperless. You readily accepted the invitation to be tutored on the use of the software before managing it on your own. This spirit of receptivity and adaptability which you embody has served our court well in staying ahead of the curve; no doubt, it will continue to guide us in the years to come.

7 Finally, Justice Chao, you will be cherished as a true gentleman with deep values and the common touch. Your easy manners, thoughtful gestures and disarming laughter make everyone comfortable in your presence. You simply have no airs and get along well with everyone. Just as importantly, you would put time into building and maintaining relationships. I am sure that many of the LSOs and lawyers here today will have fond memories of how you were always ready to lend your support to our teams at the Bench & Bar Games. Over the years, many will have felt the warmth of your presence at occasions such as these and will miss your presence. Certainly, my registrars and I will miss our casual conversations with you where the topic of food—good food—was never far away. And if I may add here, often at your favourite Chinese restaurant in a certain hotel along Bras Basah Road where you are such a familiar face that the food would arrive without you even having to place an order! Indeed, you loved a good meal shared in good company and we were often the happy beneficiaries of your kindness. The lunches which you regularly arranged were very relaxed affairs where you would candidly share with us your outlook on a variety of things, whether it be the art of judging, balancing a career with one's family, or simply life in general. Often, when least expecting it, we found ourselves walking away with a treasured life's lesson or two.

8 Justice Chao, without a doubt, you have endeared yourself to all of us. You will be remembered not just as a learned jurist or a consummate judge, but also as a genuinely wonderful person—a person of humility and grace, of wisdom and heart. On behalf of my fellow legal service officers, I wish you an active and happy retirement and that you, Mrs Chao and your family will have many blessed years of happiness and good health to come. Thank you.

**VALEDICTORY REFERENCE IN HONOUR OF JUSTICE CHAO HICK TIN**  
**27 SEPTEMBER 2017**  
**ADDRESS BY THE HONOURABLE JUSTICE ANDREW PHANG**  
**JUDGE OF APPEAL**  
**SUPREME COURT OF SINGAPORE**

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Chief Justice,

Deputy Prime Minister Teo,

Minister Shanmugam,

Prof Jayakumar,

Mr Attorney,

Mr Vijayendran,

Mr Hoong,

Ladies and Gentlemen:

1 It may be a little-known fact, but I am almost invariably found at the back of queues. I tend to let others go ahead first. This has, in part, to do with what I was told when I was growing up – to always be polite and not to rush. However, this is one occasion when I would, uncharacteristically, have rushed to the head of the queue. I am grateful that I did not need to do so and am grateful for the privilege to be able to say a few words in honour of Justice Chao Hick Tin. Although my views stem from my own personal experience, I trust that they also reflect those of my colleagues on the Bench.

2 My encounters with Justice Chao when I was an academic were always pleasant. He was unfailingly courteous and always had a genuine interest in the law and its development – a quality which academic lawyers really appreciate. When I got to know him better upon joining the Bench over a dozen years ago, I found him to be not only an extremely helpful colleague but also (and more importantly) a caring

mentor and friend. Indeed, this is something which all colleagues on the Bench – both past as well as present – can attest to. Justice Chao is that rarest of persons – one who genuinely cares for others. I am sure that each of us has our own “Hick Tin stories” – of occasions when, faced with difficult problems, he has given us not only wise advice but also (and more importantly) that comfort that can come only from a true friend. I am sure that he would be the first to disavow this, but this would only be because what he does is second nature to him such that he does not even realise the profound impact that he has on the lives of others. From my own personal experience, this is a fundamental trait of a truly great person.

3 As a judge, his field of judicial vision always stretched beyond the immediate law and facts. He possesses a wisdom that includes insight into the human condition in all its various dimensions. Above all, that personal touch which I have just described that he brings to his relationships with his colleagues on the Bench is also outward-looking as well. I do not exaggerate when I say that Justice Chao is the most loved of all the judges. This is clearly the consensus amongst the Bar; I hope that my colleagues will not take offence when I say that none of us comes close in this particular regard. Even lawyers who are on the losing side have consistently expressed how much they have benefited from “a good hearing” before him. This is, indeed, the quintessential quality of an excellent judge – a willingness to listen to all the arguments before arriving at a decision. All lawyers who have appeared before him have also been touched by his humanity and kindness. It is not easy for a judge to integrate the analysis of the law together with a regard for the persons involved (both lawyers and litigants alike). But it is precisely this integration of mind and heart that makes for an excellent judge.

4 I will not speak much of Justice Chao’s mastery of the law – as it is obvious from the hundreds of judgments which he has written. I will just say this. Although we are all, by the constraints of the size of our Bench, necessarily generalists, Justice Chao has demonstrated that he is as – if not more – competent than many specialists in their respective fields. Above all, however, is his overarching sense of justice and fairness. However, he never lost sight of the fact that giving effect to the justice and fairness of a particular case also entailed a principled analysis as well as application of the law. Again, the motif of integration comes to the fore. The fairness

and justice of a particular case must, in his view, never be achieved at the expense of making bad or unprincipled law. His wisdom in applying the law to the facts was such that this ideal of integration was always achieved.

5 I have already referred to Justice Chao's judicial temperament. Many stories are told of judges' temper but Justice Chao's judicial career has been one that points in the completely opposite direction and which is an ideal to which every judge should aspire. As I have already mentioned, Justice Chao is the most respected and most loved of Singapore's judges. Indeed, this is the truest legacy which any person can leave behind – a positive effect not only in the pages of books and law reports but also in the lives of others in the hope that those lives will (in turn) impact yet other lives for the better in the future. It is precisely this basic humility and humanity which informs Justice Chao's judicial temperament as well.

6 As judges, we have been similarly inspired by Justice Chao. In addition to his role as caring mentor and friend (which I have touched on earlier), we have also all been inspired by his intellect and the manner in which he deals with the law simply, albeit never simplistically – and always with practical wisdom. As (if not more) importantly, he has inspired each of us to try to be better judges – in particular, to be more patient and to be kinder. Sitting with Justice Chao is an inspirational experience because he inspires simply by being himself; one cannot help but want to emulate him in his intellect, wisdom and (above all) profound humility and humanity.

7 I hope you will forgive me if I now turn to mention briefly one episode that illustrates Justice Chao's kindness and generosity on a personal level. In fact, I have many stories but, given the constraints of time, I mention just this one episode. This occurred some years back. I had been tasked with drafting a judgment. It was a fairly lengthy one. One of the issues related to the doctrine of consideration. I included what was necessary within the four corners of the judgment itself. But it had occurred to me that a summary of the state of the law might help in its development in the future; I also think that there was a bit of the former lecturer in me as I thought that it would be a good summary for law students. However, it would have been extravagant and self-indulgent to have placed it in the body of the judgment itself (although one famous contracts professor had asked why I had not done this). I placed it in a rather lengthy

coda to the judgment itself. I was prepared to leave it out and told Justice Chao and the other judge that I really did not mind if they thought it inappropriate to include this coda. Justice Chao was the presiding judge and obviously had the final say. He took one look at it and, without hesitation, encouraged me to include it. I was very pleasantly surprised. Hick Tin, you might be glad to know that, as a result of your kindness and generosity, a part of that coda was (to my own great surprise, in fact) subsequently extracted by a professor in his case book.

8 Hick Tin, we will all miss you very much. You have brought something extra to each of our lives. In addition to your contributions to the Singapore legal landscape (which would have been sufficient in and of themselves to justify conferring upon you a significant place in our legal history), you have poured out your life into many, many other lives (including mine). This is the true mark not only of a great judge but also (and most importantly) of a great man.

9 On behalf of my colleagues and I and, indeed, the entire legal profession, may I wish you a very well-deserved as well as happy retirement. Please do not forget us for we will never forget you.

**VALEDICTORY REFERENCE IN HONOUR OF JUSTICE CHAO HICK TIN**

**27 SEPTEMBER 2017**

**RESPONSE BY THE HONOURABLE JUSTICE CHAO HICK TIN**

**JUDGE OF APPEAL**

**SUPREME COURT OF SINGAPORE**

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The Hon the Chief Justice, the Hon the Minister for Home Affairs and Law, the Hon former Deputy Prime Minister Prof S Jayakumar, the Hon the Attorney-General, the President of the Law Society, the Registrar of the Supreme Court and my brother appeal judge Justice Andrew Phang. May I also acknowledge the presence of the Hon Deputy Prime Minister Mr Teo Chee Hean and the Hon former Chief Justice Mr Chan Sek Keong.

Honestly, at this moment, I am deeply overwhelmed and humbled by the very kind and generous sentiments which each of you have expressed about me this afternoon. Yes, I have had the privilege of having worked with each of you in different capacities over the years. I shall always treasure our moments of comradeship – sometimes challenging and sometimes not without some pain, but always mentally stimulating and fulfilling – as we worked together on the matters at hand.

I first joined the High Court Bench in October 1987 as a Judicial Commissioner. The Bench then was a much smaller one. With me included, there were a total of only nine judges. Prior to my appointment, I had spent the first twenty years of my legal career at the Attorney-General's Chambers dealing with areas of law which were not the mainstay of the courts. So understandably, I had some trepidation in confronting the challenges of my new job. However, I was very fortunate to have senior colleagues who were more than happy to share their experiences with me and guide me on how to navigate through the potential pitfalls which a judge might encounter.

I recall one distinct piece of advice which has remained with me until this day and which has shaped the way I have discharged my judicial duties all these years. The advice was this: let counsel develop his case; don't anticipate and be slow to stop counsel from adducing evidence. Even on a point of law which you may think you are familiar with, always listen to what counsel has to say first. You should take it that

counsel would have done his research on the point prior to appearing before the court and would know what he is saying or doing.

Of course, I recognise that this piece of advice was given to me in the context of how litigation in court was carried out then. Many sweeping changes have since been made to the litigation process, particularly in the last twenty-five years, one of the most significant being the introduction of the filing of affidavits of witnesses' evidence-in-chief. During my early years on the Bench, the evidence of every witness had to be adduced in court and taken down in longhand. All that the court had at the start of a trial were just the pleadings. How a party would prove his case was not before the court.

Even though numerous changes have since been made to the litigation process, I think the essence of that piece of advice which I was so fortunate to receive remains valid even today. A judge's task is to deal with the parties before him and their counsel fairly and impartially in order to ensure that justice in accordance with the law is ultimately done in every case.

The fifty years that I have spent in the Public Service have undoubtedly been a most enriching, exciting and rewarding journey, even though it is a journey that has had its ups and downs. Of course, there were times when dispensing justice in a case seemed difficult or elusive. Still, as judges, we always have to do our level best.

Let me say from the bottom of my heart that I am very grateful for having been given the opportunity to serve as a member of this illustrious judiciary. It has been a tremendous honour and privilege. I am particularly pleased to note that in the last few years, this judiciary has made great strides towards becoming a global commercial court through the establishment of the Singapore International Commercial Court.

In closing, I warmly thank all of you who have spoken so kindly about me this afternoon. Words cannot adequately express my emotions. The feeling is one of satisfaction at having discharged my judicial duties faithfully over the years, gratitude for the invaluable guidance given to me and the many friendships formed – and yet, at the same time, also a sense of not really being up to the standards which you have so kindly elevated me to.



I also thank each and every one of you for having taken time out from your busy schedules to join me here today. Your presence is deeply appreciated.

Compared to the situation 50 years ago, the pace of legal practice today is faster than ever before. Legal practitioners also face much stiffer demands, both from the courts as well as from their clients. Still, I am confident that all of you have the capacity to cope. I wish each of you satisfaction and success in your professional pursuits.

Again, thank you all so very much for being here to mark my retirement; thank you.