

5/82

No. 24 of 1980

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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O N A P P E A L

FROM THE COURT OF APPEAL IN SINGAPORE

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B E T W E E N :

JOSHUA BENJAMIN JEYARETNAM

Appellant/  
Defendant

- and -

LEE KUAN YEW

Respondent/  
Plaintiff

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RECORD OF PROCEEDINGS  
PART I

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Ward Bowie,  
Clement House,  
99 Aldwych,  
London W.C.2.

Herbert Smith & Co.,  
Watling House,  
35-37 Cannon Street,  
London EC4M 5SD.

Solicitors for Appellant

Solicitors for Respondent

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N A P P E A L

FROM THE COURT OF APPEAL IN SINGAPORE

B E T W E E N :

JOSHUA BENJAMIN JEYARETNAM

Appellant  
(Defendant)

- and -

LEE KUAN YEW

Respondent  
(Plaintiff)

RECORD OF PROCEEDINGS

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Respondent  
(Plaintiff)

(PART II)

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IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

---

O N A P P E A L

FROM THE COURT OF APPEAL IN SINGAPORE

---

B E T W E E N :

JOSHUA BENJAMIN JEYARETNAM

Appellant/  
Defendant

- and -

LEE KUAN YEW

Respondent/  
Plaintiff

---

RECORD OF PROCEEDINGS  
PART I

---

No. 1

Writ of Summons - 22nd January 1977

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IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 218 of 1977

Between

LEE KUAN YEW

Plaintiff

And

JOSHUA BENJAMIN JEYARETNAM

Defendant

THE HONOURABLE MR. JUSTICE WEE CHONG JIN,  
CHIEF JUSTICE OF SINGAPORE, IN THE NAME AND ON  
BEHALF OF THE PRESIDENT OF THE REPUBLIC OF  
SINGAPORE

To: Joshua Benjamin Jeyaretnam of No. 22,  
Rebecca Road, Singapore

We command you that within eight days after  
the service of this writ on you, inclusive of  
the day of such service, you do cause an appearance  
to be entered for you in a cause at the suit of  
Lee Kuan Yew of No. 38 Oxley Road, Singapore.

and take notice, that in default of you so doing

In the High  
Court

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No. 1  
Writ of  
Summons  
22nd January  
1977.

In the High Court

No. 1  
Writ of  
Summons  
22nd January  
1977.  
(cont'd)

the plaintiff may proceed therein to judgment and execution.

WITNESS Mr. Tan Wee Kian Registrar of the Supreme Court in Singapore the 22nd day of January 1977.

Sd: Drew & Napier	Sd: R.E. Martin
Plaintiff Solicitors	Registrar
	Supreme Court, Singapore

This writ may not be served more than twelve calendar months after the above date unless renewed by Order of Court.

10

The defendant (or defendants) may appear hereto by entering an appearance (or appearances) either personally or by a solicitor at the Registry of the Supreme Court.

A defendant appearing personally may, if he desires, enter his appearance by post, and the appropriate forms may be obtained by sending a Postal Order for \$ with an addressed envelope to the Registrar, Supreme Court, Singapore, 6.

20

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INDORSEMENT

The Plaintiff's Claim is for:

- (i) Damages for slander;
- (ii) An injunction to restrain the Defendant by himself his agents or servants or otherwise from further making or publishing the statements, or statements similar thereto, defamatory of the Plaintiff;
- (iii) Costs; and
- (iv) All further requisite relief.

30

This writ is issued by Messrs. Drew & Napier of Nos. 30-35 Chartered Bank Chambers, Battery Road, Singapore, Solicitors for the said plaintiff whose address is at No. 38 Oxley Road, Singapore.

This writ was served by \_\_\_\_\_ by  
way of personal service  
on the defendant (who is known to me) (or who  
was pointed out to me by \_\_\_\_\_) (or who  
admitted to me that he was \_\_\_\_\_) at  
on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ at \_\_\_\_\_ m.  
Indorsed the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_  
Process Server.

40

Statement of Claim - 31st January 1977

No. 2  
Statement of  
Claim - 31st  
January 1977

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 218 of 1977

Between

Lee Kuan Yew

Plaintiff

And

Joshua Benjamin Jeyaretnam

Defendant

STATEMENT OF CLAIM

- 10 1. The Plaintiff is the Prime Minister of Singapore, and Secretary-General of the People's Action Party which is, and was at all material times, in government of Singapore.
2. The Defendant is an Advocate and Solicitor, and is and was at all material times the Secretary-General of the Workers' Party, a political party which contested the Parliamentary General Elections held in Singapore on the 23rd December 1976, in respect of which both the Plaintiff and
- 20 the Defendant were candidates.
3. At an election rally of the Workers' Party held at Fullerton Square, Singapore, on the 18th December 1976, the Defendant, in the presence and hearing of members of the general public, including representatives of the press, radio and television falsely and maliciously spoke and published of and concerning the Plaintiff and of and concerning him in the office of Prime Minister of Singapore, and in relation to his conduct
- 30 therein, the following words intending that they be given wide publicity by the press, radio and television:
- "I'm not very good in the management of my own personal fortune but Mr. Lee Kuan Yew had managed his personal fortune very well. He is the Prime Minister of Singapore. His wife is the senior partner of Lee & Lee and his brother is the Director of several
- 40 companies, including Tat Lee Bank in Market Street; the bank which was given a permit with alacrity, banking permit licence when other banks were having difficulties getting their licence, so Mr. Lee Kuan Yew is very adept in managing his own personal fortune but I'm not. I'm a fool for your sake and



In the High  
Court

No. 2  
Statement of  
Claim - 31st  
January 1977  
(cont'd)

I tell you this, my dear friends, that if I should become the Prime Minister of Singapore, I'm not saying will Mr. Lee Kuan Yew keeps talking as though he is going to remain for the next 20 years. I know it's left to the people; the people will decide who will form the government and then the people in Parliament will decide who will be the Prime Minister; all I'm saying is, if I become Prime Minister there will be no firm of J.B. Jeyaretnam & Company in Singapore because I wouldn't know how to manage my own personal fortune".

10

4. The said words in their natural and ordinary meaning meant and were understood to mean that the Plaintiff had procured preferential treatment for his brother and/or wife to his own and/or their personal financial advantage, had thereby abused and would continue to abuse the office of Prime Minister of Singapore, is wanting in honesty and integrity and is unfit to hold the said office.

20

5. The said words were calculated to disparage the Plaintiff in his aforesaid office.

6. In the premises, the Plaintiff has been injured in his character, credit and reputation as Prime Minister.

7. Unless restrained by this Honourable Court, the Defendant will further publish the said or similar slanders upon the Plaintiff.

30

And the Plaintiff claims:-

- (i) Damages for slander;
- (ii) An injunction restraining the Defendant, by his agents or servants or otherwise, from further publishing the said or any similar slanders upon the Plaintiff;
- (iii) Costs and
- (iv) All further requisite relief.

Served the 31st day of January 1977

40

Signed Drew & Napier  
Solicitors for the Plaintiff

Defence - 14th February 1977

No. 3

Defence - 14th  
February 1977

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 218 of 1977

Between

Lee Kuan Yew

Plaintiff

And

Joshua Benjamin Jeyaretnam

Defendant

D E F E N C E

10        1.        Paragraphs 1 and 2 of the Statement of Claim  
are admitted as alleged.

2.        In regard to paragraph 3 of the Statement of  
Claim it is admitted that on the 18th December 1976  
the Defendant addressed an election rally of the  
Workers' Party held at Fullerton Square, Singapore  
in the course of which he spoke and published not  
only the substance of the words attributed to him  
in paragraph 3 of the Statement of Claim  
(hereinafter referred to as "the said words") but  
20        also the following words:-

          "Now I want this afternoon to spend some  
time my dear friends in replying to some of  
the statements that have been made by the  
PAP leaders and the leaders of the government  
against the Opposition and in particular the  
Workers' Party. I will begin with the  
Secretary-General of the People's Action Party,  
no, sorry, Pay and Pay Party and the Prime  
Minister now of Singapore, that practises  
30        the government and holds the reins of power.  
I don't know whether the Secretary-General  
and Prime Minister now of Singapore realised  
what he was saying. It is very unfortunate.  
I will tell you what he said. On Nomination  
Day when he was filing his papers he said  
"What can you expect from the Opposition  
leaders. They have not shown in the  
management of their own personal fortunes  
that they could accumulate anything." Here  
40        it is, I have taken it from the Straits Times.  
The Opposition leaders have not shown in  
the management of their own personal fortunes  
that they could accumulate anything. Well,  
my dear friends, I plead guilty to that."

The above mentioned words were spoken immediately

In the High  
Court

No. 3  
Defence - 14th  
February 1977  
(cont'd)

before the said words. Save as aforesaid paragraph 3 of the Statement of Claim is denied.

3. It is denied that the said words bore or were understood to bear any of the meanings in paragraph 4 of the Statement of Claim alleged or any meaning defamatory of the Plaintiff.

4. Alternatively the said words constituted the Defendant's answer to an attack upon his financial capacity, character and reputation which had been made by the Plaintiff at a press conference held on the 13th December 1976. Accordingly such words were published upon a privileged occasion. The Workers' Party at all material times advocated the establishment of a free medical service, free primary education and increased rates of public assistance and at the press conference aforesaid the Plaintiff spoke and published of and concerning the Defendant (inter alias) the words "... none of those who proposed to give things away, either by their management of their own parties or even of their own personal fortunes had shown they could accumulate anything." As the Plaintiff had intended, such words were printed and published in the Straits Times newspaper on the following morning.

10

20

5. In the further alternative the said words were fair comment upon a matter of public interest namely the comparative financial abilities of the Plaintiff and himself in the context of the matters set out in paragraph 2 of the Statement of Claim.

30

Particulars of facts upon which  
the comment was based

- (A) The Plaintiff was Prime Minister of Singapore.
- (B) The Plaintiff's wife was and is a senior partner in Lee & Lee, a firm of Advocates and Solicitors which since 1959 has become one of the leading, if not the leading, firms of Advocates and Solicitors in Singapore.
- (C) The Plaintiff's brother, Mr. Dennis Lee Kim Yew, was a director of Tat Lee Bank Ltd. in Market Street, and of other companies.
- (D) It was difficult to secure a banking licence.
- (E) Tat Lee Bank Ltd. had secured such a licence.

40

- (F) The Defendant and his wife were and are partners in J.B. Jeyaretnam & Co. a firm of Advocates and Solicitors.
- (G) The Defendant and his wife had resolved that if the Defendant ever became Prime Minister the Defendant's wife would not continue in practice under the firm name of J.B. Jeyaretnam & Co. and that in that event the said firm would be wound up.
- (H) The composition of the government of Singapore depends upon the outcome of democratic elections.

6. Each and every allegation in paragraphs 5, 6 and 7 of the Statement of Claim set forth is denied.

Dated and Delivered this 14th day of February 1977.

Sgd: J.B. Jeyaretnam & Co.  
Solicitors for the Defendant.

To: Messrs. Drew & Napier,  
Solicitors for the Plaintiff.

No. 4

Reply - 17th March 1977

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 218 of 1977

Between

Lee Kuan Yew                                  Plaintiff

And

Joshua Benjamin Jeyaretnam      Defendant

R E P L Y

1. Save in so far as the same consists of admissions, and save that it is admitted that immediately prior to speaking the words set out in paragraph 2 of the Statement of Claim the Defendant spoke the words set out in paragraph 2 of the Defence, the Plaintiff joins issue with the Defendant on his Defence herein.
2. It is denied that the occasion of speaking the words set out in paragraph 2 of the Statement of Claim was an occasion of qualified privilege.

In the High  
Court

No. 4  
Reply - 17th  
March 1977  
(cont'd)

In particular the said words were not relevant to any words spoken by the Plaintiff on 13th December 1976 (as to the terms whereof no admission is made) but constituted an unwarranted and unjustifiable attack on the Plaintiff's honesty and integrity.

3. The words set out in paragraph 2 of the Statement of Claim are not comment but defamatory factual allegations.

4. Further or alternatively in speaking and publishing the words set out in paragraph 2 of the Statement of Claim the Defendant was actuated by express malice. 10

#### PARTICULARS

(i) The words spoken by the Defendant constitute an attack on the Plaintiff's honesty and integrity.

(ii) If, which is not admitted, the Defendant was purporting to reply to words spoken by the Plaintiff on 13th December 1976 the said words spoken by the Defendant are an abuse of the right of reply by reason of the fact that the Plaintiff had not attacked the Defendant's honesty or integrity. 20

(iii) The facts relied upon by the Defendant in support of the plea of fair comment are incapable of supporting any attack on the honesty or integrity of the Plaintiff.

(iv) Notwithstanding that the Defendant has not at any time contended that the allegation that the Plaintiff is wanting in honesty and integrity are true the Defendant has not withdrawn or apologised for having made the said allegations. 30

In the premises the Defendant spoke and published the said words knowing they were untrue or recklessly not caring whether they were true or false and/or with the intention of denigrating and insulting the Plaintiff.

Served the 17th day of March 1977.

Sgd: Drew & Napier 40  
Solicitors for the Plaintiff

No. 5

Interrogatories - 5th September  
1977

In the High  
Court

No. 5  
Interrogatories  
5th September  
1977.

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 218 of 1977

Between

Lee Kuan Yew

Plaintiff

And

Joshua Benjamin Jeyaretnam

Defendant

10

INTERROGATORIES

On behalf of the above-named Defendant Joshua Benjamin Jeyaretnam for the examination of the above-named Plaintiff Lee Kuan Yew pursuant to the Order herein dated the 23rd day of August 1977.

20

1. Is it not a fact that your wife is a senior partner in Messrs. Lee & Lee?
2. Is it not a fact that the business of Messrs. Lee & Lee have expanded since 1959?
3. Is it not a fact that the profits of Messrs. Lee & Lee have increased significantly since 1959?
4. Is it not a fact that Messrs. Lee & Lee were at the date of incorporation and still are the Solicitors for Tat Lee Bank Limited?
5. Is it not a fact that your brother Mr. Dennis Lee Kim Yew was appointed a director of Tat Lee Bank Ltd. on the 16th November 1973, 11 days after incorporation?
6. Is it not a fact that your brother Mr. Dennis Lee Kim Yew was and/or is a director in the following other companies:-
  - (a) United Industrial Corporation Ltd.
  - (b) Hitachi Chemical (Singapore) Pte. Ltd.
  - (c) General Engineering & Trading (S) Pte. Ltd.
  - (d) Heath Langeveldt Pte. Ltd.

30

In the High  
Court

No. 5  
Interrogatories  
5th September  
1977.  
(cont'd)

- (e) Cerebos (S) Pte. Ltd.
- (f) Ambassador Hotel Ltd.
- (g) Brand & Co. (S) Pte. Ltd.
- (h) Ericsson Telephone Co. Pte. Ltd.
- (i) Condominium Developers Pte. Ltd.
- (j) Gloria Woo Holdings Pte. Ltd.
- (k) Komatsu (S) Pte. Ltd.
- (l) Toko Electronic (S) Pte. Ltd.
- (m) Ameco (S) Pte. Ltd.
- (n) Intl. Miniature Bearing Co. Pte. Ltd. 10
- (o) Singapore Plastics Products Pte. Ltd.
- (p) Intercon Stocks and Securities Pte. Ltd.
- (q) Wistaria Shipping Co. Pte. Ltd.
- (r) Rockford Securities Pte. Ltd.
- (s) Dayton Land Developers Pte. Ltd.
- (t) Munck Singapore (Pte) Ltd.
- (u) Charles Foulton (S) Pte. Ltd.
- (v) SKF South East Asia (Pte) Ltd.
- (w) Transworld Marine Ltd.

7. Is it not a fact that you and your wife now have significantly larger personal fortunes than you and she did in 1959? 20

The Plaintiff Lee Kuan Yew is required to answer all the interrogatories numbered 1 to 7.

Served the 5th day of September by Messrs. Hilborne & Co. of Colombo Court, Singapore, Solicitors for the above-named Defendant.

To: Messrs. Drew & Napier,  
Solicitors for the Plaintiff.

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 218 of 1977

Between

Lee Kuan Yew

Plaintiff

And

Joshua Benjamin Jeyaretnam

Defendant

AMENDED DEFENCE

10        1.       Paragraphs 1 and 2 of the Statement of  
Claim are admitted as alleged.

2.       In regard to paragraph 3 of the Statement  
of Claim it is admitted that on the 18th December  
1976 the Defendant addressed an election rally of  
the Workers' Party held at Fullerton Square,  
Singapore, in the course of which he spoke and  
published to the electors gathered at the rally  
not only the substance of the words attributed  
to him in paragraph 3 of the Statement of Claim  
20       (hereinafter referred to as "the said words") but  
also the following words:-

30       "Now I want this afternoon to spend some  
time my dear friend in replying to some of  
the statements that have been made by the  
PAP leaders and the leaders of the  
government against the Opposition and in  
particular the Workers' Party. I will  
begin with the Secretary-General of the  
People's Action Party, no sorry Pay and  
Pay Party and the Prime Minister now of  
Singapore, that practises the government  
and holds the reins of power. I don't  
know whether the Secretary-General and  
Prime Minister now of Singapore realised  
what he was saying. It is very unfortunate.  
I will tell you what he said. On Nomination  
Day when he was filing his papers he said  
40       "What can you expect from the Opposition  
leaders. They have not shown in the  
management of their own personal fortunes  
that they could accumulate anything."  
Here it is. I have taken it from the  
Straits Times. The Opposition leaders  
have not shown in the management of their  
own personal fortunes that they could  
accumulate anything. Well, my dear friends,  
I plead guilty to that."



In the High  
Court

No. 6  
Amended Defence  
5th September  
1977.  
(cont'd)

The above mentioned words were spoken immediately before the said words. Save as aforesaid paragraph 3 of the Statement of Claim is denied.

3. It is denied that the said words bore or were understood to bear any of the meanings in paragraph 4 of the Statement of Claim alleged or any meaning defamatory of the Plaintiff.

4. Alternatively the said words constituted the Defendant's answer to an attack upon his financial capacity, character and reputation which had been made by the Plaintiff at a press conference held on the 13th December 1976. ~~Accordingly such words were published upon a privileged occasion.~~ The Workers' Party at all material times advocated the establishment of a free medical service free primary education and increased rates of public assistance and at the press conference aforesaid the Plaintiff spoke and published of and concerning the Defendant (inter alios) the words "... none of those who proposed to give things away, either by their management of their own parties or even of their own personal fortunes had shown they could accumulate anything". As the Plaintiff had intended such words were printed and published in the Straits Times newspaper on the following morning and meant and were understood to mean that the Plaintiff and the other leaders of the People's Action Party were adept in the management of their own personal fortunes and the People's Action Party should therefore be returned to power at the Parliamentary Elections which were to be held on the 23rd December 1976. In the premises aforesaid the words complained of were spoken and published by the Defendant on a privileged occasion bona fide and without malice being an answer to an attack upon him and in the further alternative because the Defendant was under a public, moral or social duty as a candidate in the 1976 Parliamentary Elections to communicate the said words to the electors who had an interest to receive the said communication.

5. In the further alternative the said words were fair comment upon a matter of public interest namely the comparative financial abilities of the Plaintiff and himself in the context of the matters set out in paragraph 2 of the Statement of Claim.

Particulars of facts upon which the  
comment was based

(A) The Plaintiff was Prime Minister of Singapore.

(B) The Plaintiff's wife was and is a senior partner in Lee & Lee, a firm of Advocates and Solicitors which since 1959 has become one of the leading, if not the leading, firms of Advocates and Solicitors in Singapore.

In the High Court

No. 6  
Amended Defence  
5th September  
1977.  
(cont'd)

(C) The Plaintiff's brother, Mr. Dennis Lee Kim Yew, was a director of Tat Lee Bank Ltd. in Market Street, and of other companies.

(D) It was difficult to secure a banking licence.

(E) Tat Lee Bank Ltd. had secured such a licence.

(F) The Defendant and his wife were and are partners in J.B. Jeyaretnam & Co., a firm of Advocates and Solicitors.

(G) The Defendant and his wife had resolved that if the Defendant ever became Prime Minister the Defendant's wife would not continue in practice under the firm name of J.B. Jeyaretnam & Co. and that in that event the said firm would be wound up.

(H) The composition of the government of Singapore depends upon the outcome of democratic elections.

6. Each and every allegation in paragraphs 5, 6 and 7 of the Statement of Claim set forth is denied.

Dated and Delivered this 14th day of  
February 1977

Re-dated and re-delivered this 5th day  
of September 1977

Solicitors for the Defendant

Amended as shown in red pursuant to  
the Orders of Court made herein on the  
20th day of May 1977 and 23rd day of  
August 1977

In the High  
Court

No. 7  
Further and  
Better  
Particulars  
of the  
Defence -  
5th September  
1977.

No. 7

Further and Better Particulars of  
the Defence - 5th September, 1977

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 218 of 1977

Between

Lee Kuan Yew

Plaintiff

And

Joshua Benjamin Jeyaretnam

Defendant

PARTICULARS SERVED PURSUANT  
TO ORDER

10

Further and Better Particulars under  
paragraph 5 of the Defence served pursuant to  
the Order of Court made herein on the 20th day  
of May 1977 and 23rd day of August 1977.

Under particulars (C)

16th November 1973

Under particulars (E)

(1) In or around the month of October  
or November 1973.

20

(2) On a date between the 5th November  
1973 and the 6th December 1973

Dated the                      day of September 1977

Solicitors for the Defendant

To: Messrs. Drew & Napier,  
Solicitors for the Plaintiff.

No. 8  
Amended Reply  
9th September  
1977.

No. 8

Amended Reply - 9th September 1977

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 218 of 1977

30

Between

Lee Kuan Yew

Plaintiff

And

Joshua Benjamin Jeyaretnam                      Defendant

In the High  
Court  
No. 8  
Amended Reply  
9th September  
1977  
(cont'd)

AMENDED REPLY

1.     Save in so far as the same consist of admissions, and save that it is admitted that immediately prior to speaking the words set out in paragraph 2 of the Statement of Claim the Defendant spoke the words set out in paragraph 2 of the amended Defence, the Plaintiff joins issue with the Defendant on his amended Defence herein.

2.     It is denied that the occasion of speaking the words set out in paragraph 2 of the Statement of Claim was an occasion of qualified privilege. In particular the said words were not relevant to any words spoken by the Plaintiff on 13th December 1976 (as to the terms whereof no admission is made) but constituted an unwarranted and unjustifiable attack on the Plaintiff's honesty and integrity.

3.     The words set out in paragraph 2 of the Statement of Claim are not comment but defamatory factual allegations.

4.     Further or alternatively in speaking and publishing the words set out in paragraph 2 of the Statement of Claim the Defendant was actuated by express malice.

PARTICULARS

- (i)     The words spoken by the Defendant constitute an attack on the Plaintiff's honesty and integrity.
- (ii)    If, which is not admitted, the Defendant was purporting to reply to words spoken by the Plaintiff on 13th December 1976 the said words spoken by the Defendant are an abuse of the right of reply by reason of the fact that the Plaintiff had not attacked the Defendant's honesty and integrity.
- (iii)   The facts relied upon by the Defendant in support of the plea of fair comment are incapable of supporting any attack on the honesty or integrity of the Plaintiff.
- (iv)    Notwithstanding that the Defendant has not at any time contended that the allegations that the Plaintiff is wanting in honesty and integrity are true the Defendant has not

In the High Court

No. 8  
Amended Reply  
9th September  
1977.  
(cont'd)

(v) The Defendant has expressly or impliedly consented to the formation of a trust fund entitled "The Save Democracy Fund", and has then misrepresented this action to the public as an attack upon democracy rather than, as is the fact, as proceedings necessary to protect the reputation of the Plaintiff for integrity.

10

In the premises the Defendant spoke and published the said words knowing they were untrue or recklessly not caring whether they were true or false and/or with the intention of denigrating and insulting the Plaintiff.

Served the 17th day of March 1977

~~Amended as underlined in red ink the 9th day of September 1977, pursuant to the Orders herein, dated the 20th day of May 1977 and the 23rd day of August 1977.~~

20

Signed Drew & Napier  
Solicitors for the Plaintiff

No. 9  
Answer to  
Interrogatories  
19th September  
1977.

No. 9

Answer to Interrogatories - 19th September  
1977

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 218 of 1977

Between

Lee Kuan Yew

Plaintiff

And

Joshua Benjamin Jeyaretnam

Defendant

30

THE ANSWER

of the Plaintiff to the interrogatories  
for his examination by the Defendant  
pursuant to the Orders herein dated the  
23rd day of August 1977

In answer to the said interrogatories, I Lee Kuan Yew of No. 38 Oxley Road, Singapore the Plaintiff herein, do solemnly and sincerely affirm as follows:-

In the High Court

No. 9  
Answer to  
Interrogatories  
19th September  
1977.  
(cont'd)

1. To the first and fifteenth interrogatories I answer in the affirmative.

10

2. In answer to the fourth, sixth and ninth interrogatories, I say that I have no personal knowledge enabling me to answer the same, but my solicitors have made inquiries of Messrs. Lee & Lee and to the best of my knowledge and belief so obtained, I answer in the affirmative.

3. In answer to the thirteenth interrogatory I say that I have no personal knowledge enabling me to answer the same, but on the basis of searches made by my solicitors at the Registry of Companies and to the best of my knowledge and belief so obtained, I answer in the affirmative.

20

4. In answer to the fourteenth interrogatory, I say that I have no personal knowledge enabling me to answer the same, but on the basis of searches made by my solicitors at the Registry of Companies and to the best of my knowledge and belief so obtained, I answer in the affirmative save and except with respect to the following Companies: Ambassador Hotel Private Limited, Toko Electronic Singapore (Private) Limited, Singapore Plastics Products Private Limited, Wistaria Shipping Company Private Limited and Munck Singapore (Private) Limited, of which companies my brother is not, and was not at any material time, a Director. Brand & Company (Singapore) Private Limited was a former name of Cerebos (Singapore) Private Limited, and Heath Langeveldt Private Limited and International Miniature Bearing Company (Private) Limited having changed their respective names are now known as Heath Langeveldt Rollins Private Limited and NMB Singapore (Private) Limited.

30

40

Affirmed at Singapore this     )  
19th day of September 1977     ) Sgd: Lee Kuan Yew

Before me  
Signed Tan Peng Koon  
A Commissioner for Oaths  
Judiciary Singapore

This affidavit is filed on behalf of the Plaintiff.

In the High  
Court

No. 10

No. 10  
Notes of  
Evidence

Notes of Evidence

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 218 of 1977

Between

Lee Kuan Yew

Plaintiff

And

Joshua Benjamin Jeyaretnam

Defendant

Monday, 20th November 1978

Coram: CHUA, J.

10

Notes of Evidence

Robert Alexander, Q.C. with J.D. Grimberg for  
Plaintiff.

John Mortimer, Q.C. with K.E. Hilborne for  
Defendant.

Logaraj for Money Authority of Singapore.

Tan Wee Tiong, watching brief for a possible  
witness, R. Murugason.

Alexander opens :

Will outline facts and issues involved.

20

Brief biographical details of each  
party - Plaintiff qualified as Advocate &  
Solicitor and admitted to practice in August  
1951. He also become active in politics and  
was appointed Secretary-General of the People's  
Action Party when it was founded in November  
1954. In March 1955 he was returned as a  
member of the Legislative Assembly. In  
September 1955 he established the firm of Lee  
& Lee in partnership with his wife and his  
brother, Lee Kim Yew. He continued both to  
practise law and engage in politics but  
increasingly devoted his time to politics until  
the General Election of 1959.

30

In May 1959 PAP won the majority of seats  
in Parliament and plaintiff formed a Government.  
Since then the PAP has been successfully re-  
elected at General Elections. It is clearly  
the view of the majority of the electorate that  
the plaintiff and his party have served his  
country well. From the time of his election as

40

Prime Minister he ceased to be a partner in Lee & Lee and has in no way engaged in the activities of that firm since.

In the High Court

No. 10  
Notes of  
Evidence  
(cont'd)

10 The defendant is also an Advocate & Solicitor, engaged for a time in Government Service and indeed held a judicial office before deciding in approximately 1965 to engage in private practice as he does so now in a firm which bears his name and his wife is a partner with him.

20 Defendant has also been active in politics and he stood for Parliament in 1972 and 1976 and in a by-election in 1977. He is Secretary-General of the Workers' Party and a dominant figure in that party. The Workers' Party held itself out at the time of the 1976 election as a serious party with a claim to play a leading role in any coalition government if the opposition parties had achieved success which in the event eluded them. Defendant is therefore a well-known figure in Singapore.

At this stage I would make an observation. The status of the parties entitled them to no greater or lesser respect from the Court than any other litigant. All men are equal before the law.

Facts upon which the claim is based.

30 In December 1976 Government called a General Election. Polling Day was on 23rd December. Both Government and opposition parties opened their campaigns with speeches which were critical of each other - which is usual in elections; the opposition will criticise the record of Government and Government will criticise the competence of the opposition.

40 But in December 1976 Defendant stooped to tactics wholly unworthy of one who seeks elective office under a democracy. He did so at a rally held on Saturday, 18th December, five days before Polling Day. An important meeting attended by about 1500 people mostly office workers, executives, managers from banks and other businesses. He spoke in the English Language and Defendant used words which suggested with total clarity that the Plaintiff misused his position as Prime Minister by obtaining preferential treatment for his family and showed favours to his family which had been to his own financial advantage and to that of his family, Transcript at 8A of Bundle AB (reads).  
50 (Tape recording of speech played).



Note: Defendant introduced as "speaker you have all been waiting for". Court may also think that from the reaction of the audience they were in no doubt at all as to what Defendant meant - meaning is plain and obvious. Defendant was suggesting that Plaintiff had abused his office as Prime Minister of Singapore; he was suggesting that Plaintiff had managed his personal fortunes by showing financial favour to his own family and giving that family preferential treatment. Defendant is suggesting that Plaintiff had unlawfully sought gain for himself; it implies he is wanting in honesty and integrity and is unfit to hold the high office of Prime Minister as that office demands standards of the highest scrupulousness. Plaintiff will give evidence he has never at any time showed favour to Lee & Lee; he has always emphasised that Government works should be allocated on grounds of efficiency. He has stressed that Lee & Lee must compete with other Singaporeans firms. He has never likewise shown financial favour to any member of his family; he has not assisted his brother to secure any directorship; the charge that Tat Lee Bank got a licence with alacrity because of his position is outrageous. The simple truth is that this Bank was granted licence in the ordinary course of business and only after extensive inquiries and after a considerable lapse of time. Application first made in August 1969; at that time Commissioner of Banking declined to consider the application. It was renewed in June 1972 and after prolonged and careful investigation licence was issued in February 1974. Passage of 5 years - could not be described as grant of licence with alacrity.

10

20

30

When Plaintiff came to learn of what Defendant said he was very disturbed. An allegation of corruption and nepotism is as grave a charge as can be made against a politician. If unchecked would spread very quickly in an urban community. It is impossible to prevent those who heard the speech not to repeat it to their relatives, friends and acquaintances. People will think that as the Defendant is a lawyer he would weigh his words carefully and would not say it unless it was true. Charges of corruption could end a Government official quickly.

40

Plaintiff sought an apology - AB 9. Plaintiff gave Defendant an opportunity to say his words were spoken mistakenly in the heat of an election campaign. But Defendant, by attempting to evade responsibility, has since done much to aggravate the injury to the Plaintiff.

50

Defendant has done - (1) Defendant's solicitors have denied that the words bore the meaning that the Plaintiff had acted improperly - AB 14. Defendant, we submit, chose to attack the Plaintiff. Defendant said his words had an innocent meaning.

In the High Court

No. 10  
Notes of  
Evidence  
(cont'd)

10 (2) In March 1977 Defendant's solicitors wrote to Plaintiff's solicitors AB 32. Defendant's convinced belief that such a charge if made was untrue. We submit that it is an acknowledgment that his slander was false, also acknowledgment Defendant knew and knows that Plaintiff is honest and has not shown favour to his family. He did not believe in his slander.

20 (3) Following that letter Defendant's behaviour is inconsistent with that belief for he has raised in his Defence a plea of fair comment which remains his case for 18 months and remains an issue in these proceedings. This must aggravate the wrong to the Plaintiff.

We submit his plea could not be more misconceived. First, charge against Plaintiff is not comment but imputations that the Plaintiff was corrupt.

Defence of fair comment requires that the comment be honest. If the Defendant does not believe in what he says, how can he possibly suggest the comment was honest.

30 Defendant increased injury by putting interrogatories to the Plaintiff as to Plaintiff's personal fortune.

40 Defendant has sought to blur the issues in a most serious way; he has suggested in his Defence that his words were privileged as the words were addressed to the electors and he has a duty to speak out. Section 14 of the Defamation Act makes it clear no privilege attaches to words spoken at an election. The law is in accord with the laws of England and with those of other Commonwealth countries.

50 It is widely known in Singapore, and Defendant has accepted it - a fund was established called "Save Democracy Fund". The name of the fund plainly suggests that Plaintiff's object in bringing these proceedings is to restrict democratic freedom. AB 38 - Court will be invited to say that Defendant must have tacitly approved the establishment of this fund. Defendant could easily have persuaded people in control of the fund to change the name of the fund.

Another aspect of Defence - Defendant said the words complained of were in answer to an attack made by Plaintiff on him. But Defendant made a counter charge that Plaintiff is corrupt - a grave charge, bore no relation to what Plaintiff said about the opposition.

Theme of "Save Democracy Fund" taken up in Financial Times - Defendant interviewed by Financial Times correspondent - AB 51A. Plaintiff complained of the article - 51F. Defendant denied he gave the materials to Mr. Smith but says he did discuss with Mr. Smith. We submit if Defendant did say what we complained of it follows the theme of "Save Democracy Fund". All Plaintiff is doing is to save his reputation.

10

Defendant has never made a public retraction of the words he said - no apology.

AB 32 - a form of apology offered by Defendant coupled with denial that words were defamatory.

20

Remedies which Plaintiff seeks -

(1) a judgment which makes it plain to the world that there is no truth in these charges;

(2) damages;

(3) injunction.

Damages - must be large for several reasons. Plaintiff is not seeking punitive damages; he is seeking fair compensation.

Slander grave.

Published at important meeting at the height of election campaign.

30

Slander is insidious and likely to be reported.

Spoken by an Advocate & Solicitor and is politically experienced and his words will carry weight with his hearers.

He has not retracted a word of the slander.

He had sought to pretend that it is fair comment. He said it is free speech but it is a falsehood.

40

Attack was on a public man holding high office who has done great service to his country.

Injunction - if Plaintiff is entitled to judgment he is, we submit, entitled to restrain the Defendant from repeating slander of this kind.

In the High Court

(Tenders written submission on law and issues).

No. 10  
Notes of  
Evidence  
(cont'd)

Page 1 - Scott's case "Speaking generally ..... of action". (1882) 8 Q.B.D. p.503.

10 Page 4 - Lewis' case - p.258 "The gist of the two paragraphs ... to perform." 277 "My Lords, the natural ... derogatory" (1964) A.C.

Grubb's case - (1963) 1 Q.B. p.327 "It is for the jury ..... of the words."

Page 5 paragraph 3.

AB 9, AB 12, AB 13.

AB - 14 - Defendant says "My words are literary true and they bear a wholly innocent meaning."

### Defences

20 Page 9 para. 2 Davis - (1886) 11 App Cas. at page 190 "There is no doubt ..... misconduct."

Popham - (1862) 7 H & N, 890; 158 E.R. 730; 733 "It is further contended ..... his remarks."

(sic) Campebl - 122 E.R. 288 h.n. 290"  
Judgment ... " 291 "It is said .... for libel."  
293 "If comment ....

Hunt - (1908) 2 K.B. 309 h.n.; 318  
"Judgment .... 319 .... 320 .... imputation."  
321 "To allege a criminal intention ..... facts."

30 - Adjourned to 2.30 p.m. -  
Sgd. F.A. Chua

2.30 Hearing resumed.

Alexander continues:-

Page 10 para (b)

Merivale - (1887) 20 Q.B.D. 281 "I think the right .... said that."

Turner - (1950) 1 All E.R. 461D "It is, however ..... reach in."

In the High  
Court

No. 10  
Notes of  
Evidence  
(cont'd)

Gatley - para. 732.

Page 11 - (c).

Joint - (1904) 2 K.B. 294 "The action was  
tried ..... imputation". 297.

London Artists Ltd. - (1969) 2 Q.B. 376  
h.n. B -C, F. 391E "The second point .....

Gatley - Para 719 p. 302 "It is not comment  
....."

London Artists - 392 "G-H "In case, however,  
..... 393 ..... that opinion."

10

Defence particulars p. 8 Defence.

Particular B - AB 16 "Our client is prepared  
to say ..... "Cannot warrant the comment.

(C) - cannot warrant the comment

(D) & (E) - cannot warrant the comment.

(F) & (G) - adverse reflection on Plaintiff.

Page 13 (e) - Horrocks - (1975) A.C. 149F  
"So the motive ..... The motive ..... 150 .....  
it is true."

Page 14 -

20

Page 15 -

Toogood - 149 E.R. 1044; 1049 "In general,  
an action ..... 1050 ..... narrow limits.

Para. 2 Defence; para. 4 Defence.

Section 14 is in accordance with the law  
of other countries.

Turner - 449 at 470H "There is ..... 471  
..... available."

Page 16 - News Media - (1970) N.Z.L.R. 1089  
(1) and (2). 1092, 1094 "In this Court ... 1095  
..." 1103 line 48.

30

Brewer - 527; 532 "It is contended ....  
repelled."

Page 16 - AB 7, AB 8.

Para. 4 of Defence "As the Plaintiff had  
.... 8 ....", no attack on opposition integrity.

Page 16 - Malice -

In the High  
Court

Page 17 - Damages -

No. 10  
Notes of  
Evidence  
(cont'd)

Page 18 - Praed - (1890) 24 Q.B.D. p.55  
"I desire also to say ..... the trial."

Rookes - (1964) A.C. 1221 "Moreover, it  
is ..... compensation."

Broome - (1972) A.C. 1073 C - D "In my  
view it is desirable ..... solution."

10 Bernstein - "The award of £35,000 was a  
large sum .....

Page 20 para 4(c) - Bundle of Summonses  
for Directions, p. 19-20.

Hands in Synopsis of Awards for similar  
slander.

Bundle not agreed - I can prove these  
newspaper reports, if necessary.

Read. Page 1 with AB 38.

20 We seek to make use of it to show to  
Plaintiff if he has read them if he has what is  
his reaction. It is for us to prove its  
connection with the Defendant. Not asking Court  
to accept the truth of its contents. Same applies  
to Financial Times article at p.7. Defendant  
has denied what article said. We can of course  
prove that these appeared in the newspaper and  
Financial Times. I hope my learned friend will  
agree to its admission.

Page 8 - we need it to cross-examine the  
Defendant.

30 Not relying on its truth.

Mortimer: Of no evidential value, no  
assistance to the Court. Sarker on Evidence 615  
"Newspapers ... 713 "Even if newspapers are  
admissible .....

Page 1 - statement made by Mr. Murugason  
and not by Defendant. Not evidence implicating  
Defendant with "Save Democracy Fund".

I say Page 1 is inadmissible.

40 Financial Times - referred to in correspondence,  
Defendant denied having made those statements. I  
submit inadmissible; dealt with in correspondence.

In the High Court

No. 10  
Notes of  
Evidence  
(cont'd)

Only those referred to in correspondence are admissible.

Page 8 - wish to consider.

A: Financial Times - they do have evidential value.

"Save Democracy Fund" - some evidential value.

I submit they are admissible.

Ruling:

Page 1 to Page 7 of Bundle admissible.

- Adjourned to 10.30 tomorrow -

Sgd. F.A. Chua

10

No. 11  
Plaintiff's  
Evidence  
Lee Nai Kong  
Examination

No. 11

Plaintiff's Evidence - Lee Nai Kong

Tuesday, 21st November 1978

Suit No. 218 of 1977 (Contd.)

Hearing resumed.

Mortimer: No objection to Page 8 of Bundle.

Alexander calls:

P.W. 1 - Lee Nai Kong - a.s. (In English):

Xd. by Mr. Grimberg:

20

Living at 294-J Block 2 Marine Terrace.  
Inspector of Police Enforcement Unit R.O.V.  
Been in Police Force since 1966. In December  
1976 attached to Traffic Police. In that month I  
was assigned by Supt. Ng Yow Mong to cover a  
number of election rallies of all parties,  
including the PAP. This was during the election  
campaign.

My duties were to tape record the speeches  
of the candidates. On 18th December 1976 in  
pursuance of these duties I attended a rally of  
the Workers' Party held at Fullerton Square close  
to Fullerton Square end of Cavenagh Bridge. The  
speakers' platform consisted of the rear of 2

30

lorries. The rally started at 12.30 p.m. I positioned myself under a tree opposite the platform about 40 metres away from it. AB 59 is photograph of the scene of the rally. I was standing under the tree in the middle of the photograph. Altogether there were 4 loudspeakers, 2 were in a tree where I was and the other 2 on poles not far away from the tree. I had with me 2 tape recorders and a few unused tapes.

In the High Court

No. 11  
Plaintiff's  
Evidence  
Lee Nai Kong  
Examination  
(cont'd)

When the rally started at 12.30 p.m. I would estimate that there were about 700 people present. When one o'clock approached the crowd increased.

The Defendant, Mr. Jeyaretnam, made a speech; he began to speak at about 12.51 p.m. and by the time he began his speech there were about 1500 people present.

18th December was a Saturday. Offices and banks in the vicinity of Fullerton Square were emptying out. The area between the platform and the trees where I was standing was packed with people; there were people standing on the pavement outside the Malayan Bank Building and also looking out of verandah of the Post Office. This can be seen at AB 59.

The Defendant spoke for about 55 minutes and he was followed by 2 other speakers. He spoke again after the 2 speakers had completed their speeches. He spoke for about 4 minutes on the second occasion. The second speech served to close the rally which ended at 2.33 p.m.

I made tape recordings of the whole of the 3 speeches and the second speech of the Defendant. I now produce a tape serial number 0397 on Side B of which there is recorded the start and first half an hour or so of Defendant's main speech (Ex. P1). This is the tape which was the one I played yesterday during Mr. Alexander's opening. This tape has been in custody of Supt. Ng since I recorded it. Apart from yesterday it has only been played to counsel appearing in this case.

Xxd. by Mr. Mortimer.

Cross-  
Examination

Yes I was instructed to record the speeches of all candidates. I had 2 junior officers assisting me. Yes I recorded the speeches of the PAP candidates. No, I did not record the speech made by Mr. Lee on 13th December when he gave a press conference.



In the High  
Court  
No. 11  
Plaintiff's  
Evidence  
Lee Nai Kong  
Cross-  
Examination  
(cont'd)

I did not pay attention to the speech made by the Defendant. I was not keeping record of the press reports of the speeches of the candidates. That is so I would not know if the words complained of were used in any broadcast or reported in newspapers.

I am unable to answer the question if the 1500 people were all English speaking, but I presume they did. Yes, Mr. Jeyaretnam made his speech in English.

10

It was not part of my duty to record press conferences given by any candidate.

Fullerton Square is an area where many banks and commercial houses are concentrated.

Sgd. F.A. Chua

No. 12  
Plaintiff's  
Evidence  
Lee Kuan Yew  
Examination

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No. 12

Plaintiff's Evidence - Lee Kuan Yew

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P.W.2 - Lee Kuan Yew - a.s. (in English)

Xd. by Mr. Alexander.

Living at 38 Oxley Road, I qualified as Advocate & Solicitor in 1951. I became Secretary-General of the People's Action Party when that party was founded in 1954; elected to the Legislative Assembly for the first time in March 1955. In September 1955 I formed the firm of Lee & Lee in partnership with my wife and my brother Lee Kim Yew. From then until 1959 I continued to practise law and engage in politics. During this period from 1955 until 1959 I increasingly devoted my time to politics. In the General Election of 1959 PAP won a majority and formed the government with myself as Prime Minister. Since 1959 the PAP has been successful in each General Election in Singapore and I remained in office as Prime Minister.

20

30

Upon first assuming office as Prime Minister in 1959, when I was sworn into office in June 1959, I ceased to be a partner in Lee & Lee and my name was scratched from the firm's letterhead. Since that time I have not been associated with the professional activities of Lee & Lee except from time to time I instructed

40

them to take legal action for libel or slander. On those occasion I had simply been a client of the firm. Apart from that I had not associated myself with the activities of Lee & Lee.

In the High Court

No. 12  
Plaintiff's  
Evidence  
Lee Kuan Yew  
Examination  
(cont'd)

10 My wife and my brother continued to practise the law under the style of Lee & Lee. I see no reason why because I am Prime Minister they should cease to practise their profession. I have not at any time used my power, influence and patronage as Prime Minister to procure work for Lee & Lee, or to influence work in that direction, certainly not.

20 Shortly after I took office my wife told me that Lee & Lee had been asked by the S.I.T. to be their legal advisers. She told me she had refused. I thought it was extremely wise of her. We had discussed problem of this type after I had taken office and she was fully aware of the harm that she may do me if it were said that I as Prime Minister had favoured Lee & Lee.

(A: AB pp. 1 and 2).

My wife told me of that decision. I have seen AB 1 and 2 only for these proceedings.

30 When I took office in June 1959, the public was very aware of the growing corruption then, a subject of grave concern. One of the reasons we won the elections was because of the corruption of the previous government. A Commission of Inquiry was held in early 1959 on the corrupt practices of the previous government. We were conscious that there should not be nepotism and corruption and it should be manifestly so and known throughout the public service as we were alarmed at the growing lack of integrity in the public service and ministers in Government must set an example.

40 I gave specific instruction that Lee & Lee were never to be favoured or compromised or my position compromised. I communicated this policy both to my wife and my brother. I have not deviated from or altered this policy at any time.

(A: AB 3 - reads).

That was the policy in relation to the Housing Board conveyances and this I conveyed to the appropriate Minister. I sent a copy of AB 3 to the Cabinet. Paragraph 2 contains historical references. In para 3 I expressed the view that Lee & Lee should compete with the best of the Singaporeans. I have not at any time deviated from that or given different instructions.

In the High  
Court

No. 12  
Plaintiff's  
Evidence  
Lee Kuan Yew  
Examination  
(cont'd)

Integrity in politics and in Government is very important. Without integrity it is not possible to maintain effective government. We saw the beginning of corruption in Singapore from 1955 to 1959. Corruption, favouritism distorts the whole process of government; decisions were made not on the merits of the case but on favours expected or rendered. Worse, it seeps right down all echelons of government for it is never possible to conceal corruption. The Secretary to Minister must know, if not his personal secretary. People don't see why they should be honest when they see the country going down the drain and the system breaks down; when they see messenger boys taking out stationery and pencils to flog them outside. I had then to set austere, firm standards of absolute impartiality and integrity.

10

A civil servant if found corrupt, at the very least, would be dismissed; at the most he is charged and convicted, as happened in one case of a Sr. Minister of State.

20

If it became widely believed that I am corrupt that would be the end of me and my Government and in order that the Government can save itself they must destroy me if they are not corrupt, they meaning my ministers.

I attach much importance to integrity in the public service. The Corrupt Practices Investigation Bureau has direct access to me where corruption or misdemeanour relates to members of the Government and to Members of Parliament. In other cases the Director would see the Head of the Civil Service or the Attorney-General direct.

30

In an urban situation like Singapore it is hazardous, to say the least, to tolerate misbehaviour or corruption. I have notice, particularly in newly independent countries, that parties in Government tend to lose elections in their capital cities whilst holding their ground in the rural areas. I believe this is because in the city, the capital city itself people become very familiar by word of mouth what ministers are doing.

40

In Singapore the capital city is our total electorate, there is no countryside and if we lost our standing and respect that is the end of the matter. It is a fact of life which I have not allowed myself or colleagues to forget.

I am aware of the Defendant's profession; he is an Advocate & Solicitor. He contested the General Election in 1972. He was also in the 1976

50

General Election. He stood in a by-election in May 1977. He is the Secretary-General of the Workers' Party.

In the High Court

No. 12  
Plaintiff's  
Evidence  
Lee Kuan Yew  
Examination  
(cont'd)

In the General Election of 1976 Defendant held himself out as the principal spokesman of the party which he personified as one that should be taken seriously and if the opposition group of parties were to win he would play a leading role in government.

10 In my opinion the Defendant is the leading figure in the Workers' Party. The Workers' Party was dormant. He resurrected it before the 1972 election.

20 Candidates in a general election are free to criticise each other and do so vigorously, bitingly, hard hitting. I have not tried to suppress that. In the 1976 election the PAP had won by more than 70% of the votes, and there is always a fair body of people who disagreed with the Government. I want spokesmen to speak out for them. The latitude for self-expression at election time does not extend to an attack on the integrity of Government. When Government makes honest errors of judgment, the public can forgive them but if the people have doubts of the Government's honesty the Government is destroyed. Hence, the failure of so many elected governments in newly independent countries. My colleagues and I were determined never to let that happen to us.

30 If I made a dishonest attack on my opponent, I would apologise and probably pay damages commensurate with the harm I have done.

I have brought 4 actions against speakers who accused me of corruption and damages assessed in each case was between \$65,000 and \$100,000.

(A: Facts of present case - AB 8)

I don't think press conferences are tape-recorded at election time.

I did express criticisms.

40 (A: AB 7 "He did not believe ..... 8  
..... Third world").

The substance reported there was what I said. It was a reference to leaders of the opposition. Yes I included the Defendant and Dr. Lee Siew Choh, the two principal contenders from the opposition. I did not in that speech attack the Defendant's integrity or his honesty. I have not in that

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Court

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(cont'd)

election attacked Defendant's integrity or honesty.

(A: Bundle of documents p. 8).

It is critical of the PAP. Defendant made no reference about the press conference and the remarks I made of the opposition leaders the previous day.

I subsequently heard of the speech made by Defendant at Fullerton Square which contained words of which I complained of. I learnt it was a speech in the English language.

10

(A: Look at photographs in AB).

It is a place where the audience consists of the educated in the English language - clerks, executives, bankers, the professionals. From my own experience speeches in Fullerton Square had to be more serious, less rhetorical, more arguments and factual. The people there are really in the social, economic apex of Singapore, people at the top and if you can swing them or hurt your opponent through them it is most effective. It is not possible to confine the words spoken in the rally there to be confined only to those people who heard them. The allegation made in 8A AB was so damaging and startling, if true, that it must set the audience agog and they would go back to their offices and pass it on, probably with embellishments. The words spoken in 8A unless checked, if they believed it, I would be destroyed. These allegations have been standing over me, over my head, since 18th December 1976 and when all the other allegations of corruption, by others have been withdrawn, this one, as everybody knows, is coming up for trial. The Defendant is known to be an Advocate & Solicitor and an experienced politician. He has brought out a Q.C. to defend him and this heightens the sense of drama and also lends credence that he has a defence.

20

30

What the Defendant said at Fullerton Square is not give and take. It was, if I may use a metaphor from boxing, a blow below the belt, a kick below the belt on the most vulnerable part of any politician and Defendant must have known it.

40

(A: AB 9).

I knew I had no choice but to get him to eat those words or go to trial. At AB 12 my solicitors set out the meaning which the words used by Defendant meant. At AB 13 my solicitors seek an apology and an assurance that the words would not be repeated.

50

If the Defendant had apologised there would have been an immediate relaxation of tension or suspicion and if Defendant had shown he had been repentant and regretting having made it, it would have gone a long way to saving my reputation and saving him costs and damages.

(A: AB 14).

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No. 12  
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Evidence  
Lee Kuan Yew  
Examination  
(cont'd)

10 I have read this letter. He is saying every statement of fact he stated was true, other than the logical inference the audience would have drawn, that I was corrupt and had helped my brother to get a banking licence with alacrity. I was already outraged when I heard of the slander; this letter was an insult to injury. He is repeating his slander and confirming all the facts and saying the words had not conveyed that meaning. I instructed my solicitors to issue a writ. There is no other way I could protect my reputation.

20 (A: Bundle of pleadings - p. 10 of Defence).

30 In February 1977 I learnt Defence had been served in the action. I learnt that Defendant in paragraph 5 had pleaded fair comment. This was aggravating the damage he had inflicted. What he said was a factual recital of facts which in the order it was given meant that I had exercised favour to my wife and brother and Lee & Lee and he cited a specific instance of a banking licence being granted with alacrity because my brother was a director and Lee & Lee the solicitors. To put in a defence of fair comment he is saying he is not saying as matter of fact but comment.

(A: AB 32 "Without prejudice ..... 33..... gesture." p.33 "We can't help ..... his office.)

40 I totally disagree with that expression of opinion. In fact by way of illustration, Mr. Ong Eng Guan was conclusively proved to be a liar and a rogue and he went on to win a by-election in 1971. It takes some time for the poison to seep through. I have represented my constituency since March 1955. I tried to serve my constituency to the best of my ability. It was a trust in me and my work for them.

(A: AB 32 para. 2).

I do not believe that statement. If he believed it he could apologise, but he wanted to apologise on his own terms, to preserve his political position to attack me again at a subsequent election. He wanted to keep his political standing

In the High  
Court

No. 12  
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(cont'd)

and credibility as a man of substance and truth.  
Defendant is being defiant and provocative and  
hopes to inflict as much harm as he can upon me.

(A: Bundle of Summons for Directions,  
p. 19 - Interrogatories).

I have no objection to the interrogatories  
if they are appropriate. Have rubbed salt into  
the wound he tried to take a knife to enlarge the  
wound. These interrogatories point to the  
contrary to what was stated in his letter AB 32. 10  
The interrogatories all point to my having shown  
favour to my wife, brother and the firm of Lee &  
Lee and that I had gained from it. Two questions  
disallowed - 2 and 3. Politically I have no  
desire not to answer any of these interrogatories.  
Interrogatories 16, 17, 18 - my wife formed this  
holding company and it was published in the  
Singapore Business Monthly. It is a Straits  
Times publication, all companies are listed there.  
Defendant knows my wife and I are joint owners of 20  
19 Cluny Road but he chose to put in interrogatories  
to imply that they are ill-gotten gains. I left  
the argument which interrogatories I should answer  
to my lawyers; for them to advance arguments as  
to the relevance of the interrogatories. I have  
no objection to answer any single one of these  
interrogatories. What is at issue is my  
integrity. What the Defendant was seeking to do by  
a series of interrogatories was to inflict more  
damage on me by insinuating that in fact I had 30  
done what he had alleged at the rally. We knew  
interrogatories are official documents and are  
open to public inspection and a case like this is  
followed closely by the press.

(A: Interrogatory 15, answer p. 24 -  
you answered in the affirmative).

I was being paid \$3500 in 1959 and now paid  
nearly \$14,000. The average wage rates have gone  
up from \$160 p.m. in 1959 to \$460 plus in 1977.  
For lawyers I happen to know, with Singapore's 40  
growth as a financial centre particularly after  
1968 they have gone up by factor of 7 to 15 times.  
I would like to believe that the Defendant has  
also benefitted from this general prosperity of  
Singapore to afford this trial.

(A: 8A AB "Mr. Lee Kuan Yew has managed  
..... of Lee & Lee").

I have not managed my personal fortune  
through Lee & Lee.

Yes my brother is a director of several 50

companies. I have never used my position to procure for my brother any directorship; it would have been ruinous, it could not have been kept a secret. No reason why because I am Prime Minister my brother should cease to practise as Advocate & Solicitor or to cease business.

In the High Court

No. 12  
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Lee Kuan Yew  
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(cont'd)

I have not managed my personal fortune through the medium of my brother.

10           (A: The Tat Lee Bank).

20           Before publication of 8A I knew of the existence of this bank but I did not know that my brother was a director of this bank. I did not do anything to get the granting of licence to this bank; the decision of granting such a licence is with the Monetary Authority of Singapore under the portfolio of Ministry of Finance. I was not involved in the decision to grant a licence to this bank. I have never discussed with my brother about the grant of a licence to this bank, nor did I discuss any other matters relating to this bank. I have not at any time used my power, patronage, influence to get a licence for this bank.

(A: Bundle of documents p. 1).

My office subscribes to the Sunday Times and I have read this article.

My office also subscribes to the Sunday Nation. I have seen p. 5 of the bundle.

30           This is carried by all the newspapers.

I have no objection to members of the Workers' Party raising funds to defend Defendant in these legal proceedings. The title of the fund was chosen to deliberately confuse the issue and made it appear as if by this action I was trying to stifle or suppress honest legitimate attacks or criticisms. It incensed me. There is not a shred of truth in it.

40           (A: AB 34, 35 "Moreover, following ...  
      .... damage").

I drew their attention to this fund and I thought it fair that Defendant should know I took objection to the name of the fund and he could do something about it. Defendant is the dominant figure in the Workers' Party, in fact he is the Workers' Party. The name of the fund has not been changed. Defendant has not tried to persuade the



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Court

No. 12  
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(cont'd)

trustees to change the name of the fund. All the press conferences were held by the Defendant, but this press conference - "Save Democracy Fund" - was the only one that I recollect was held by Mr. Murugason, an artful contrivance. Defendant has not issued press statement disapproving this fund; he thought it was a good thing.

(A: p.35 what your lawyers asked).

At that stage I could not ask less than that.

(A: p. 37 reply para 2).

10

General resignation that this case must go to trial; he would not apologise; he left a smear.

(A: p.38 "Secondly, we would ..... parties").

Mr. Murugason was subordinate to Defendant. At time of p. 1 of Bundle of Documents he may be described as Deputy Chairman. To say that the trust fund had nothing to do with the Defendant is ingenious.

(A: p. 7 of Bundle of Documents - article in the Financial Times).

20

My office received copies of the Financial Times. I have read this article.

(A: "To account for the weaknesses .... broadcasts").

When I read it, it was the same artful devious blurrer of the issues of this case. He is being sued for slander and he now says he is being suppressed.

My solicitors wrote to Defendant.

30

(A: 51 A & B of AB).

I thought it fair to bring this article to Defendant's attention so that he could mitigate his action if he chose to do so.

(A: 51G "He categorically....."  
51G "What was discussed ....").

He is just out to inflict damage and continues to inflict damage. There is no justification for that suggestion, none whatsoever.

There is a cloud hanging over me from the time of the rally. Others have made scandalous

40

allegations and have withdrawn them, but this one, the Defendant is not withdrawing or apologising and the public want to know if he as a lawyer and an experienced politician has a good defence, in which case I am destroyed.

- Adjourned to 2.30 -

Sgd. F.A. Chua.

In the High Court

No. 12  
Plaintiff's  
Evidence  
Lee Kuan Yew  
Examination  
(cont'd)

XXd. by Mr. Mortimer

Cross-  
Examination

10 My case is that the words used by Defendant were obviously plain with simple meanings to be given to them; dishonesty inferred.

20 Yes I am asking for heavy damages, my entitlement to damages does not just depend on what he said but also his persistent and consistent behaviour ever since to aggravate what he has said. The Defendant in the other actions all apologised unreservedly and promptly. Yes I am asking for damages, I leave it to the Court as the amount. I don't think \$100,000 or \$200,000 or even \$300,000 would bankrupt the Defendant. By bankers standards he may not be wealthy but by middle class standards he is well off and substantial. I suggested to the electorate the Defendant could be a more frugal man in the expenditure of money, not suggesting that he was not capable of making money. Defendant is not a thrifty man. I would suggest that \$200,000 or \$300,000 would not matter to him or his wife.

30 Yes I believed that the words had imputation of corruption and dishonesty. I have looked at those words on many an occasion and listened to the tape and each time that I have done that my sense of outrage has not diminished.

Q. Do you agree if you could be persuaded into accepting that there was no allegation of corruption, illegality or abuse of your position, then your complaint would be at an end?

40 A. If the words don't mean what they appeared to me and to the listeners who obviously saw the point of the Defendant's remarks, then of course my complaint would be at an end.

Q. If the allegation of corruption and illegality and the abuse of your position were withdrawn would your complaint have been at an end shortly after this speech was made.

In the High  
Court

No. 12  
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(cont'd)

A. It would have been at an end except that, technically, I am still entitled to damages.

If on receipt of my solicitors' letter and Defendant had acted in a reasonable way the position would be entirely different. Yes I presumed the interrogatories would not have taken place and there would not have been the "Save Democracy Fund". I would have left the amount of damages to the Court; yes I would have asked for damages as I did in the case of the other five Defendants.

10

If a day after the speech was made Defendant had apologised I would have left it to my solicitors to advise me whether I should ask for damages.

In the context of the harm that he did to me it was necessary that he atone for the harm. It was important that the electorate should know what he said was only unreservedly withdrawn but he pays something for damages.

20

There are two aspects of this trial. The first question is on fact and law and the finding thereon and the other the impact it has on the electorate. The Defendant holds himself out as the principal spokesman for the opposition, somebody to be taken seriously and it was necessary that the electorate understand that when he spoke the words he did on the 18th December, he was acting in an irresponsible manner, in the eyes of the electorate first and then in the eyes of the world.

30

If the Defendant had been properly advised by counsel as early as January 1977 this case would have taken on a different complexion. It was too grave an allegation to have allowed Defendant to get off scot-free.

(M: AB 14, 3 weeks after speech was made;  
p. 15 "Our client .... p.16 we are at  
a loss .... "Our client is prepared  
.... 17 ..... Bank Ltd.")

40

I did not read the letter to mean that at all, Defendant is saying there is no allegation of illegality. I can have no objection to any statement of fact, yes it would not call for any apology. If the words do not mean what I understand the words to mean then of course there would be no need for apology. I accept that "our client is prepared .... carrying on practice". I have insisted that he withdraw the allegation he made on 18th December but he would not.

50

(M: p.15 "Our client did not say ... with alacrity").

In the High Court

This was not my interpretation that he was withdrawing his statement.

No. 12  
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(cont'd)

(M: p.16 "Our client is prepared to say ..... 17 ..... Bank Ltd.")

10

What he attempted to do in a devious way was to say - "If I meant what the Plaintiff said I meant then I don't mean it, but I am not withdrawing the sting of my slander."

I can't agree it was an opening for negotiation for a settlement.

Reading from the beginning of p. 14 to the end of page 17 it is to exacerbate the situation.

I am more interested in an unqualified apology than an atonement.

(M: p.32 AB "Without prejudice ..... 33 ..... his office.)

20

30

40

The Defendant was not withdrawing the sting of his charge. I would have thought that the sensible way out was to see my solicitors and make an unqualified withdrawal of what he said. Yes this letter is not satisfactory, it leaves the sting behind. It must be in a form of words satisfactory to me and not the Defendant. If Defendant had agreed to withdraw unreservedly I would have accepted it. Action was already on when the letter in AB 32 was written. I want unreserved withdrawal of the words that he uttered, that they were untrue, unjust and that he had no ground for believing any of the allegations he uttered to be true. The sequence of those words mean what they mean as a whole; he is a public speaker and I am saying that the impact on the audience was to leave them in no doubt that I was dishonest and abusing my power. I agree he cannot withdraw the statement that I am the Prime Minister of Singapore. He has to withdraw the words he uttered, set out in the Statement of Claim. I don't agree in his letter he wished to withdraw the words.

(M: AB 35, 36)

Yes there is set out the proper redress. Yes I see the third redress.

(M: AB 37 the reply 2nd para.)

In the High Court

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(cont'd)

He is saying it in his own special way which protects his political position.

(M: AB 39, at pp. 40 and 41 "For the purpose .... 40 .... problem").

I do not agree with that.

(M: "It is quite different ..."  
"We note from the correspondence .....  
41 ..... difficulty.")

There is no agreement.

If Defendant will apologise now in terms acceptable to me I would agree, but I would leave the question of damages to the Court.

10

Each time a form of words had to be agreed the Defendant wanted the form which would protect his credibility with the electorate.

I have insisted on my rights according to the law; an apology would mitigate damages. Yes heavy damages are required because Defendant has refused to apologise in unreserved terms.

Yes Lee & Lee was established in 1955; yes I left the firm in 1959; yes since then I have been Prime Minister of Singapore. It could be businessmen would go to Lee & Lee for consultation. The firm does not bear my name, it bears two surnames.

20

I resent a comparison with the position in England. Most chairman of board of companies in Singapore know they do not endear themselves to me or my colleagues if they have a relative of mine on the board. It depends on the kind of restaurant or concert my wife goes to for her to get good treatment.

30

It is an insulting proposition to put that a certain amount of the prosperity of Lee & Lee is due to its connection with my family.

No businessman would give anything without favours in return and my brother can dispense no favour.

My name was cancelled from the letterhead of Lee & Lee when I left.

40

Yes I consulted Lee & Lee for a number of libel or slander actions, probably 3 or 4 before I became Prime Minister and a number after I became Prime Minister; not all went to trial.

(M: p. 40 AB " You will probably .....  
..... is usual.")

In the High  
Court

I do not agree; what I said was within  
the ambit of politics. He said he wanted to be  
Prime Minister, I said he was a spendthrift.

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(cont'd)

Yes I would expect my opponent to call me  
names.

Defendant holds himself out to be a  
credible opposition leader. Dr. Lee Siew Choh  
is another.

10

Yes the point I was making was that the  
policies of the Workers' Party were spendthrift  
policies. I thought it was opportunistic  
calculated to win votes and bankrupt the country.

(M: AB 7)

Yes I was including the Defendant. I  
referred to opposition leaders as inconsequential,  
yes that includes the Defendant.

20

(M: 1st column "The Prime Minister said most  
..... rates.")

Yes, I was talking of public extravagance.

(M: p. 8 1st column "In reply to another  
..... oppose").

Collectively, yes it includes the Defendant.

(M: "They want ....)

I meant Dr. Lee Siew Choh. Not that  
important for me to pick him out by names. When  
I said that I was referring particularly to Dr.  
Lee. If people think it referred to the Defendant  
as well I would apologise.

30

(M: p.7 "He did not between ..... 8  
..... anything.")

I was saying there that neither the Barisan  
Sosialis nor the Workers' Party could manage their  
own fortunes, they were spendthrifts. The Workers'  
Party owes in damages some \$40,000. I am saying  
that he was a spendthrift and if put into office  
more money would be run through. I don't think he  
was very thrifty; he sends his children to an  
expensive private school both in Singapore and  
abroad; yes that is a reason why I called him a  
spendthrift; he is not very prudent in the  
management of his assets; I do not want to

40

In the High  
Court  
No. 12  
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Examination  
(cont'd)

denigrate him; I was referring there to public leaders and not specifically to Defendant; Dr. Lee is more a spendthrift. I do live modestly and my children go to government schools. I am not in debt. I am suggesting that a man who is a spendthrift is not to be entrusted with the State treasury.

- Adjourned to 10.30 tomorrow -

Sgd: F.A. Chua

Wednesday, 22nd November 1978

10

Suit No. 218/77 (Contd.)

P.W.2 - o.h.f.a.s. (in English)  
XXd. (Contd.)

I was asked yesterday about apology and damages. I would like to make my position doubly clear. An apology from the Defendant is not a question for bargain. I am entitled to one. If one is forthcoming at this stage then damages in my view would be reduced. If no apology is forthcoming and the slur is persisted then the case must go to its bitter end. I cannot make myself more clear and more fair. 20

(M: The correspondence, Defendant is withdrawing any imputation of illegality and corruption).

I say everyone of those letters aggravated the slur.

(M: Your speech at press conference, p.8 AB "by their management ..... anything.") 30

Yes I said he was a spendthrift. I was pricking a bubble. I chose my words very carefully, that was not a privileged occasion, but I am led here to answer the words I uttered at the conference. I consider that a fair attack on a political opponent. I did not call Defendant a spendthrift at press conference, but I said it yesterday because I was invited by counsel to do so. In answer to what counsel put to me I said Defendant was a spendthrift and I gave the reasons why I said he was a spendthrift. The way he is pursuing this case shows that he is not a person who is very prudent. I am saying that a man who writes provocative letters in reply to a very serious request for apology is being most imprudent and in bringing silk from England further reflects the character of the man. I had been provoked and 40

on reflection I would say I am sorry I said "spendthrift". I was invited to express an opinion and I expressed it that he would not be a bankrupt if he had to pay \$200,000 or \$300,000 damages. The earning capacity of an Advocate & Solicitor in Singapore has gone up 15 times since 1960. He would still be around when the next election comes and I would welcome him.

In the High Court  
No. 12  
Plaintiff's Evidence  
Lee Kuan Yew  
Cross-Examination  
(cont'd)

10 I do have a faint idea that he had accumulated something.

20 Defendant was in a grand coalition with Dr. Lee and a few others and I was giving a broad blast at them in a generic way. I had grounds for making that statement and if I am wrong the electorate could judge me accordingly. I made a statement on the 12th December which appeared on the 13th December. Defendant made his first major speech on 14th December, but he did not answer my charges. If he had felt outraged as being beyond what is fair, he would have replied on the 14th, but he made it on the 18th. When the election campaign mounted allegations of corruption were made by the opposition and in particular the Defendant came in with a calculated blow on the 18th December. Opposition leaders knew I hold my hands during elections. Yes the press conference was published on the 14th December. Yes Defendant made his major election speech on 14th December, at lunch time. My point is that if he claimed the lost control of himself then he would have lost control of himself on the 14th December.

30 Yes I attacked on 13th December. Yes I would expect him to reply to my attack, but not in the way he did.

Yes, if such a statement was made of me, I would reply. Yes it would be reasonable to reply.

He could have said it but he did not.

40 I would study it closely. I might have given him the benefit of the doubt. He did not say that and he went on spitefully and maliciously to aggravate what he said and I would not give him the benefit of the doubt. I said that the Defendant holds himself out as a man to be taken seriously, a potential leader and his words are to be taken seriously. I would think it is a view shared by some people. What I think of the Defendant is something slightly different from the general view of others. I think he is a man with a chip on his shoulder, spiteful, anxious to

50



In the High  
Court

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Lee Kuan Yew  
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Examination  
(cont'd)

make a mark for himself as a public figure and he resents the fact that I had rebunked him on several successive occasions.

(M: You said it at press conference).

Yes I stand by my statement that he was an inconsequential man.

(M: "He said: "the public ...").

I said not consequential enough to do damage. He could diminish the harm he uttered by an unqualified apology. The Defendant was one of five opposition leaders, the two least inconsequential being the Defendant and Dr. Lee Siew Choh.

10

I did not call him a spend thrift. I was asked what I thought of him and I replied.

(M: "Their .... anything.")

I am sufficiently frugal, competent not only in the management of the country's assets and fortunes, which I believe has been demonstrated over the last 20 years, but also a man of modest habits. Yes, indeed a man who could accumulate something. I said exactly what I said there and I stand by it. Because I have demonstrated that I am frugal, competent both in the management of my personal and country's affairs, yes, I am qualified to be entrusted with the job.

20

(M: Summons for directions p. 20 - interrogatories, No. 6).

Yes I answered it in the affirmative.

(M: No. 13).

30

Yes I answered that in the affirmative, after searches had been made.

(M: No. 14)

I only answered after searches had been made, as I really did not know.

(M: No. 15).

Indeed I answered "Yes". As far as I am concerned that is due to increase in my salary.

(M: Kwa Geok Choo (Pte) Ltd. - No. 16).

Yes, my wife incorporated that company.

40

I cannot remember if I have 350,000 shares. I left it to my wife; it could be I have 350,000. I have made it abundantly clear that I do not wish to conceal anything. (A: I will ascertain it). The whole approach of the Defendant in the interrogatories is to persistently smear me and this smear should be cleared in the present case.

In the High Court  
No. 12  
Plaintiff's Evidence  
Lee Kuan Yew  
Cross-Examination  
(cont'd)

10 (M: I am not for a moment suggesting that there is anything or in the slightest degree blameworthy about a man wisely increasing his personal fortune.)

I also understand that there is a great deal of wrong in insinuating that my wife has accumulated a fortune which I, in my office, have been able to dispatch.

20 I have a prudent wife who is a competent lawyer. I have never tried to conceal that my wife earns well, and honestly so, but not through my influence.

I have an energetic and not incapable brother.

(M: Granting of bank licence).

Yes, licence was granted by the Monetary Authority of Singapore. I had no part in the decision to grant the licence.

30 My brother is the Senior partner in Lee & Lee. Yes, there is a possibility that there might be people who consulted Lee & Lee because of my family reputation. Yes I said if foreign firms go to Lee & Lee they would not get an advantage. It is well known that one reason for the success of Singapore is that the administration is impartial and one that upholds integrity. Licences are issued on merit. Many foreign firms know that any attempt to seek favours is counter productive.

(M: AB 5 last sentence at AB 6).

It is quite possible.

40 This was a circular to cabinet ministers to reverse the previous practice.

In 1959 we decided when we took office that Lee & Lee should not be given any Government work. By 1970 when the position was sufficiently stabilised I decided it was fairly safe to consider Lee & Lee when I issued the circular.

In the High  
Court

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Cross-  
Examination  
(cont'd)

I decided it fairly safe then that Lee & Lee should be considered on their merits and not favour.

I agree my election victory was not in any way impaired.

Yes my party won all the seats. Yes in my constituency, I improved my position, total votes 89%. If I don't acquit myself and my Government credibly, honestly and fairly, in this case, that percentage would drop in the next election.

10

Yes my party increased the percentage of the total votes.

It takes sometime for the poison to seep through and I am administering the antidote now.

Yes I am aware of the purpose of interrogatories; yes to establish facts.

Yes less than half of the interrogatories had been allowed; I was advised to appeal but I said "No" as I wanted case to come to trial quickly.

20

I am complaining about nothing. I am here to seek damages for the harm he inflicted on me on the 18th December aggravated by his conduct subsequent to that.

(M: Save Democracy Fund)

My complaint is the subterfuge; it is really "Save Jeyaretnam Fund". That is so if fund has that title I would have no complaint.

Defendant is the Secretary-General and he allowed the fund to be started in that name. Defendant saw in the papers the statement by my Minister of State. (A: Bundle of Documents, page 4.)

30

If Defendant in fact could not change the title then he is no longer in charge of the party and he could not stand in the next election.

(M: Article in Financial Times. AB 51F at 51G at top; 51G "What was discussed .... into politics.")

It is a fear that has been expressed by the Defendant in an open letter and I gave him an open reply, that there were no grounds whatsoever for such fears to be entertained either by him or by the electorate.

40

Yes, there is a ballot number on the ballot paper; it does not correspond with the number in the electoral register. There is a counterfoil with a number which the British introduced. When a man gets a voting paper his identity card number is entered on it. Yes you could trace the voter from the voting paper. Yes it is possible to discover how a voter casts his vote. But that event would only arise if the voter gets a High Court order to have the ballot papers scrutinised. Defendant aggravated these fears.

Yes I know Professor Tommy Koh; I can't remember if he has expressed such fears in letters to the press. It is a fear expressed first by the Barisan Sosialis way back in 1963. It has not prevented people from voting and to this day no election petition has been brought to Court.

(M: Other matters arising out of this election").

Yes, damages \$65,000 to 100,000 awarded. I have no personal interest in the \$300,000 the total of the damages.

That is so, I do not intend to benefit.

Yes, I will turn it to charitable use.

(M: Case of Wong Kui Yu).

How Lee & Lee made money as I am Prime Minister.

(M: The dark clouds hanging over your head for 2 years).

There is no conceivable way how an apology could restore my position politically.

I claim heavy damages because of the malicious, the viciousness with which the Defendant had systematically aggravated the harm he inflicted on the 18th December.

-----  
Re-Examination by Mr. Alexander:

Re-Examination

(A: The suggestion that it was your fault that this case is before the Court).

It is very far fetched.

In the High  
Court

No. 12  
Plaintiff's  
Evidence

Lee Kuan Yew  
Re-Examination  
(cont'd)

(A: AB 15 "Our client was not saying  
..... companies.")

(A: AB 8A "Lee Kuan Yew has managed  
..... but I am not.")

He was aiming it at me.

In the other cases they pointed directly to the agency, Government agency, namely the Housing & Development Board under which I directed wealth and fortune to Lee & Lee, my wife and my brother. Defendant is more subtle, he probably knows that that would not be believed, so he is suggesting that I arranged for a banking licence to be given with alacrity to Tat Lee Bank because my brother was to become or had already become a director and thereby enriching Lee & Lee, my wife and my brother. What I want is a categorical statement that that is untrue and I have not got it up to now.

10

(A: AB 15 "Our client did not say .....").

The whole object of this speech was to impute a lie.

20

(A: AB 16 "We are at a loss ..... isn't").

Until yesterday the Defendant has not suggested any alternative meaning. I find it difficult to believe the Defendant was speaking the truth.

(A: AB 16 "Our client is prepared .....  
..... in practice").

The speech was designed to hurt me.

(A: AB 16 "Equally ..... 17 .....  
Ltd.")

30

If that is his sincere view there was no point in mentioning it in his speech against us.

I do not consider that this letter offered me an unqualified apology. I do not consider it to be sincere letter, a most unwise one I think.

(A: Connection of Lee & Lee with P.M.)

Defendant suggested I influenced business in the direction of Lee & Lee to the mutual benefit of the family.

(A: It was suggested that you slammed the door by issue of the writ).

40

(A: AB 32 "Without prejudice .....  
..... advantage").

In the High  
Court

It is a patent lie.

No. 12  
Plaintiff's  
Evidence  
Lee Kuan Yew  
Re-Examination  
(cont'd)

(A: "his conviction ..... 33 .....  
unwarranted.)

I would have expected him to give a plain  
straightforward apology.

(A: 33 "If insofar ..... apologies.")

10 I had been slandered and the formula must  
be resolved by my solicitors.

(A: Impact on the electorate).

20 It is the cornerstone of effective  
government. If my moral authority is eroded this  
government cannot function. I cannot put it any  
stronger than to say that I must go down and the  
Government must go down; they are serious charges  
of misconduct. The best way is for Defendant to  
stand up on oath and withdraw in clear and  
unequivocal terms each and every one of these  
allegations and explain why he made them in the  
first place, if he can.

(A: Form of settlement Defendant was  
offering - three parts).

30 If I had settled on these terms the impact  
on the electorate would be a great deal worse than  
what is happening now in this trial where, at  
least, I am able to vindicate myself. It is a  
qualified hedged-in apology that left more than  
half a question mark on the allegations he made.  
I have submitted myself before this Court on oath.  
I have offered myself for cross-examination and  
to go through into the interrogatories which were  
disallowed by the Court in order that I might  
vindicate my political conduct. I have no desire  
to prevent the Defendant from exercising his  
democratic rights.

(A: AB 35 - the redress).

The proposals are standard in this kind of  
Defamation action.

40 (A: AB 39 - 41; 41 "As far as the damages  
..... as a guide.")

The issues at stake are so grave that for the  
Defendant through his solicitors to suggest this,  
it either means that they take me to be a fool or

In the High Court

No. 12  
Plaintiff's  
Evidence  
Lee Kuan Yew  
Re-Examination  
(cont'd)

they hope somehow to get away with the enormity of the harm he has done.

(A: My opening on damages.)

I have no interest personally in the amount of damages the Defendant is made to pay for I will not benefit from it. My interest in this case is to get my reputation cleared. The Defendant does not wish to apologise in the terms that my solicitors require of him. Damages as far as I am concerned is an indication, in the context of Singapore society, of the gravity of the Defendant's behaviour and of my innocence.

10

I do not seek a dollar more.

Defendant if not satisfied with the award of Damages can appeal right up to the Privy Council. The Defendant is conscious of it, so am I, hence two leading silks from London for this purpose. This case must go on to the bitter end because the Defendant refused to apologise. It is as simple as that.

20

It is right and proper that I should leave the amount of damages to the Court.

(A: The words you used at press conference).

It is relevant to comment on the ability of my opponent to manage the country's financial affairs.

I did not use the word "spendthrift" at the press conference.

I do not enjoy saying it.

I was pressed to give reasons so I gave my reasons. There is no alternative to my giving my true reasons. I did not want to say that at the press conference.

30

(A: Defendant's means to pay damage).

I do not know how much fund is now in the "Save Democracy Fund".

I did not in my speech denigrate Defendant's earning capacity as a lawyer.

(A: Defendant defending himself).

The Defendant in 8A did not attempt to defend himself and to say that I was wrong.

40

(A: I am not very ..... very well).

In the High  
Court

No self-defence; I see a clear intent to deliver a foul blow.

No. 12  
Plaintiff's  
Evidence  
Lee Kuan Yew  
Re-Examination  
(cont'd)

10

The Defendant had an opportunity to reply in self-defence, if that was what he wanted to do, on the 14th December. He had 4 days for his campaign to warm up and for others to have started throwing poison arrows at me and this was a serious charge made before a serious audience and I am also known, I think, generally by my conduct over the last 28 years of public life to be a serious-minded man and he must know that if they are not true, they are slanderous, vindictive, and he must be taken to task. Therefore, he would have spent a great deal of time thinking how he would say it.

I do not regard my right of reply as giving me a right to make an untrue attack.

20

I know Defendant better than most members of the public.

(A: My opening submission "The Defendant is an advocate and solicitor ...)

I assent with that statement. Defendant refused to apologise in unqualified terms.

(A: English elections referred to by Mr. Mortimer.)

Conservative won. Public took a different view.

If I don't vindicate myself that 28% will expand.

30

(A: Your own personal fortune - you are a man of modest habits).

I was never a poor man even when I was in private practice before I took office.

(A: Interrogatories - p.20).

The whole object was to inflict damage.

(A: No. 16. I confirm Plaintiff holds 350,000 shares).

A general smear.

(A: Granting of bank licences.)

40

No relevance for Defendant to refer to granting of the licence.



In the High  
Court

No. 12  
Plaintiff's  
Evidence  
Lee Kuan Yew  
Re-Examination  
(cont'd)

It is generally accepted we maintain the highest standards of integrity in public office. It is one of the reasons why foreign companies set up business in Singapore. People are reminded of this, no favours would be granted, least of all Lee & Lee.

It is a grave insult to my wife, my brother and other partners in Lee & Lee to suggest that their fortunes were made because of me. Besides myself as Prime Minister, there are two other ministers who were partners of Lee & Lee. Mr. E.W. Barker, 1956 to 1964 and he resigned on becoming Minister for Law & Environment. Mr. Chua Sian Chin, Minister for Home Affairs, he resigned in 1968. There was also right at the beginning in 1959 Mr. K.M. Byrne, then Minister for Labour. It is fairly distinguished and stable and we would be jealous of this reputation. They needed no favours to do well.

10

(A: You were re-elected).

20

It takes time for the poison to seep.

(A: 1972 A.C. 1025 G "It is impossible  
.....")

More so it has application to Singapore society because we have made integrity the least issue in politics.

I do not wish to obstruct.

I opened the door to Mr. Mortimer when I said I was prepared to answer the interrogatories which were not allowed.

30

(A: "Save Democracy Fund").

The purpose of the statement of my Minister was to invite the Defendant to dissociate himself.

The Defendant did not do that.

It is really an extension of the Defendant's desire to portray himself as someone who is unjustly silenced and denied of his democratic rights.

It reinforces what he attempted to do by calling it "Save Democracy Fund".

40

(A: Fear of voting system).

No one who votes against the PAP is victimised. That is the reason why we were able

to increase our votes from 48% in 1963 to 71% in 1976.

No one who stands as a candidate for election on behalf of any opposition party is victimised, in fact we welcome them.

The opposition spread rumours of this fear to discredit the PAP; I don't think those fears existed.

10 Where an election petition has been submitted for fraud or other illegal practices, the Court would order the papers to be investigated. No other occasion.

20 (A: Finally, on a number of occasions right from the outset of his cross-examination, Mr. Mortimer has said that the Defendant has in no way in this action imputed any allegation against your integrity or suggestion that you show favour to Lee & Lee or to your brother or you assisted in the grant of licence to Tat Lee Bank. What, if any, is the distinction between counsel stating that and the Defendant stating it personally ?)

Counsel saying it means nothing at the next election. He is paid a brief to do so. Mr. Jeyaretnam has not said it publicly for two years and I gave him every opportunity to do so.

30 (A: A draft form of settlement was submitted, my learned friend accepted that)

- Adjourned to 2.30 -

(Witness released)

Sgd. F.A. Chua.

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No. 13

Plaintiff's Evidence - Michael Wong Pakshong

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Hearing resumed.

P.W.3 Michael Wong Pakshong - s.s. (in English)  
Xd. by Mr. Grimberg.

Living at 49 Chancery Lane; Managing

In the High Court

No. 12  
Plaintiff's  
Evidence  
Lee Kuan Yew  
Re-Examination  
(cont'd)

No. 13  
Plaintiff's  
Evidence  
Michael Wong  
Pakshong  
Examination

In the High  
Court

No. 13  
Plaintiff's  
Evidence  
Michael Wong  
Pakshong  
Examination  
(cont'd)

Director of the Monetary Authority of Singapore; appointed to that post in December 1970; the MAS began to function on 15th January 1971; prior to that date of banking function which it exercised was carried out by the Commissioner of Banking, part of the Ministry of Finance.

The events after my appointment are of my own personal knowledge and the events before my appointment I have familiarised myself of them.

On 18th August, 1969 Mr. Goh Tjoei Kok, the Chairman of Tat Lee Bank Ltd. wrote to Dr. Goh Keng Swee, then Minister of Finance, applying for a banking licence. He proposed a capital of \$20 million. The last bank granted a banking licence was the D.B.S. and that was in 1968.

10

By letter dated 19th September 1969, from the Commissioner of Banking Mr. Goh was informed that his application would not be considered for the time being.

On 7th June 1972, Mr. Goh wrote to Mr. Hon Sui Sen asking for the application to be re-considered; Mr. Hon was then the Finance Minister.

20

Mr. Hon sent the letter to the Monetary Authority and asked for recommendations. As a consequence the MAS wrote to Mr. Goh and put a number of questions to him. We received a reply from Lee & Lee on 17th July on behalf of Mr. Goh; that was first time that Lee & Lee entered into the picture. Lee & Lee replied on behalf of Mr. Goh and outlined the answers about (1) the capital which they proposed should be \$20 million (2) they indicated that the major shareholders would be 3 companies, controlled or associated with Mr. Goh; these companies were Tat Lee Co. (Pte) Ltd.; Eastern Iron & Steel Man. Co. Ltd. and Pan Malayan Holdings Ltd. Mr. Goh had substantial holdings in all these companies.

30

The MAS was brought into being with the specific object of encouraging and developing Singapore as an international banking and financial centre. We had embarked on a policy of banking and by 1972 we had admitted, rather approved, the admission of 8 foreign banks.

40

When letter of 17th July was received and after they replied we summarised the information about the interest expressed by Mr. Goh in the bank and this application together with interest expressed by 20 other banks was submitted to a Committee on the 4th September 1972. 20 other banks were all foreign banks, Goh's group was the only one from a local bank.

50

The attitude of the Committee to Tat Lee's application was favourable; that 8 foreign banks had been approved to operate restricted banking licences; the fact that this was the first local banking group persuaded us that we should begin processing the application.

In the High Court

No. 13  
Plaintiff's  
Evidence  
Michael Wong  
Pakshong  
Examination  
(cont'd)

10 The Committee considered that \$20 million was inadequate and decided that a figure of \$30 to \$35 million would be appropriate if the application was to be processed further. We thought that the local group should seek assistance from a bank of international standing. The conditions were conveyed verbally by the Manager in charge of licences; they were conveyed to Mr. Goh Tjoei Kok and Mr. Goh Seong Pek; but not to Lee & Lee. The name of the Committee was the Assets Management Committee.

20 On 15th November 1972 Lee & Lee wrote to MAS indicating that their clients accepted the 3 conditions we had outlined and that their clients would be negotiating with an international bank with a view to getting management expertise.

30 On 17th November 1972 Lee & Lee wrote to the Minister of Finance and in that letter they again reiterated their acceptance of the 3 conditions and also indicated the Directors and shareholders they had in mind which included Mr. Goh Tjoei Kok and Goh Seong Pek and the name of Dennis Lee Kim Yew along with 2 other proposed directors.

(M: Letters should be produced, I do not have copies of all the letters.)

I have copies of the letters I have referred to. I produce letters of 15th November 1972 and 17th November 1972 (Ex. P.2 and P.3).

40 On 25th November 1972 in response to request from MAS Lee & Lee submitted the latest Balance Sheet of the three companies who were to be shareholders of the proposed bank. I produce the letter (Ex. P.4).

Late in December 1972 the MAS based on details given to us by Lee & Lee regarding the proposed directors, sent the names to the CID for clearance. All the names were cleared by the CID except one. The name of Lee Kim Yew was one of the names submitted for clearance.

In January 1973, Mr. Goh Seong Pek came to see the MAS. He explained that ..... There are notes made of the meeting which I am aware of. In

In the High  
Court

No. 13  
Plaintiff's  
Evidence  
Michael Wong  
Pakshong  
Examination  
(cont'd)

January 1973 Mr. Goh did not see me. The notes are in the MAS files. Mr. Goh Seong Pek had returned from a visit to Europe, Britain and the U.S. and he told MAS he had encountered difficulty in making contact with a foreign bank that would be willing to provide assistance; one of the reasons was that an equity participation of 20% was too small.

On 9th April 1973 there was meeting of AMCO on that day and the difficulty of getting foreign participation discussed. The decision was based on the recommendation of MAS that the expertise which we wanted the group to have could also be met by the employment of expatriate bankers and experts. This was conveyed to the applicants.

10

The MAS was also interested in the credit of Goh Tjoei Kok and Goh Seong Pek as part of our processing; it is normal for us to establish whether applicants are men of substance. We asked for an updating of the accounts especially of Tat Lee Co. Ltd. and Eastern Steel & Iron Manufacturing Co. Ltd. In addition we also asked for full details of all their banking relationships, overdrafts, loans and securities and assets pledged. We received answers, we assessed them and we were satisfied.

20

On 28th April 1973 Lee & Lee indicated that their clients were taking steps to comply with the conditions imposed by the MAS and the name they had in mind was the National Bank of Singapore; We told them the name was not acceptable.

30

On 20th July 1973 by letter Lee & Lee submitted to MAS the names of persons capable of holding responsible positions in the bank; they also indicated they intended to appoint Peat, Marwick, Mitchell & Co. as Managing Consultants; they also said their clients would be getting the services of three foreign banking experts. They enclosed a list of the proposed shareholders and their equity participation. The list included the name of Mr. Lee Kim Yew.

40

By letter of 15th August 1973 MAS was informed by Tat Lee Co. that they wished to appoint Mr. Tham Sze See as the Bank's assistant General Manager and they submitted their personal particulars and also the names and particulars of other top executives.

On 3rd September 1973 there was another meeting of AMCO; by this time MAS had all the requisite informations about the bank's application and the meeting then authorised the MAS to issue

50

a licence with certain conditions attached. The bank was not allowed to be an authorised dealer in foreign exchange or to operate an Asian Currency unit. The reason being we did not feel they had any expertise in this area and the MAS in any event only grants this status after a bank has been in business so that we can assess their capability.

In the High Court

No. 13  
Plaintiff's  
Evidence  
Michael Wong  
Pakshong  
Examination  
(cont'd)

10           The MAS wrote to Lee & Lee on 4th September 1973 and this was the letter which finally gave Lee & Lee the conditions under which the licence would be issued.

On 20th September 1973 Lee & Lee replied to MAS accepting these conditions on behalf of their clients.

20           On 5th February 1974 a banking licence was issued to Mr. Goh Seong Pek in his capacity as President-elect of the bank. We asked Mr. Goh Seong Pek to send someone to collect the licence to take effect on 12th February 1974.

The application of Tat Lee was the first local application and we were doing it for the first time and setting against other application we dealt it in the normal way.

The fact that Lee & Lee represented the applicant did not influence the MAS in any way, certainly not me; don't believe it influenced AMCO.

30           The fact that Lee Kim Yew being a shareholder and director did not influence the issuing authority in any way. You will remember in the first application Lee & Lee was not mentioned and at the meeting of 4th September 1972 AMCO was not aware that Lee & Lee was involved.

In the last 20 years, five banking licences were issued to local banks; since issue of licence to Tat Lee only one other licence was issued.

40           First of all it was clear to us that Mr. Goh Tjoei Kok and his group had established a respect in business, this can best be illustrated by the fact that Mr. Goh Tjoei Kok at time when he made the application 1972 was a member of the Board of Malayan Banking Ltd. This fact is especially significant because Malayan Banking had had certain problems in its management and when the Board was changed Mr. Toh Tjoei Kok was one of the few directors on that Board to be retained. Secondly, he was also on the Board of National Iron & Steel Mills, a company listed on the Stock Exchange of Singapore. Thirdly, he was originally Vice-

In the High  
Court

No. 13  
Plaintiff's  
Evidence

Michael Wong  
Pakshong  
Examination  
(cont'd)

Cross-  
Examination

Chairman and now Chairman of Intraco, yet another company quoted on the Stock Exchange of Singapore, in which the Government of Singapore has a substantial shareholding. It is our view that he is one of the pioneers contributing to the industrial programme in Singapore.

I am giving evidence in Court as a consequence of being served with a subpoena.

XXn. by Mr. Mortimer.

I am Managing Director of MAS, held that position since 1970. I would say a Committee was responsible for the granting of banking licences. The Minister of Finance is a member of the Committee and so am I. Yes I would be present when decisions are made.

10

Yes there were 4 local applications for licences since 1st January 1971. Yes out of the 4 only 2 have been granted; yes one of these in the International Bank of Singapore Ltd.; it has a relatively small government investment not large; yes the other successful application is the Tat Lee Bank.

20

Yes on 18th August 1969, the Chairman of Tat Lee Co. wrote to the Minister of Finance asking for a banking licence. Yes the founders were the two Gohs. I agree there is no mention of Lee Kim Yew or Lee & Lee.

Yes application of 17th September 1969 was turned down.

Yes on 7th June 1972 the applicant asked for application to be reconsidered; agreed no mention of Lee Kim Yew.

30

Yes Lee & Lee appeared on scene on 17th July 1962, yes as solicitors for the applicants. Agreed no mention of Lee Kim Yew being an intended director; nor any mention of any Company in which Lee Kim Yew was an investor.

Lee Kim Yew was first mentioned as director on 17th November 1972.

Yes in January, 1973 there was a hold up due to difficulty in getting foreign assistance.

40

Yes an application with name of Lee Kim Yew was turned down.

- Adjourned to 10.30 tomorrow -

Sgd. F.A. Chua

Thursday, 23rd November 1978

Suit No. 218 of 1977 (Contd.)

P.W.3 - Michael Wong Pakshong - o.h.f.o.  
s (in English)

XXd. by Mr. Mortimer (Contd.)

In the High Court

No. 13  
Plaintiff's  
Evidence  
Michael Wong  
Pakshong - Cross  
Examination  
(cont'd)

Yes Lee Kim Yew included in application on  
23rd November 1972, Yes application approved  
in principle on 9th April 1973.

10

(Mortimer tenders bundle of documents  
Marked "D").

M: 22D

Yes 22D the letter.

(M: 25D Letter from Lee & Lee).

Yes it sets out the proposed officers of  
the bank and at page 31 a list of directors; yes  
Lee Kim Yew appears as No. 5; p. 32 list of  
shareholders; yes Lee Kim Yew holding \$1,000,000;  
yes he and Kok Yen Sock are the largest  
contributors.

20

Yes 2 applications made since 1971 and not  
yet granted. Yes one has recently been revived.  
The one revived application made in October 1973  
and the other May 1976, still being processed.

(sic)

(M: Period between 1960 and 1971).

I cannot give the figures of applications  
of local banks.

Yes I know the Industrial Commercial Bank;  
Licence granted 17th July 1954.

30

D.B.S. is a bank quoted in Stock Exchange.  
Government does own shares in that bank. Licence  
granted 1st September 1968.

After I.C.B. was given a licence, the Bank  
of Singapore was given a licence in 1955; two  
banks given licence namely Asia Commercial Banking  
Corporation and the Far Eastern Bank. Then comes  
the D.B.S. in 1968. After that the Tat Lee Bank.

(Witness shown a press cutting from Straits  
Times dated 19th May 1973 - Ex D.1).

40

Yes there had been report that MAS has  
stopped issuing licences and MAS spokesman had  
said MAS were still issuing licences.



In the High Court

No. 13  
Plaintiff's  
Evidence  
Michael Wong  
Pakshong  
Cross-  
Examination  
(cont'd)

Yes Hong Leong Holdings is the application which is still being processed.

Yes when my Board were considering Tat Lee's application the factors that Mr. Goh Tjoei Kok is a member of Board of Malayan Banking and Board of Iron & Steel Mills made an attractive proposition. If it had been any other person than Lee Kim Yew it would be the same, a man who comes up with \$1 million must be a man of substance. I am not aware of the other companies of which Lee Kim Yew is a director.

10

Re-Examination Rxd. by Mr. Alexander

(A: Ex. D1).

I would say this deals with finance companies. There is a well known difference between finance companies and banks.

(Witness asked to read the article Ex D1).

The fact that we were called to make a stand and a statement was made we want the financial institutions to know that every application is dealt with on its own merits.

20

The headnote of D 1 emphasises MAS policy. (A: Policy of 1971).

I think I stated a total of 4 applications received since 1971 from local banks, so far 2 licences have been issued - Tat Lee Bank and International Bank of Singapore.

There have been applications from foreign banks and most of those applications have been granted.

30

(A: Connection of Dennis Lee and people who wished to operate the Tat Lee Bank See bundle D7).

(Witness reads the minutes aloud).

In principal the Committee was in sympathy with local application provided certain conditions could be met.

The Committee I don't think was aware at that stage that Lee & Lee were acting for Tat Lee. Lee Kim Yew did not appear as a prospective director or contributor until later than date of meeting of 4th September 1972. When the first consideration and the first favourable reaction of Committee given Lee Kim Yew had not appeared on the scene as a director or shareholder.

40

Singapore professional men are quite enterprising and they would invest their money as profitably as they can.

The fact that Lee Kim Yew is related to the Prime Minister did not influence this application.

We took into account 2 basic factors, the policy to encourage the setting up of new banks and the need for any new banks to meet the stringent conditions imposed.

We have sympathy towards a local bank but we do want to maintain the highest possible standards whenever local banks are set up.

Lee & Lee in 1971 submitted 3 separate applications for finance companies and all were rejected.

(Witness Released)

Sgd. F.A. Chua.

A: Case for Plaintiff.

M: I tender a draft of my address.  
Page 4 - Silkins' case - h.n. 516  
517 E - G, 518 A 3 - H.

Page 7 Capital & Counties Bank -  
741 h.n. 744 "In Stevens v ...."  
745 "For such a resolution .... for  
that purpose."; 785 "I think,  
however ... 786 ... to the document."

Page 8 Laughton - Law Times XXVIII 377;  
378; 379 "It was to this speech ...."  
380 r.c. "Some expressions ...  
... 381 .... to the jury." Muller  
- h.n. 150, 151, 164 "In such  
circumstances .... 165 ...." 181 "In  
my view ..... Page 9 - Broadway  
Approvals 533B "The failure .... Page  
10 Slim 497 h.n.; 503 C "The  
important thing ..... H."

- Calls

In the High  
Court

No. 13  
Plaintiff's  
Evidence  
Michael Wong  
Pakshong  
Re-Examination  
(cont'd)

In the High  
Court

No. 14

Defendant's Evidence - D.W.l. Joshua  
Benjamin Jeyaretnam

No. 14  
Defendant's  
Evidence

D.W.l.

Joshua Benjamin  
Jeyaretnam  
Examination

D.W.l. - Joshua Benjamin Jeyaretnam - s.s. (in  
English).

Xd. by Mr. Mortimer.

Living at 22 Rebecca Road, Singapore 10.  
Defendant in this case.

(M: Para. 4 of Statement of Claim).

I have never and do not intend to impute to  
the Plaintiff any dishonesty, illegality or  
corrupt motives or to suggest that he had used  
the position of his office as Prime Minister to  
procure favours or benefits either for his wife  
or his brother, Mr. Lee Kim Yew or indeed for  
any member of his family or himself. It was  
never my intention and is not my intention.

10

I was born on 5th January 1926 and now 52  
years of age. A Singapore citizen, educated at  
Muar and Johore Bahru and finally at St. Andrew's  
School in Singapore for my School Certificate. I  
studied law at University College, London and  
obtained the LL.B. Called to the English Bar by  
Gray's Inn on 27th November 1951. In 1952 I  
returned to Singapore, 1st January. On 15th  
March, 1952 I joined the Singapore Legal Service.  
I held various positions including that of  
Registrar of Supreme Court. Finally I held  
position of District Judge & First Magistrate,  
head of the Subordinate Courts. I was married  
in 1957 to my wife Margaret who is also a  
solicitor. I have 2 sons. Kenneth born on 6th  
March 1959 and Philip born on 2nd February 1964.  
Kenneth is now doing his National Service in  
Singapore, been doing it for 10 months. Philip  
is doing his "O" level at United World College  
in Singapore.

20

30

At the end of 1963 I left the Legal Service,  
November, and I joined Mr. David Marshall who was  
at one time Chief Minister of Singapore and now  
Singapore's Ambassador in Paris. I joined him as  
a partner. After a year with Mr. Marshall I  
joined the firm of Donaldson & Burkinshaw at  
beginning of 1965. In March 1968 I set up my own  
firm under style of J.B. Jeyaretnam. My wife  
later joined me as a partner of that firm.

40

After the failure of certain constitutional

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10 talks in London, Mr. David Marshall resigned from the Labour Front in 1956. He then founded the Workers' Party in around 1957; he sat as the Workers' Party Member in Parliament for the Anson Constituency. In 1962 Mr. Marshall resigned and in that year certain members of the Workers' Party were arrested. After that the Workers' Party was not active, activities were quite minimal. In 1971 I received invitation from members of the Workers' Party to head the Workers' Party as its Secretary-General. On 27th June, 1971 I became its Secretary-General.

20 There was an election in September 1972. I stood. The Workers' Party fielded 27 candidates, the biggest number from any opposition party. Of the total votes cast the Workers' Party secured about 12.5% - we were not contesting all the seats. Of the seats contested (27) we got 24.5%. The Workers' Party emerged as the opposition party with the highest votes. The Barisan Sosialis got about 7% of the total votes. The United National Front and the People's Front got less than 7%. I myself contested the Farrer Park constituency and I secured in the region of 26% of the votes.

I produce the 1976 programme of the Workers' Party (Ex. D2).

30 The policy in 1972 and 1976 basically similar. It is in favour of establishing a socialist, Parliamentary democratic state, that was our objective in 1972 and 1976. The Party is totally opposed to communism or opposed to any government which is undemocratic. We are a socialist party and we believed and still believe that there should be more equal distribution of wealth in our society. Both in 1972 and 1976 we advocated free primary education for all the children; we advocated free treatment at hospitals and at outpatient clinics. We advocated a review of HDB rentals. We wanted the abolishment of Government tax on water, light and other essential services. We were also advocating increased public assistance for the destitutes and the handicapped in our society. Of course that programme would entail increased Government spending.

I did not get any seat in 1972; all gained by PAP.

50 Between 1972 and 1976 I continued to practise law and lead the Workers' Party.

When General Election was announced in

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December 1976 I was the leader of the Workers' Party and was one of the opposition leaders.

I was in practise in my legal firm while my wife was my partner; I have no other source of income. My legal firm do not act for any big business in Singapore or any bank; it is the name of J.B. Jeyaretnam & Co., it is known I was in the opposition party, of course. The fact affects the business houses and a number of individuals. My clients were on the whole drawn far and large from the lower income. I own the house in Rebecca Road jointly with my wife. The house is mortgaged for \$100,000. I do not own any stocks or assets of that sort. I live on my income from my law practice. I have no substantial savings. It is true I have educated my 2 sons at private schools. I live a simple life.

10

The election in December 1976 was announced in the first week of December - 3rd to 6th.

We do not have the organisation that the PAP has.

20

After the election had been announced I became very involved, devoting my time to party work.

(M: Press conference on 13th December).  
13th December was nomination day.  
(M: AB 7 and 8).

I made the first rally speech on the 14th December at Fullerton Square at 1 p.m. I don't think I even saw the Straits Times that morning. I recalled I went out to my constituency Kampong Chai Chee at 6 a.m. to catch the crowds at the market. Before I made my speech I certainly did not study the report of the press conference AB 7 and 8.

30

- Adjourned to 2.30 -

Sgd. F.A. Chua.

Hearing resumed.

D.W. 1 - o.h.f.o. s(in English)

Xd. by Mr. Mortimer (Contd.)

40

(M: AB 7 - press conference).

I think it was sometime in the afternoon of 14th after my speech my son drew my attention to this report. I studied it probably that night on the 15th.

(M: "The P.A.P. would ..... of living").

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"Leaders of present opposition" the leaders of the opposition party and certainly included me.

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"Inconsequential men" - I thought P.M. was being ungracious. I was angry. It was not a justified comment on me, I don't think so.

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10 "They liked to be elected ..... for." -  
I was very angry at the whole thing. It was an insult. I would like to think it was not justified. We had put up a programme where we had spelt out why we wanted to get into Parliament and here PM was saying we do not know why we want to get into Parliament.

(M: p. 8 AB "In reply to another question  
..... popular thing.")

20 We had no desire to follow the wishes of the Communist Party; we are opposed to communism. Again I was angry; it was an insult. There was no justification for such a suggestion.

My policy involved increase in Government spending as I have said.

(M: p. 7 "He did not believe .....")

He was talking of the proposed Government spending.

(M: "As an example ..... anything.")

30 I take myself to be among those referred to. I was particularly incensed at this. If I may borrow Plaintiff's own words I thought he was adding insult to injury. I was particularly incensed because it appeared to me, or it was quite clear what the PM said, that poor people had no business to try and get into Parliament. Sometime before the 1976 elections the electoral deposit for Parliament candidates had been increased from \$500 to \$1200 and the party protested at this. He was saying, I took him to be saying, that I was a poor man, that I did not know how to manage my own personal fortunes, that  
40 I had not accumulated anything and that the accumulation of wealth was one of the attributes desirable in a person seeking election to Parliament. I can only repeat I was incensed. Not only did I think he was attacking me as an incompetent political leader but he was also attacking me as being completely incompetent in

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the practice of my profession because I had not been able to accumulate wealth, simply he was saying "he is no good as a lawyer, he can't make the money." This is what I thought was adding insult to injury. He was certainly making a personal attack on me and I suppose also making a political point. If a man is only competent if he has a high bank balance and has considerable assets then by that criterion I am not competent. No other reason for saying I was incompetent. I don't think I am a spendthrift. Of course Mr. Lee was referring to his financial position and competent. It is crystal clear that Plaintiff was saying that the PAP leaders including himself had managed their personal fortunes and have shown they could accumulate wealth. He was saying if you are unable to manage your personal fortune in the sense of accumulating wealth then you are no good as a politician and have no business to try and get into Parliament.

10

20

The Press conference was given great prominence in the Chinese papers and I am sure also in the Tamil press as well. I was told, I have not heard it, it was broadcast over radio.

On 18th December I was due to address an election rally at Fullerton Square. The rally was timed for 12.30 and I was due to speak shortly after one hour, I was to be the main speaker. I was a little calmer. The initial incense had subsided and I thought I had to reply to it. I thought if I did not reply it would affect the party's chances. If I had not replied I certainly felt it would affect my chances in the election and it would also affect me in the practice of my profession, my law firm, people might write me off as a no good lawyer.

30

(M: Pleadings - amended Defence - para 2).

There appear the words before the words complained of. I had a few notes I had scribbled ex tempore.

40

(M: Reads "Now I want this afternoon ..... means of power.")

"Pay & Pay Party" - The PAP was being spoken of as the "pay & pay party" - they were exacting payment for everything. They supply water and light and they charge a Government tax on the bill. There is a telephone tax; there is the hospital fees; I can give a long list. Tax on services.

(M: "I don't know whether ..... to that.")

50

I pleaded guilty to not having accumulated wealth. I was intending to say it had nothing to do with my competency as a political leader.

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(M: para 3 of Statement of Claim "I'm not very good .... fortune." - words complained of.)

10 Yes it was spoken by me at Fullerton Square. I did not intend to charge the PM with illegality, dishonesty ... not at all.

Q. What is your intention in that statement)

20 A. I wanted to draw attention to the PM's own words spoken by him at his press conference and to tell the audience that accumulation of wealth had nothing to do with you making a good politician or not. I wanted to tell them that because the Plaintiff was very well off. I wanted to tell them that his wife was very wealthy in her own right but this accumulation of wealth has nothing to do with whether Mr. Lee Kuan Yew is a good PM or not. I was merely drawing attention to the fact that as he is the PM of Singapore and quite justified he would be paid much more salary, I thought at that time his salary was \$10,000 .....

30 "His wife is senior partner of Lee & Lee" - this is to draw attention to her wealth in her own right, income from her practice. I was not suggesting anything illegal in his wife operating Lee & Lee. I am in partnership with my wife.

40 "There will be no firm of J.B. Jeyaretnam" - that was the sting of my remark. It is this. I spelt it out by saying if ever I found myself PM of Singapore I would not allow any firm, any law practice under my name to continue. There is nothing illegal about it; there is nothing dishonest about it, there is nothing corrupt about it but I don't think it is "cricket". In my view to have allowed a firm to continued practice under my name after I became P.M. would result in giving the firm an undue advantage. Perfectly legal lots of people may do it, but I would not do it.

(M: "and his brother is ..... Market St.")

I mentioned Mr. Lee Kim Yew's directorship directly in relation to the practice of Lee & Lee, this is why I brought Mr. Lee Kim Yew into it. I was saying the brother being a director of several companies including Tat Lee Bank may result in more



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work for Lee & Lee. I was not suggesting there was anything illegal or corrupt about that.

(M: "the bank which .... given a permit  
..... their licence.")

I was not intending to convey that Tat Lee Bank got its licence corruptly, let alone by the PM's intervention or influence. I knew then that Tat Lee Bank was given a licence, I knew at the end of 1973; and I knew that Mr. Lee Kim Yew was a director of Tat Lee Bank and I knew, from what I read from the papers and general talk, that prior to Tat Lee Bank getting its licence no private local company had a banking licence for sometime and that it was talked about that application had been refused and indeed even Tat Lee Bank had its application refused earlier; but that in 1973 Mr. Lee Kin Yew was director of the bank and the bank got the licence. The point I was making is that Mr. Lee Kim Yew, perfectly legally and above board, commands great influence. It looked to me that Tat Lee Bank had got him on to their Board in order to facilitate the obtaining of a banking licence when their earlier application had been refused and other application had been refused.

10

20

(M: Your suggestion of influence).

It is legal and above board.

The name of Lee & Lee might be an influential factor.

I want to illustrate how Lee & Lee could get work because of Mr. Lee Kim Yew's directorship. Lee & Lee had acted for the bank.

30

(M: "So Mr. Lee Kuan Yew .....")

"I am a fool for your sake" - I mentioned earlier my practice has suffered as a result of my venture into politics. In fact a number of friends ..... am a "fool". I am not concerned with accumulation of wealth. I am concerned with people and christianity I am a socialist.

18th December was a Saturday. The Sunday Times' report of my speech appeared on the 19th December (Ex. D3). There is not a word of the alleged slander against the Plaintiff. As far as I am aware that part of the speech objected to was not reported in any newspaper or relayed on the radio.

40

Election took place on 23rd December. From

time I made the speech to 23rd December I did not receive any complaint about the alleged slander against Mr. Lee.

- Adjourned to 10. 30 -

Sgd: F.A. Chua

Friday, 24th November 1978

Suit No. 218 of 1977 (Contd.) Hearing resumed

D.W. 1 - o.h.f.o.s. (in English)

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10 On 23rd December 1976 there came the election. The PAP won all the parliamentary seats. In my own constituency I achieved 7000 votes out of 18,000, the highest vote of any opposition candidate.

(M: AB 9)

On 8th January 1977 I received a letter from Drew & Napier complaining about my speech at Fullerton Square. That was the first complaint I had about my speech.

20 (M: AB 14)

My reply.

(M: 3rd para.)

I set out what PM had said at press conference.

(M: "The PM therefore was ..... 15 ..... several companies. Our client did not say ..... 16 ..... there isn't.")

That was fair expression of mine.

(M: "All our client said ..... on those terms.")

30 I did not get any draft apology.

(M: "Our client is not .... by our client.")

Of course I was prepared to say that, I meant it sincerely.

(M: "our client is prepared ....").

I was prepared to say that with sincerity I have never suggested it otherwise.

The reply I got was at AB 18. It did not contain any suggested apology.

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The writ was issued on 22nd January and served the same morning.

On 31st January the Statement of Claim was served.

(M: AB 32)

I wrote that letter.

(M: "Further to our exchange .... clarified. Without prejudice .... 33 ..... apologies.")

That was a sincere expression on my behalf. I was prepared to make it in public. It was an open letter.

10

(M: "Our client will at the same time ..... gesture.")

I mean a sensible way could be found rather than a fought out action in Court.

I received an answer at AB 34.

(M: "We note that ... 35 ... apology.")

I made the offer in my letter.

(M: "Moreover, .... and the damage."

M: "In these circumstances .... 36 .... and the apology").

20

Those were the conditions.

I replied at AB 37.

(M; "thank you for your letter .... 38 ..... Secondly, we would like ..... shortly.")

I was not in any way responsible for the choice of the name "Save Democracy Trust Fund."

(M: AB 39).

By then I had instructed my present solicitors Messrs. Hilborne & Co. and they wrote to Drew & Napier.

30

(M: "As you are aware .... without prejudice ..... For the purpose of this letter .... 40 ..... We note ..... 41 ..... As far as ..... Perhaps you ..... proceedings.")

Drew & Napier replied at AB 42.

(M: "Thank you .... 43 .... other time.")	In the High Court
(M: Then correspondence went on without any resolution. Now I come to AB 51A - about the article in the Financial Times. "It appears that .... 51B .... concerning him.")	No. 14 Defendant's Evidence D.W.1. Joshua Benjamin Jeyaretnam Examination (cont'd)
My solicitors' letter at AB 51F	
(M: AB51G "He categorically .... action.")	

10 That is correct. I had not told to Mr. Smith.

(M: "What was discussed ... is approached".)

20 This was a general discussion on the inability of opposition parties in Singapore being able to secure election of any of their candidates into Parliament. I told him of the fear in the minds of voters from the fact that the ballot papers were numbers and coming to candidates. I said people who would otherwise come forward, professional people, people of some credibility and a standing in the community were frightened of doing so, coming forward for fear of any possible consequences on their livelihood. I told him .... I meant by telling him what happened to 2 of our candidates in the 1972 election. Without going into details. Two of them were employed by 2 companies in Singapore both foreign companies and they had had more than 10 years service in their companies by September 1972 when the elections were held. Shortly after the elections they were both called up by their companies and their services were terminated. Then I also told him of what happened to a would be candidate for us in the 1976 elections. It came to the notice of his superiors in his Company that he had offered himself as a candidate on behalf of the Workers' Party. This was again a foreign company. He was called up and it was made clear to him if he contested any seat for the Workers' Party it would mean the parting of the ways for him, from his job.

40 How people vote could be traced to them. I have come across this fear so many times both in the 1972 elections and in the 1976 elections - would be voters from my constituency and other constituencies where we were campaigning. There was even public discussion of this through the newspapers and in particular this subject was raised by Professor Tommy Koh.

I was making it clear to Mr. Smith that fear existed in voters' minds based on the numbering of

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the ballot papers. I did not suggest to Mr. Smith that the Government abused it. I told Mr. Smith that I don't think the Government would do that.

-----

Yes I said I have no such fear. I never suspect that the Government would open the ballot boxes and examine the ballot papers. It is provided by the law that if there is an election petition and Court orders ballot boxes to be opened, they would be opened. I accept the assurances of Mr. Lee and for that reason I wrote to PM and he was good enough to write an open letter which was published that the ballot is secret. Yes I believed Mr. Lee. I don't think we spoke about it at election rallies, the less said about the numbering of ballot papers so much the better for us but in my rounds and in rounds of all our candidates we told every voter that the ballot was secret and that the Government would not try to find out how voter has cast his vote. It is an irrational fear and I have said it time and time again. The fact that the fear exists is real and not a myth; it is a completely irrational fear. 10 20

Q. You probably welcome this opportunity of stating as clearly as you can any such fear has no foundation in fact.

A. Yes.

Q. This fear is one which has been put around by some opposition parties to explain why they did not win more votes. 30

A. I can't answer that. The fear was there when I went into the election in 1972. Who started it and how it started. I am unable to say.

(A: Your background.)

Yes by the 1976 election I was well known, yes I would say so. Yes by that time I was also known to be an Advocate & Solicitor; it was known I had appeared at a few criminal trials. We can't complain about our practice. 40

Yes I left Government service. I felt that I had been passed over in one appointment, but there were other reasons. Yes I would say I had been passed over unjustly, a junior man had been passed over my head. I don't think I felt that the Government had a grudge against me; they

preferred somebody else. I certainly do not have a chip on my shoulder. I had lots of other reasons for opposing the Government. The fact that I was passed over was not one of the reasons.

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(A: Your financial means.)

Yes the Rebecca Road house of ours is worth in the region of \$250,000 to \$300,000 probably.

10 Our joint earnings from the firm of Advocates & Solicitors is about \$8,000 to \$10,000. After office expenses but before tax. Yes in a year \$96,000 to \$120,000.

We have not inherited any money.

20 Yes one son went to a private school in England; he did his "A" level there - Charterhouse. I don't agree it is one of the most exclusive private schools in England. It has a very good name yes. Not more expensive than other public schools in that category. Yes the fees would be \$6000 a year, which included boarding.

Yes my other son is in a private school in Singapore - United World College. He has a place in Charterhouse for his "A" level.

(A: Your practice).

30 I have no commercial experience, but I know commercial law, banking laws. Not correct my experience has been in criminal work. Now my civil work is more than my criminal work. I do the run of the mill cases, tenancy, tenancy disputes, employees suing employers for wrongful dismissals, acting for employees always, some tort contract.

(A: Workers' Party).

I am the chief executive in the Workers' Party. It was intended to be a serious party. Workers' Party got the highest proportion of opposition votes in 1972.

40 Yes in 1976 the Workers' Party was the biggest opposition party and I was its leading figure. At no time did we contemplate the possibility of being asked to form a Government. We know what our limitations are. In the first place we were fielding 22 candidates and there were 69 seats; even if all 22 got in it is hardly that we would be the Government. 22 Workers' Party candidates. Yes other opposition parties

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were fielding candidates. We were not in coalition with the other opposition parties. We do not indulge in idle speculation.

(A: Your Defence para. 5 (G) ).

The key is "if the Defendant ever became P.M." My wife knew the view I held and it was tacitly agreed that if ever it came to pass that I found myself P.M. of Singapore our practice has to be wound up. There was not much opposition to it by my wife; there is really nothing to go into it and discuss and go into resolution.

10

(A: General questions about the rally on 18th December).

Yes it was intended by the Workers' Party to be an important feature in our election campaign. In fact all rallies of ours were important.

Managers and executives do not attend the Workers' Party rallies. Office workers yes. Certainly the listeners would consider what I said to be credible and sensible. It is important that we appear as a reasonable, credible opposition party. Yes I suppose so the listeners would pass on what they heard to their friends and relatives what they could remember. Our speeches are reported by the press, but they print what they thought fit. We do not rely on our message to be passed on by the hearers. Yes if the hearers understood that I was accusing Mr. Lee of corruption they would pass that on to friends and relatives but I think they might be afraid to do that.

20

30

Yes I would accept there were 1500 people there.

(A: photo AB 59).

I really can't say if there were more than 1500 but from the picture it appears there were much more.

Yes I was introduced as the most important speaker at that rally. Yes as "a speaker you are all waiting for," spoken by Mr. Harry Crabb, not responsible for what he said. I was not called but I went up to the mike to close the rally.

40

Yes I was there to criticise the Government and not to praise the Government. No, I was not there to praise Mr. Lee Kuan Yew. I was not there to praise Mr. Lee Kuan Yew.

(A: Right of criticisms at General Elections).

It is right of every citizen to criticise the Government at any time not only at General Elections.

(A: Your Defence para. 5H "The composition of the Government of Singapore depends upon the outcome of democratic elections").

10 That is a statement applicable to all democratic countries. We have taken the view that this Government is undemocratic, we have said that in our programme. I say in 5H that Government depends on democratic elections.

(A: Attitude of Mr. Lee that in General Elections politicians should be free to criticise each other in strong hard hitting and even biting terms).

I agree.

20 (A: It would be wholly wrong just because it was a General Election to say about your opponent something which you know to be a lie).

Of course. This was said of the Workers' Party in the 1962 elections. Certainly I do not think it is right to utter lies.

(A: Would you agree it would be outrageous to make a false attack on your opponent's personal integrity?)

Yes.

30 (A: Would you agree that someone who makes a false attack upon his opponents' integrity to try to win votes would be abusing the democratic process?)

Yes.

(A: Would you agree also that any man is entitled to place a very high value on his integrity?)

Of course.

(A: Would you agree that applies equally to the PM as it does to anyone?)

40 Of course.

(A: Would you agree that integrity and

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freedom from corruption are vital in a  
politician?)

Yes.

(A: Would you agree that in this country  
a man who considers that his integrity  
has been attacked has a right of  
recourse to the Court?)

In every country he should have a right of  
recourse where there is a democracy.

(A: Would you also agree that the right of  
recourse is open to a person who  
happens to be Prime Minister?)

10

I have said publicly no man should be above  
the law, whether he is the highest man in the  
land, or the lowest he is entitled to the equal  
protection of the law. I do not criticise a man  
for bringing an action .....

Yes I know in this action I am in the  
position of defending myself in the knowledge  
there would be a fair trial without fear or favour.

20

(A: Mr. Lee and his family.)

I agree Mr. Lee is sincerely concerned for  
the good of this country.

(A: If anyone suggested that he had used  
his office to secure preferential treatment  
for his wife or brother to their financial  
advantage it would be a grave attack upon  
his integrity.)

Yes.

(A: In blunt terms it would be accusing  
him of nepotism and corruption.)

30

I would accept that.

(A: Would you agree any man guilty of  
nepotism and corruption would be  
wholly unfit to be Prime Minister of  
Singapore?)

Yes.

(A: Would you also agree if any such charge  
is made against Mr. Lee in an election  
campaign he would be entitled to regard  
it as a very grave attack upon his  
reputation?)

40

I would think so.

(A: Would you agree that Lee & Lee are a highly competent firm of Advocates & Solicitors?)

I think so.

(A: Would you agree that Mrs. Lee has the highest qualifications, is very experienced and is held in high regard in her profession?)

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10 I do not know what qualifications Mrs. Lee has. I have no dealing with Mrs. Lee. Our paths have not crossed. By reputation she is a very good conveyancer and very competent in her own field.

(A: Would you agree there is nothing improper whatsoever in her continuing her profession notwithstanding her husband is Prime Minister.)

20 I said yesterday that there is nothing illegal, nothing corrupt, nothing dishonest in Mrs. Lee continuing to practise but what I did say that my views was that it would have been better if Mrs. Lee had not continued in the practice which bore her husband's name; I used the words "it is not cricket".

30 I do not consider that she should not practise her profession at all. Yes my criticism is that she did not change the name of the firm. She could have gone into another firm. Yes everyone knows she is the wife of the Prime Minister.

(A: Under whatever firm name Mrs. Lee practises everyone would still know she is the wife of the Prime Minister.)

Mrs. Lee practises under her own name. Yes Dennis Lee was one of the original partners with Mr. Lee Kuan Yew. By time Mr. Lee Kuan Yew became PM Lee & Lee had been in existence for some years. Yes to retain the old name is perfectly legitimate, yes it carries a goodwill.

40 (A: When Mr. Lee Kuan Yew became Prime Minister he immediately left the firm.)

I accept whatever Mr. Lee Kuan Yew said.

(A: You were in your speech making a comparison between Lee & Lee and your firm, it is not a fair parallel.)

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If you have gone through the telephone directory there is only one Jeyaretnam spelt in my way.

(A: By contrast there are 25 pages of Lees.)

Yes.

Yes there is S.K. Lee & Co.

Mr. Lee Kuan Yew is well known internationally and they know he was in practice before he became Prime Minister and a lot of people know that Lee & Lee was the firm that he started. Yes many people know he left it long ago; but they know his wife is there and his brother is there. Lee & Lee is associated with the PM's name.

10

(A: Under whatever name they practise it would be known Mr. Lee Kim Yew is the brother and Mrs. Lee the wife.)

Yes but it would not be so apparent.

I did not think it was right.

20

(A: Do you agree and accept evidence of Plaintiff that Lee & Lee was never to be given preferential treatment?)

Yes I accept it.

(A: Do you accept that after 1970 he permitted Government work to go to Lee & Lee but they have to compete with other firms?)

It is not the Government work but work from the public sector that would go to Lee & Lee. Yes my answer is "yes".

30

(A: Do you accept that Plaintiff has never sought to procure directorship for Lee Kim Yew?)

I accept.

(A: Do you accept that in relation to Tat Lee Bank, Mr. Lee Kuan Yew is in no way involved in the granting of the licence?)

I accept that. I knew in 1976 before I made my election speech at that rally that the authority for the issue of banking licences was

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the Money Authority of Singapore and that it came under the Ministry of Finance.

In the High Court

(A: You knew at that time of making the speech that Mr. Lee Kuan Yew in no way influenced the grant of that banking licence.)

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Examination  
(cont'd)

I knew that he would have had nothing to do with it.

10 (A: Look at paragraph 4 of the Statement of Claim.)

(A: If the words bore the meaning that he had been guilty of nepotism and corruption, can we not say that those words would in your view be totally unfair and would be a grave and wicked lie?)

Yes it would be a wicked lie.

(A: The press conference AB 7.)

Inconsequential.

20 It is not only that one word that incensed me. It is a personal attack as distinct from attack on a party. He was saying "Jeyaretnam is a man of no consequence", "inconsequential men".

I don't agree it was a criticism of the policies of the opposition parties. It is a broadside against the opposition leaders. He was not attacking our policies.

I agree it is criticism of the policies propounded by the leaders of the opposition parties.

30 I believe every man should have the right to say what he believes, but it has to be honest belief.

In a broad way he has accused me of being dishonest. I know he is apologising for it in Court, but he says "Jeyaretnam holds himself out as a credible, reasonable politician, but he is really carrying out what the MC.P. wants him to do", that to me is an allegation of dishonesty in me, political dishonesty.

40 I have not studied the manifesto of the M.C.P. Yes the Barisan Sosialis advocated the reunification of Malaysia and Singapore, but the Workers' Party did not.

In 1976 there can be no question of opposition parties forming a coalition.

In the High  
Court

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(A: If you felt so incensed about this article why did you not refer to these things at all when you answered Plaintiff's complaint in your letter of 10th January, AB 14.)

The answer is simple. If you look at Drew & Napier's letter they have picked on my words and those words were used in relation to the P.M.'s statement that I had not shown in the management of my personal fortune that I could accumulate anything. My words at the rally which is complained of were a direct reply to Mr. Lee Kuan Yew's allegation that I was incompetent in the management of my personal fortunes and that I had not accumulated anything. So in AB 14 I was dealing with that attack of Lee Kuan Yew on me and not the other attacks of his. I was not intending to take Mr. Lee to Court. I was merely confining it to the issues in the letter from Drew & Napier.

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Not true my saying I was incensed was said for the purpose of this case.

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- Adjourned to 2.30 -

Sgd. F.A. Chua

Hearing resumed.

D.W.1. - o.h.f.o. s(in English)

Xxd. by Mr. Alexander (Contd.)

Yes before I spoke on 18th December I had not read the press conference.

(A: Bundle C page 8 - Your speech on 14th December - you accused Government of dishonesty.)

30

Yes.

(A: Before you ever knew of the press conference you accused Government of blatant dishonesty.)

I was drawing attention on an issue which we felt very strongly, the re-settlement of the farmers from Jalan Kayu area. Yes if you like I was accusing Government of blatant dishonesty.

(A: p. 17.)

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Yes on that issue again I accused Government of blatant dishonesty, on specific issues.

Yes I then turned my attention to Mr. Lee Kuan Yew. I said PM had said in Australia that he had not appointed any judges to High Court when he came into power. We appointed to an amendment to Constitution which gave him power to appoint Judges for a period and he did appoint 2 such judges. Yes I was accusing PM of dishonesty, for not giving a truthful answer.

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(cont'd)

10 If they say I am influenced by policies of M.C.P. they must tell me on what they based that allegation. I have taken him into Court.

Before you knew of Mr. Lee's press conference you had decided.

If you will read whole of my speech I spoke of a caring open Government and not intended as a personal attack on Mr. Lee Kuan Yew.

20 (A: Before you even knew of what Mr. Lee had said at the press conference you had decided to make the alleged dishonesty of Government on certain issues.)

I was going to show that the Government was not an open Government and not an honest Government and I was giving illustrations. I was not attacking the honesty of Mr. Lee Kuan Yew.

Yes Mr. Lee Kuan Yew is included in the Government. I referred to those specific instances.

(A: Were you going to suggest that the Head of the Government was not honest.)

30 Not singling Mr. Lee Kuan Yew out of the Government as dishonest, but the whole Government.

(A: You accused the whole Government as being dishonest and gave one example about Mr. Lee before you knew of the press conference.)

Yes. His dishonesty was not giving a straight answer at the Australian press conference.

(A: What you said on 18th December - p. 9AB.)

40 Yes I said I was incensed about the press conference.

(A: p.10 "Pay & Pay Party")

Yes I was saying the Government was taking more than they returned into the country. The poor

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Court

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(cont'd)

of Singapore were being called upon to pay all kinds of fees, hospital, school fees, tax on water and light, tax on telephone charges, area licence fees, fees levied by H.D.B. on a number of things. I was saying this Government was imposing burden on the poor which no socialist country would do. The Government was imposing taxes on the poor and in that sense they were not giving enough to the people who are entitled to free medical attention, free education. I am not insinuating that the individual member of Government was doing well on it.

10

(A: "This is; I've taken ..... I feel guilty for that.")

I personally plead guilty that I have not accumulated anything. Yes I am accepting that the words of Mr. Lee were accurate. I was telling the audience Mr. Lee was right, I have not accumulated anything. No, I was not attempting to say that he was quite wrong. Wealth has nothing to do with being a good politician. Yes it could be put thus; "You need not be rich to be a good politician". Mr. Lee Kuan Yew had attacked me, he attacked me as a political leader, he attacked me in the exercise of my profession and I wanted to attack him and I wanted to tell the audience in no uncertain terms that I did not think it was right that he should have allowed his wife to continue in practice under his name and that explains why he has accumulated whatever he has accumulated besides his salary as P.M.

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(A: In order to make the point wealth is not essential in politics it is not necessary to attack Mr. Lee Kuan Yew.)

I suppose not. But I want to answer his attack on me; I want to tell the electorate if he has accumulated anything he has high salary as PM, his wife as senior partner in Lee & Lee was earning the income and that in my view it was wrong for him to allow his wife to continue in that way.

40

(A: You will agree you were intending to attack Mr. Lee Kuan Yew.)

Yes.

(A: "I am not very good .... well.")

I was not attacking the way in which Mr. Lee Kuan Yew was accumulating his personal fortunes. First, "management of personal fortunes" are Mr. Lee Kuan Yew's words and I was

using his words and assenting to it.

(A: "Mr. Lee Kuan Yew ..... well".)

They were spoken by me, they were the words of Mr. Lee Kuan Yew spoken on 13th December.

(A: "But Mr. Lee Kuan Yew managed his fortunes very well" and you want to give details.)

Yes.

10 (A: You went on "So Mr. Lee Kuan Yew is very adept .....")

Yes the statements about his wife and brother and the bank sandwiched in between two references about Lee Kuan Yew.

Sandwiched between two statements made by Mr. Lee Kuan Yew at the press conference.

20 I was expressing assent, expressing my willingness with Mr. Lee Kuan Yew's statement that he had managed his personal fortunes very well. I was agreeing with him that he was managing his personal fortunes very well. Yes the details are Lee & Lee, his brother and the bank. I was telling the audience why Lee Kuan Yew is able to say why he has been able to manage his personal fortunes very well.

30 If he has acquired a personal fortune is because he draws a large salary as PM, his wife has a large income from Lee & Lee. I was criticising Mr. Lee Kuan Yew for having allowed his wife to carry on the practice.

Yes to say wife is senior partner of Lee & Lee is an innocuous statement. There were continuous cheers from the crowd and every so often I had to stop as I was being cheered. I don't know if I was surprised that they cheered, I was making a speech.

(A: Let us play the tape and listen.)

(Tape played).

40 We don't know if that is an authentic recording, but I have accepted I said those words. I am not suggesting that the tape had been doctored. You have not asked the Inspector about the cheers. I have no evidence that it is not an honest recording. Yes I was present when the Inspector gave evidence.

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(cont'd)

Yes I have just heard the tape; I don't know if that was the best bout of cheers after I said "His wife is the senior partner in Lee & Lee," yes there were cheers. I think there are a number of people in Singapore who think with me that it was perhaps not right for Mrs. Lee Kuan Yew to continue practice under name which bore her husband's name. I was imputing to Mr. Lee Kuan Yew's conduct which I think was not quite right.

(A: "His brother ..... Street.")

10

I agree there is nothing wrong in his brother being director of any company. I was trying to tell the audience that Mrs. Lee is senior partner in Lee & Lee and the firm was doing well because the brother was director of several companies which would result in more work for the firm Lee & Lee because of his business connections. Mrs. Lee is there and increased work for Lee & Lee would mean increased income for Mrs. Lee. I was saying in my view PM should not have allowed his wife to continue in practice in a law firm bearing his name and that the firm was doing well because his brother was director of several companies including Tat Lee Bank. It is perfectly legitimate thing to do but my own view it is not cricket. What I was saying was that Mrs. Lee should not be in Lee & Lee.

20

(A: "the bank which ... with alacrity ... licence").

I was not suggesting there was any corruption in it but I was certainly suggesting as I said yesterday that the fact that Mr. Lee Kim Yew was a director of the bank may have facilitated the grant of a banking licence to Tat Lee Bank. I said yesterday it seems to me that the applicant thought it would be a good idea to have Mr. Lee Kim Yew on the board. If you view it on background that other banks had been refused licence then it certainly looks that Tat Lee Bank's application was preferred. Mr. Lee Kim Yew had influence in his own right which may have been one of the reasons for the granting of the licence. I don't say favour in any corrupt sense but in this sense that the M.A.S. having seen the names of directors submitted and having seen the name of Mr. Lee Kim Yew on it may have been influenced by that fact; they must know that Mr. Lee Kim Yew was the brother of the PM. No, they were not influenced by that; as brother of the PM it gave Mr. Lee Kim Yew a standing. No they were not influenced by the fact that Mr. Lee Kim Yew is the brother of the P.M. It was relevant in this way. I referred to Mr. Lee Kim Yew's directorship in

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several companies and possibly bring more work for Lee & Lee and among the companies of which he was a director was Tat Lee Bank and I mentioned that this bank had been given a licence with alacrity when other banks had been refused licences. It is all part and parcel of Mr. Lee Kim Yew being a director of several companies. In the context of other banks having been refused licences you can say Tat Lee Bank was given preferences. No I was not pointing a finger at Mr. Lee Kuan Yew for getting the preferential licence. (Tape played). The applause came after I said "but I am not."

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I deny I spent hours to contrive the meaning I am putting to my words. If only you knew how busy I was .... See AB 16 1st para. "All our client said was that .... no apology for that." I don't approve of what he has done, to allow his wife to continue practice under Lee & Lee. I thought the most forceful way of showing my disapproval is to say I would not do it. I was not suggesting he was dishonest but not using the word.

-Adjourned to 10.30 on Monday -

Sgd. F.A. Chua

Monday, 27th November 1978

Suit No. 218 of 1977 (Contd.)

Hearing resumed.

D.W. 1 - c.h.f.o. s (in English)

XXd. by Mr. Alexander (Contd.)

I wish to make one or two corrections. First, it was suggested to me that the fees for Charterhouse were \$6000 p.a. and I agreed to that; I have now checked and that is not correct; fees are £700 per term £2100 p.a. and about \$8500 to \$9000 p.a.. Second, I was asked about my income and I said it was \$8000 to \$10,000, the firm's income; I have now checked the accounts. While it used to be around that, it has dropped after 1976. The other thing is I was questioned about the fear in minds of voters arising from numbering of the ballot papers, it was suggested that there was no foundation and I agreed but I said it existed and was not a myth. I now produce a report that appeared in the Straits Times for Thursday, 10th January 1974. It contains extract from a talk given by Professor Tommy Koh who at that time was the Dean of Faculty of Law at the University of Singapore (Ex. D4)

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reads "At the last election .... vote". "For  
this reason ..... election."

I also produce an article that appeared in  
Straits Times of 9th September, 1978 (Ex D5) -  
about a survey about the youths in the army  
carried out by Major Leong Choon Chong, the books  
are now on sale (reads): "Another insisted ....  
jail ran." This was fear in youths in the army.  
I produce to show that the fear is real. However  
irrational and unjustified it may be.

10

That is all.

Have I not repeated it it is irrational and  
unjustified?

I really don't know the reasons for the  
numbering. Yes I heard Mr. Lee say the reason was  
in case there was a petition; it is a provision  
of the law. It is not for me to say if I accept  
or reject the evidence of Mr. Lee, the decision is  
for the Court. I am not suggesting that Mr. Lee  
was stating an untruth, I am not suggesting anything. 20  
If it will help you I have no reason not to accept  
what Mr. Lee said. I don't know the reason. Mr.  
Lee said it was a practice followed from Britain.  
Mr. Lee had said if papers are not serially  
numbered it would be possible for people to put  
into the ballot box a forged ballot paper which  
he had brought there. If that is the reason it  
can simply be met by having a watermark, a secret  
watermark, or by the returning office initialling  
each voting paper. 30

(A: Have you given a moment's thought as  
to what is the purpose of this provision  
in the law?)

I do not consider it necessary for the ballot  
papers to be numbered, nor do I consider it  
necessary for the voter's serial number on the  
Register or Identity card entered on the counterfoil  
that is where the damage lies.

I do not know what is the Government's purpose  
in having this provision in the law, as I thought  
it was not necessary. 40

Mr. Lee has made one or two statements about  
this but I do not think the public statement made  
by Mr. Lee is valid.

(A; Do you consider that the desire of  
Government that elections should be  
capable of being subject to proper  
scrutiny by the Court if there was an

election petition would be an honourable one?)

In the High Court

Yes.

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(cont'd)

(A: An article in the Sunday Times of 27th May (Ex. P 5).

Yes in May 1977 I contested a by-election in constituency of Radin Mas; yes after that the Workers' Party put up a statement; what was repeated in P5 is not altogether correct.

10 It was not a definite statement that we would not contest in future elections. We said "It is futile to take part in election under these conditions."

(A: "The Workers' Party said in a press ..... elections").

20 We set out not only the numbering of ballot papers but also other conditions which made it difficult for us and we said that under these conditions it seemed futile for political parties to take part in elections.

(A: "The Workers' Party said .... by election.")

We said that.

Yes I was saying PAP got more votes than they would have got because people were in fear. We did not do that to give the reason for any dismal failure, that may be counsel's reason. We were saying a number of voters are frightened of voting for an opposition party's candidate.

30 (A: Why did you not go to state this fear is unfounded).

That has been said several times before. I can't recall if I made a press statement but I said it in rallies. We were drawing attention to the conditions which made it impossible for opposition parties to contest the elections.

(A: 8A of AB - passage from your speech on 18th December - Tat Lee Bank).

40 At time of my speech I did not know the exact date of the application; I was told application had been made at beginning of 1973; I knew there was talk, there was one particular application talked about - Hong Leong Holdings; what I gathered was that that application was made before Tat Lee Bank's

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(cont'd)

application; I can't put any number of years to it, but it was before Tat Lee Bank's application; I knew it was not a matter of days, but some considerable time previously, 1 year to 18 months previously. I do not know any other application by name; that is from 1960 onwards. Yes from 1960 onwards there were a number of applications which had been refused. I have no reason to disbelieve the MAS policy, but it confirmed that no licences had been issued but it was not their intention not to issue licences in the future.  
(Ex D1)

10

(A: Ex. D1 "Our general policy ....  
Singapore.")

Yes there is a difference between a finance company and a bank. It says "financial institutions" and it went on to talk of finance companies specifically. Yes it would appear it was referring to financial companies. Yes they were saying they have an open door policy. I have no reason to disbelieve it.

20

(A: Policy of MAS to encourage institution  
of new banks).

I have not studied MAS policies before I made my speech. All I knew was that from 1960 no banking licence had been issued except for DBS, which is a Government bank and its subsidiary, International Bank of Singapore. I know from talk that there had been 10 applications and had been rejected and that in 1973 Tat Lee Bank was issued a licence and that was after it was proposed that Mr. Lee Kim Yew would be on the Board. I was not suggesting anything corrupt but merely stating a statement of fact, that Mr. Lee Kim Yew was on the Board and it got a licence from MAS. It seemed to me that Goh Tjoei Kok thought it a good thing to have Mr. Lee Kim Yew on the Board. Before making the speech I did not contact the MAS. I was only making a statement of fact and Mr. Wong's evidence confirmed it. Yes I was making an innocent statement of fact. I was drawing attention to Mrs. Lee Kuan Yew's income in her own right from the firm of Lee & Lee and I was drawing attention to the business that would be transacted by Lee & Lee because of Mr. Lee Kim Yew's directorship in several companies and among the companies is Tat Lee Bank and for whom they were acting and I knew that. I can only repeat the profits of Lee & Lee would naturally increase as a result of Mr. Lee Kim Yew's directorship which would result in increase of Mrs. Lee's share of the profits. My criticism is Mrs. Lee Kuan Yew continuing as senior partner in Lee & Lee and because of Mr. Lee Kim Yew's directorship

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she was getting increased profits, all perfectly proper and perfectly legal but I take the view she should not continue to practise in Lee & Lee.

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(cont'd)

10 Yes the evidence of Mr. Wong is that 4 licences had been issued by MAS. I have no reason not to accept it. It does not matter if I accept his evidence or not. I say it is irrelevant (A: Do you believe his evidence). I accept his evidence. Yes I accept his evidence that MAS conducted its business scrupulously and impartially.

Yes I have accused Government of public dishonesty, not private dishonesty.

20 I was not aware during the course of the election campaigning that other opposition speakers were accusing Mr. Lee Kuan Yew of channelling work to Lee & Lee. I first came to know of it when Mr. Leong Mun Kwai was prosecuted after the elections in December 1976. Yes by April 1977 I learnt there were 3 other speakers who had been prosecuted and later they were Defendants in civil suits. Yes I knew their allegations of corruption were wicked lies. As I have said I did not think that the PM had used his office to gain favours for his wife or brother. Yes I knew they had no foundation for their allegations. I offered to make a public statement, I was prepared to make it and I repeated this was  
30 in my letter of March 1977 and they were not accepted.

(A: AB 9 - 12; at 12").

Yes at 12 they set out the meaning my words bore.

(A: Would you accept that Mr. Lee sincerely believes these words bear that meaning?)

That is what the solicitors were saying.

(Question put again).

That is what the solicitors were saying.

40 (Question put again).

The solicitors are saying that if they said Mr. Lee believes that I accept it, but I say it was mistaken.

(A: AB 14 - 17: 16 "Our client is not prepared ..... by our client.").

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These were certain statements of fact which at any rate to me to be incontrovertible. I did not know what it is they want me to withdraw and I say I cannot withdraw what are incontrovertible statements of fact but I am prepared to withdraw any imputation that the Prime Minister had unlawfully managed his personal fortunes to allow his wife to carry on practice or that he had procured or caused to be procured any banking licence to Tat Lee Bank Ltd.

10

(Question put again: "Do you think that the suggestion that Mr. Lee was not a reasonable person in believing that the words impute corruption to him was likely to contribute to a settlement?")

I say no reasonable person could impute what Mr. Lee sought to impute to those words of mine. He may believe it but no reasonable person would read the meaning which he sought to put in those words; "no reasonable person .... uttered by our client."

20

I said in my letter that it was never my intention to suggest that the Prime Minister was corrupt. Yes in that letter I would not accept that my words were defamatory. I was saying that no reasonable person would construe from the words uttered any allegation of corrupt practices on the part of Mr. Lee and to that extent it was not defamatory as he alleges. I was saying that my words meant and intended to to be understood that I thought it was not right for the Prime Minister to allow his own firm bearing his name to continue in practice after he became Prime Minister.

30

(A: If he had accepted the formula.)

If the Plaintiff had gone on to ask me not to use those words I would have obliged him. I wrote the letter of 10th January in all sincerity and I say if you will let us have the terms of the apology I would then consider it and all I got in answer to that is this letter of 17th January 1977 when they said they were instructed to serve a writ. It seems to me the Plaintiff was not interested in accepting what I had to say to him.

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(A: AB 12 and 13, Plaintiff had made it plain that he wants recognition that the words were defamatory and an unqualified apology.

I knew the Plaintiff said the words were defamatory and I replied if it is understood that

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is what it meant I was prepared to apologise.

Yes they ask for an apology.

10 In most cases if a person apologises it should be the end of the matter; this is such a case. Here is an election rally and I was trying to reply to a broadside in me, attempting to sink me to broadside and my reply to his broadside is not even published in any newspaper in Singapore, and is not broadcast as his broadside was broadcast. Here I was prepared to offer an apology and it should be the end of the matter. His solicitor's letter did not ask for damages; it asked for unqualified apology and I said I would consider it.

In the High Court

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(cont'd)

(A: This morning's Straits Times "Lee - Jeyaretnam's case ..... leaders").

20 Yes Mr. Lee said in evidence I and Dr. Lee were the least inconsequential. I have made a complaint to Straits Times and I asked for a public apology. Yes I accept it is an inadvertent act. On Friday when I gave evidence I mentioned that the Straits Times had gone out to further slander me. On Saturday I wanted to see if there was a retraction or apology. So I sent a letter on that day. I asked for damages as well. Yes I named a figure, I said about \$25,000. I have not seen any reply yet. They had gone a long way to mitigate it by publishing an apology and I will have now to consider what further steps to take. I was angry at Straits Times for not taking any action to correct it on Saturday. Yes my demand is a sincere demand. If they accused me of nepotism and corruption I have not thought of the amount of damages I would claim.

30 (A: AB 34, 35; 35 "(1) Make full retraction ..... 2 .... 3 .... 4 ..... are proposals reasonable?)

The apology certainly not unreasonable, I had offered to apologise, I would see the text of the apology.

40 The second one - I thought that was unreasonable as I had nothing to do with it. Nevertheless I was ready to meet him on that as well, the dismantling of the fund.

The third one - it would depend on what Court Plaintiff had in mind. I was ready to pay a reasonable nominal sum as my solicitors later wrote.

The fourth - I would accept that.



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Yes I know parties usually try to negotiate a settlement. Of course Plaintiff can come to Court if the negotiation failed. But it is wrong to come to Court saying that I refused to withdraw the imputation.

(A: The apology in Straits Times this morning without any writ being issued.)

I have offered to make an apology. I asked to see the terms of this apology and answer was "We are issued a writ"; faced with this situation I did not consider making a statement unless the Plaintiff accepted that situation. Yes I was sent the terms acceptable to the Plaintiff but it was bogged down on question of amount of damages.

10

(A: AB 39, 41 "As far as apology ..... difficulty")

Yes I appreciate that the Plaintiff all the time was wanting me to accept that the words were defamatory. I never intended to say that Mr. Lee was personally corrupt. Yes I would accept that the words were defamatory for the settlement, but adding the rider that it was never my intention and never intended to mean that.

20

(A: The interrogatories).

Yes it asked the personal assets and fortunes of the Plaintiff; and the profits of Lee & Lee etc.

(A: Interrogatory No. 16 - KwaGeok Choo (Pte) Ltd.)

Yes my counsel asked me about this.

30

There was the Plaintiff saying he had accumulated wealth and I was saying in reply to it "Yes of course had accumulated wealth; he draws his salary as PM and his wife is Sr. partner of Lee & Lee and the profits of that firm is very substantial. These interrogatories were intended to show that he and his wife had accumulated wealth, that is all (A: Then why not just ask No. 15). That is general statement and I wanted him to bring in precisely there was all this. I deny by this interrogatory I was trying to smear the Plaintiff. I am entitled to put up my case and Plaintiff should not accuse me of being dishonest.

40

My point of view is that the words did not bear that meaning and it is not right for Plaintiff to say I was being dishonest in saying all this.

I am entitled to put up my case.

In the High  
Court

(A: If the words mean that he has been  
guilty of corruption would you agree  
that would not be fair comment?)

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Joshua Benjamin  
Jeyaretnam  
Cross-  
Examination  
(cont'd)

I suppose that is right. It is alright  
for Plaintiff to say defence of fair comment  
cannot succeed and that the interrogatories  
were irrelevant but he should not say I have  
been dishonest for saying all those things.

10

(A: The Save Democracy Fund - AB 35)

20

Yes PM thought the title was inappropriate.  
Yes I don't know what the trustees had in mind.  
"If Jeyaretnam had been made bankrupt that might  
be the end of Workers' Party and for sake of  
democracy we must get the Workers' Party going  
and with Jeyaretnam in it." I don't know if the  
title was inappropriate. Plaintiff's solicitors  
had subpoenaed the Chairman of the Board of  
Trustees, Mr. Murugason; Mrs. Murugason told me  
her husband had been subpoenaed; I did not  
contact Mr. Murugason until the Plaintiff's  
solicitors had released him.

30

Mr. Murugason was the Chairman of the  
trustees. Yes before the case came on I had  
spoken to Mr. Murugason. I did not really  
discuss the fund until it came into being except  
to ask him perhaps how much they had in the kitty.  
I had not asked him to change the name. Yes it  
would be quite wrong to suggest that this action  
is an attack on democracy.

(A: p. 4 of Bundle C - statement of  
Minister of State. "Haji Yaacob said  
..... Fund")

40

I don't think I went through the statement  
minutely. I did not think of making a statement  
that the action was an attack on democracy. I am  
not answerable for what others did. Come to think  
of it if I had asked Mr. Murugason to change the  
title he would not have it. Before the fund came  
into being I met Mr. Murugason when I was at United  
World College and he was telling me it was his  
intention and 3 or 4 others to start raising money  
for my defence and I told him that he should not go  
about and make a public hue and cry about this and  
his answer was "You leave it to us, nothing to do  
with you, we want to raise some money". I must  
make it quite clear that this fund was not started  
by the Workers' Party. Haji Yaacob said it was.  
Yes started by Mr. Murugason who happens to be Dy.  
Chairman of the Workers' Party, but outside the party.

50

In the High  
Court

No. 14  
Defendant's  
Evidence

D.W.1.

Joshua Benjamin

Jeyaretnam

Cross-

Examination

(cont'd)

Yes I believe Plaintiff brought this action  
to protect his reputation.

(A: Financial Times article - p. 7 of  
Bundle C).

I think Mr. Smith did interview me once  
before. I don't know if he is a responsible  
reporter.

- Adjourned to 2.30 -

Sgd. F.A. Chua

D.W. 1 - o.h.f.o. s(in English)

10

XXd. by Mr. Alexander (Contd.)

(A: p. 7 of "C" "Workers' Party .....  
libel charges.")

I did not say that to him. I said other  
parties candidates. Yes action brought because  
Plaintiff believes rightly or wrongly I imputed  
corruption to him. Mr. Smith was here before  
case started. You could have called him. I  
think he was in town a week before the hearing  
of the case. It is difficult to get a subpoena  
during a holiday weekend.

20

Yes between PM's press conference and 18th  
December I made several election speeches. That  
is so I did not make a reply to the PM's press  
conference. The main rally is at Fullerton Square.

Mr. Smith asked me towards the end "When  
is your case coming up? I did not tell him there  
were cases against other candidates.

(A: "p.7 "It is extremely ..... by the  
PAP").

30

All I can say is that I gave him instances  
of the sort of fear that prevented candidates  
from standing on behalf of opposition parties  
and I recall that in the discussion I mentioned  
not only instances I gave in my examination-in-  
chief but people were frightened to support  
opposition parties. I did not suggest that PAP  
intimidated opposition candidates

(A: Your examples about employees).

Yes possibly it was due to distraction  
from their employment.

40

I cannot understand their preventing their  
employees to take part from elections.

10 One other instance, professional people;  
I remember speaking specifically to one  
architect trying to interest him to the party,  
suggesting he should join us and be a  
candidate and his answer was however much he  
sympathised with the efforts we were doing he  
felt he could not really come out openly because  
his livelihood depended on plans being approved  
without too much trouble and he was worried he  
might have difficulties. I told him people have  
to stand up sometime. He was talking about his  
own field.

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Court

No. 14  
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D.W.I.  
Joshua Benjamin  
Jeyaretnam  
Cross-  
Examination  
(cont'd)

I told Mr. Smith of fear of voters and I  
did tell him the fears were irrational; yes he  
did not report the fears were groundless.

(A: "To account for the weaknesses ....  
points").

20 I did not play up their fear to account for  
the failure of my party. Yes I am saying one of  
the reasons for our failure is this fear. I do  
not agree that I was in fact seeking to play out  
this fear to explain the failure of the opposition  
parties.

RXd: by Mr. Mortimer

Re-Examination

(M: The Straits Times' apology of this  
morning).

30 Dr. Lee is the leader of the Barisan  
Sosialis party. The other leaders achieved very  
little percentage - much less than the Workers'  
Party.

I wrote to editor of Straits Times on 25th  
November 1978 (Ex. D6) - a Saturday, a letter from  
my firm. Accordingly on 27th an apology was  
published in front page of Straits Times.

40 My purpose for demanding damages in my  
letter - my chief concern was to get a retraction  
and a public apology from the Straits Times and  
this is why I said in the penultimate paragraph  
of the letter "If the apology ... commence  
proceedings". I wanted Straits Times to know that  
we were quite serious and quite upset by this  
incorrect report and that it damaged not only  
myself but also the party concerned and I thought  
if I told them quite clearly if they did not  
publish the apology on Monday morning on front  
page we will be going to Court to ask \$25,000 for  
the party and myself. I thought if we told them  
that they would publish the apology.

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(cont'd)

They have published the apology. When I saw it this morning, I thought, well they have met my demand and I do not intend to pursue it further.

I have answered questions about my political beliefs. I have also said about my religious beliefs.

(M: Programme of Workers' Party).

(M: p.14 "General. The Workers' Party  
..... concern").

10

My adoption of these policies had nothing to do with the fact that at one time while in Government Service I had been passed over. They are my serious political views.

I was in Government in 1963 when the other man was promoted over me. I have held my political beliefs for as long as I can remember, since my college days in London about 35 years ago.

There is restriction of freedom of speech, a number of things; detention without trial.

20

(M: P.M.'s press conference - MC.P. -  
p. 14 of D 1 "It will at the same  
time .... pride.")

That is part of the policy of the Workers' Party.

No prospect that we go with any party whose policy was not to preserve the status of Singapore. In fact there was no coalition between Workers' Party and the other opposition parties.

(M: Your letter of 10th January - no  
reference to PM's attack on you on  
13th December - AB 14).

30

I did mention about personal fortunes.

I had no intention of starting proceedings against PM about his reference to the M.C.P. I was not going to take the PM to Court on anything.

(M: Your speech "Pay & Pay Party - your  
reason for calling PAP the Pay & Pay  
Party).

Yes I said reason was people had to pay for everything. I was not and am not suggesting any corruption; I thought no society would impose these burdens on the people. I was not

40

suggesting any corruption, that the money was going into the pockets of ministers. I feel the people are entitled to certain free services from Government and they are not getting it.

In the High Court

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D.W.1.  
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Re-Examination  
(cont'd)

(M: Cheers on the tape.)

I am deaf in my right ear. I did hear the tape being played; I heard the cheers after I had mentioned Lee & Lee. I just went on after the cheers. The big applause came at the end of the statement that has been pleaded.

10

(M: The Tat Lee Bank - interrogatories - open to public inspection?)

The public has right to inspect Courts and any originating process, motions, summons. Public has no right to inspect interrogatories; it is only allowed on application to the Registrar who would want to know reasons, all set out in Order 60 Rule 4.

(M: p. 20 Interr. No. 8; No. 13).

20

These questions were asked after the action was commenced. When I made my speech in Fullerton Square I did not know that Tat Lee Bank was incorporated on 5th November 1973. I did not know then the precise date, but in December a prospectus was issued but I did not study it carefully.

(M: Bundle D - bundle re: Tat Lee Bank  
p. 42; at 43 "History and business  
..... of Singapore." p. 42  
"Prospectus dated 6th December 1973")

30

It is three years before I made my speech. I have seen the prospectus.

(M; Your income).

My income has dropped to about half since 1977.

(M: Professor Tommy Koh - D4, D5).

I accept the fears were unfounded but there were nevertheless the fears.

40

There are a number of democratic countries where they do not have such a system. Malaysia is one of them and recently they had a number of election petitions. The link is the identity card number; that number is entered in the counterfoil of the ballot paper. I don't know if it is the

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Defendant's

Evidence

D.W.I.

Joshua Benjamin

Jeyaretnam

Re-Examination

(cont'd)

identity card or the serial number in electoral register. (A: It is serial number in electoral register that is entered on the ballot paper). I have said about the disadvantages of this system.

(M: The other defamation cases taken by PM).

They were not candidates of the Workers' Party, no one is our candidate. Not all of them were candidates. Not spoken in Workers' Party rally. I did not know about these men saying anything.

10

Sgd. F.A. Chua.

M: MAS is prepared to my making a statement, a copy of which given to the parties. "The authority ..... applications." - (D 7).

- Adjourned to 10.30 tomorrow -

Sgd. F.A. Chua.

Tuesday, 28th November 1978

Suit No. 218 of 1977 (Contd.)

20

Hearing resumed.

M: I will ask Inspector to play the tape. (Tape played - "If I become ..... in Singapore ..... fortunes.")

Mortimer addresses the Court (tenders notes of address).

Alexander addressed the Court (tenders notes of his address).

p.20

- Adjourned to 2.15 -

30

Hearing resumed.

Alexander continues:

p.20

C.A.V.

Sgd. F.A. Chua.

Tuesday, 9th January 1979

Suit No. 218 of 1977

Between

Lee Kuan Yew

Plaintiff

And

Joshua Benjamin  
Jeyaretnam

Defendant

10 Grimberg for Plaintiff

Hilborne for Defendant.

I read judgment.

Judgment for Plaintiff and costs - damages  
\$130,000 and injunction as prayed.

H: I ask for full stay in relation to judgment  
and costs. Judgment considerable, costs would be  
considerable.

G: I ask for certificate for 2 counsel.

H: Not opposing that.

20 G: Application for stay of execution -  
successful Plaintiff should not be denied the  
fruits of his litigation. No good reason for full  
stay. Damages and costs would be recoverable by  
the Defendant should he be successful in his  
appeal.

1979 White Book Vol I para. 59/13/1.

30 G: We are prepared to a full stay if Defendant  
volunteers to give security to satisfaction of the  
Registrar for the damages and for costs of this  
action and costs of the appeal. No provision for  
Defendant to be ordered to do that. If Defendant  
would not volunteer I ask Court to order taxed  
costs to be paid to Plaintiff's solicitors on usual  
undertaking to be given by Plaintiff's solicitors -  
910.

White Book 59/13/2

H: Costs of trial can be ascertained but not  
costs of the appeal. \$500-00 only to be deposited  
for appeal. Court of Appeal only can order further



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Court

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Notes of  
Evidence  
(cont'd)

costs. Defendant not out of jurisdiction.

G: In that case I ask for this order - taxed costs to be paid to Plaintiff's solicitors on solicitors giving usual undertaking.

H: I ask for short adjournment to consult client.

- Adjourned -

Hearing resumed.

H: I ask for full stay or to pay taxed costs only.

10

Order:

I certify fees for two counsel.

Stay of execution on condition that taxed costs of the action be paid to Plaintiff's solicitors on their undertaking to refund.

Sgd. F.A. Chua.

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No. 16

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January 1979

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

20

Suit No. 218 of 1977

Between

Lee Kuan Yew

Plaintiff

And

Joshua Benjamin Jeyaretnam

Defendant

JUDGMENT OF CHUA, J.

This is a defamation action brought by Mr. Lee Kuan Yew, the Prime Minister of Singapore, against Mr. Joshua Benjamin Jeyaretnam, the Secretary-General of the Workers' Party, arising out of a speech made by Mr. Jeyaretnam at a rally held in Fullerton Square during the course of the last General Election in December 1976.

30

The Plaintiff, Mr. Lee Kuan Yew, qualified

as an Advocate & Solicitor and was admitted to practise in August, 1951. Besides practising law, he was active in politics and was appointed Secretary-General of the People's Action Party (PAP) when it was founded in November, 1954. In March, 1955, the Plaintiff was returned as a member of the Legislative Assembly. In September 1955, he established the firm of Lee & Lee in partnership with his wife and his brother, Mr. Lee Kim Yew. He continued both to practise law and engage in politics though he increasingly devoted more time to politics. This went on till the General Election of 1959.

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In May 1959, the PAP won the majority of seats in Parliament and the Plaintiff formed a government. Since then the PAP has been successfully re-elected to power at general elections and remains the party of Government to this day.

Upon assuming office for the first time as Prime Minister in June 1959, the Plaintiff ceased to be a partner in the firm of Lee & Lee and his name was scratched off the firm's letterhead and since then he has no association with the professional activities of that firm. His wife and brother continued and still continue to practise law under the style of Lee & Lee.

The Defendant, Mr. J.B. Jeyaretnam, is also an Advocate & Solicitor and was in the Singapore Legal Service and had held various posts including those of Registrar of the Supreme Court and District Judge and First Magistrate, before deciding in 1965 to engage in private practice. He joined Mr. David Marshall as a partner and after a year he joined the firm of Donaldson & Burkinshaw and in March, 1968 he set up his own law practice with his wife, who is a solicitor, as a partner under the style of J.B. Jeyaretnam & Co., and they still carry on that practice.

After the failure of certain constitutional talks in London in 1956, Mr. David Marshall, the Chief Minister of Singapore, resigned from the Labour Front and later founded the Workers' Party. Mr. Marshall resigned from the party in 1962 following the arrest of certain party members. In 1971 the Defendant became the Secretary-General of the Workers' Party. He has also been active in politics and has stood for Parliament on three occasions, in 1972, 1976 and a by-election in 1977.

In December 1976, the Government called a General Election. Polling day was to be on the 23rd

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(cont'd)

December. Both Government and opposition parties opened their campaigns with speeches which were critical of each other.

On the 13th December the Plaintiff held a press conference and it was reported in the Straits Times of the 14th December (AB 7). The following passages appear in the report:

"The People's Action Party would welcome an opposition in Parliament, but unfortunately, the leaders of the present opposition parties are inconsequential men with a common denominator - they liked to be elected into office but they did not know what they wanted to get into Parliament for.

10

.....

The Prime Minister said most of them wanted to give everything away - lower taxes, lower rents and lower public utilities rates .....

He did not believe that the public would go in for the give-aways proposed by the opposition. As an example he said that none of those who proposed to give things away, either by their management of their own parties or even of their own personal fortunes, had shown they could accumulate anything.

20

In contrast he referred to what the PAP had built up in the Government - over \$8000 million.

.....

In reply to another question on an opposition to PAP, Mr. Lee said that the pity of it was that nobody in the present opposition had it in him to oppose.

30

"They want to do what they think are popular things, or what the followers of the Malayan Communist Party believe are popular things."

In his speech at a Workers' Party rally at Fullerton Square on the 14th December, the Defendant accused the Government of blatant dishonesty on two matters, namely the re-settlement of farmers in Jalan Kayu and the sterilisation of mothers with more than two children. He also accused the Prime Minister of being dishonest in not giving a truthful answer in Australia when interviewed over TV when the Prime Minister said he had never appointed any judges to the High Court since he came into power when in fact two judges were appointed for a two-year term.

40

On Saturday, the 18th December, five days before polling day the Workers' Party held a lunch time rally at Fullerton Square. It was an important meeting attended by 1,500 people who appeared to be mostly office workers, executives and managers from banks and other businesses in the area. The Defendant was the main speaker and he spoke in English. In the course of his speech, the Defendant made references to the Prime Minister and his family and the Plaintiff says that the speech is defamatory. The words the Defendant used are these and the words complained of by the Plaintiff are underlined:

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"Now I want, this afternoon to spend some time my dear friends in reply to some of the statements that have been made by the PAP leaders and the leaders of government against the oppositions and in particular the Workers' Party. I will begin with the Secretary-General of the People's Action Party, oh sorry Pay & Pay Party and the Prime Minister now of Singapore, that practise the government and holding the reign of power. I don't know whether the Secretary-General, Prime Minister of Singapore realised what he was saying. Very unfortunate. I'll tell you what he said. On nomination day when he was filing his papers, he says, "What can you expect from the opposition leaders. They haven't shown in the management of their own personal fortune that they could accumulate anything." This is, I've taken this from the Straits Times that the opposition leaders have not shown in the management of their own personal fortune that they could accumulate anything. Well, my dear friends, I feel guilty for that. I'm not very good in the management of my own personal fortunes but Mr. Lee Kuan Yew has managed his personal fortunes very well. He is the Prime Minister of Singapore. His wife is the senior partner of Lee & Lee and his brother is the Director of several companies, including Tat Lee Bank in Market Street; the bank which was given a permit with alacrity, banking permit licence when other banks were having difficulty getting their licence. So Mr. Lee Kuan Yew is very adept in managing his own personal fortunes but I am not. I am a fool for your sake. And I tell you this, my dear friends, that if I should become Prime Minister of Singapore, I'm not saying I will, Mr. Lee Kuan Yew keeps talking as though he is going to remain for the next 20 years. I know it's left to the people; the people decide who

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(cont'd)

will form the government and then the people in Parliament will decide who will be the Prime Minister. All I'm saying is, if I become Prime Minister there will be no firm of J.B. Jeyaretnam & Company in Singapore because I wouldn't know how to manage my own personal fortunes."

The result of the General Election was that the PAP won all the seats and the number of people who voted for the PAP was higher in 1976 than in 1972.

10

Soon after the elections were over the Plaintiff sought a public apology from the Defendant. The Plaintiff's solicitors wrote on the 8th January 1977, requesting such apology (AB 9). Correspondence passed between Plaintiff's solicitors and Defendant's solicitors. The Plaintiff then issued the writ on the 22nd January 1977.

Following the institution of these proceedings statements were issued and published in the Sunday Times of 6th March 1977, that the Workers' Party had set up a Save Democracy Trust Fund", to which only Singapore citizens were invited to contribute for the purpose initially of helping its Secretary-General Mr. J.B. Jeyaretnam to pay for legal aid in a suit in which he was being sued by Mr. Lee Kuan Yew for defamation.

20

On the 7th April 1977, the Plaintiff's solicitors wrote to the Defendant's solicitors about the "Save Democracy Trust Fund" and said that the title of the fund aggravated the injury and the damage to the Plaintiff and asked the Defendant to make a full retraction and apology in open court in terms to be approved by the Plaintiff's solicitors on behalf of the Plaintiff and to take steps to dismantle the fund and to return to the contributors the monies that had been collected (AB 35).

30

The Defendant's solicitors replied on the 12th April 1977 (AB 37) pointing out that the "Save Democracy Trust Fund" had not been set up by the Workers' Party; that it has been set up by individuals who were admittedly members of the Party but the setting up of the fund and the control of it was completely outside the Workers' Party; that they were at a loss to understand how actions of third persons could aggravate any damage that the Defendant's address might have caused to the Plaintiff.

40

There appeared an article in the Financial Times of the 1st November 1977, purported to base itself on an interview with the Defendant and in

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it the Defendant was reported as having said that the Workers' Party candidates who made personal criticisms of the PAP ministers were inclined to find themselves faced with libel charges.

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10 On the 24th November 1977, the Plaintiffs solicitors wrote to the Defendant's solicitors about this article and complained that they were slanderous remarks concerning the Plaintiff and asking if the Defendant was prepared to admit the statements attributed to him in the article.

20 On the 7th December 1977, the Defendant's solicitors replied that the Defendant categorically denied that he informed the Financial Times correspondent that the Plaintiff had brought an action against him solely for the purpose of silencing personal criticism of the Plaintiff or that the Plaintiff had brought similar actions against Workers' Party candidates with the object of cowing them.

There is no dispute that the Defendant spoke to third persons the words that are complained of and that they referred to the Plaintiff. The question is do they bear a defamatory meaning.

In his Statement of Claim the Plaintiff alleged in para. 4:

30 "The said words in their natural and ordinary meaning meant and were understood to mean that the Plaintiff had procured preferential treatment for his brother and/or wife to his own and/or their personal financial advantage, had thereby abused and would continue to abuse the office of Prime Minister of Singapore, is wanting in honesty and integrity and is unfit to hold the said office."

By his Defence the Defendant pleaded in answer to para. 4 of the Statement of Claim:

40 "It is denied that the said words bore or were understood to bear any of the meanings in para. 4 of the Statement of Claim alleged or any meaning defamatory of the Plaintiff."

The Plaintiff's arguments are that the natural and ordinary meaning of the words complained of are and can only be an allegation of dishonesty against the Plaintiff.

The submission of Defendant is this. He says that the words complained of are quite clearly

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an answer to the attack made by the Plaintiff on the Defendant at the press conference on the 13th December 1976, where the Plaintiff included the Defendant in the description of "Inconsequential men with a common denominator - they liked to be elected into office but they did not know what they wanted to get into Parliament for." and suggested that the Defendant's politics were influenced by what the followers of the Malayan Communist Party believed to be popular and further alleged that the Defendant was an incompetent politician and unfit for office "because even by the management of his own personal fortune he had not shown he could accumulate anything." It is submitted that the inference to be drawn from these remarks was that the Plaintiff was a better politician because he was able to manage his own personal fortunes better than the Defendant and had accumulated more wealth.

10

In answering this attack the Defendant says that in his speech on the 18th December, he admits that he is not a rich man; he concedes that the Prime Minister has managed his personal fortunes well. He says that the Plaintiff's wife runs a successful law firm which attracts a good deal of business (perhaps because she is the Prime Minister's wife, and the firm attracts clients as it is perfectly normal, natural and legal that it should). He goes on to say that the Plaintiff's brother is successful in business. Doors open to him, no doubt again because he bears the Prime Minister's name. So it might be that members of distinguished families in all countries find doors open to them and their path smoothed, quite without illegality or dishonesty by anyone. Furthermore, the Defendant is saying that if he attains office as Prime Minister he would not allow his family to continue and perhaps gain unfair advantage from the lustre of the Prime Ministerial name.

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30

Counsel for the Defendant submits that looked at in this sense the words clearly do not have the defamatory meaning attached to them by the Plaintiff. They carry no imputation of illegality, abuse or dishonesty. They make the comment that the Prime Minister's close family ought not to have continued to practise under the name of Lee & Lee. This is an opinion which others may not agree but which was quite honestly held. It is submitted that if the words can have this meaning, the Plaintiff must not choose another meaning simply because it suits his case. (Capital & Counties Bank v. Henty (1882) 7 H.L. 741). Furthermore in letters written on the 10th of January, 1977 (AB 14) and the 28th March (AB 32) the Defendant promptly made it clear that he did not

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intend the words to contain any allegation of illegality or lack of honesty.

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10 To put it shortly the Defendant submits that the words complained of bear the meaning which can be thus summarised; "It is unnecessary to be wealthy to be a successful politician. Mr. Lee Kuan Yew may be wealthy but, in my view, behaved wrongly in allowing his wife and brother to practise under the style of Lee & Lee since, although that is in no way improper or corrupt or illegal, it has led to them deriving an undue advantage.

There is only one issue on liability: Do the words bear the meaning that the Plaintiff used his position improperly to procure favours for himself and his family?

20 The essential facts are in no way in dispute. It is common ground that one of the consistent and well-known policies of the Government has been its stance that there shall be no corruption in public life. The Plaintiff expressed the view in evidence that such corruption would eat at the fabric of society; it would erode the efficiency of Government; it would filter down to all levels and affect the basis on which decisions were taken. This policy is well-known throughout Singapore and would be known both to Singaporean and any foreigners who had made any elementary enquiries about Singapore. Thus these people, both local and  
30 foreigners, would know that there is nothing to be gained from going to Lee & Lee or from having Mr. Lee Kim Yew on the Board of Directors because the Government believed in total honesty and impartiality as the basis upon which decision are to be taken.

40 On the 13th December 1976, the Plaintiff held a press conference at which he engaged in general criticism of opposition leaders without singling out any specific individuals. He pointed out that the opposition were planning large-scale reductions in taxes and rents and expressed the view that those who were offering to take over the country's finances had not shown that they were capable of saving.

50 The Defendant in evidence said that the report of this press conference was not drawn to his attention until after the speech he made on the 14th December. In that speech, however, he accused the Government of blatant dishonesty on two matters and over one matter he specifically accused the Plaintiff of dishonesty.



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The Defendant said in evidence that when he read the Plaintiff's press conference he was incensed. The Defendant was indulging in this type of campaign himself and it is difficult to see how he could feel too incensed when the Plaintiff criticised simply his competence. Even before he read the Plaintiff's press conference he had decided to make the honesty of Government one of his election themes.

The rally in Fullerton Square on the 18th December was an important lunch time rally with about 1,500 people present. The Defendant was the principal speaker. He was the leading opposition figure; he was head of the opposition party which had obtained most votes in the 1972 elections and he was known to be an experienced Advocate & Solicitors. His audience would respect his words and incline to believe them. It is also clear that the gist of any important message would not be confined to his hearers. They would tend to tell their families, friends and neighbours.

There are a large number of background facts which are now wholly accepted by the Defendant. When the Plaintiff assumed office he was determined that no one should have ground for criticising the integrity of his government. He gave instructions that work was not to be given to Lee & Lee; he went out of his way to ensure that Lee & Lee was not given preferential treatment. By 1970 he felt able to relax the position somewhat because the reputation of the Government for integrity was well-established. From then onwards Lee & Lee have been eligible for government work but upon the strict basis that they must compete on equal terms with Singaporeans. Similarly the Plaintiff has never used his influence in any way to further his brother's career. The Defendant, after evidence has been adduced by the Plaintiff, acknowledges that the grant of the licence to Tat Lee Bank was made in the normal course of business.

The Defendant claimed in his speech that the Tat Lee Bank, of which Mr. Lee Kim Yew is a director, was given a banking licence with alacrity when other banks were having difficulties. The evidence of Mr. Michael Wong Pakshong, the Managing Director of the Monetary Authority of Singapore, established conclusively that this was not the case. Mr. Michael Wong Pakshong was unshaken in cross-examination and the Defendant in the witness box accepted his evidence. It is clear from the evidence of Mr. Michael Wong Pakshong that the Tat Lee licence was neither considered nor expedited by reason of the involvement of Lee & Lee or Mr. Lee Kim Yew. The

licence was granted strictly upon the merits of the application. Far from having been granted with alacrity, the licence had been issued after careful consideration over a substantial period of time.

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(cont'd)

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The meaning of the words is a question entirely for the Court. The meaning intended by the publisher is irrelevant for the purpose of construing the words. This important principle in the law of defamation in England was finally settled by the decision of the House of Lords in *E. Hulton & Co. v. Jones* (1910) A.C. 20) where Lord Loreburn L.C. said (at 23):

"A person charged with libel cannot defend himself by showing that he intended in his own breast not to defame or that he intended not to defame the Plaintiff, if in fact he did both."

The test is objective and not subjective.

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It is clear from the authorities that the test to be applied is the effect which the words would have upon the ordinary hearer. In *Capital & Counties Bank v. Henty* (1882) 7 App. Cas. 741) Lord Selborne L.C. stated (at 745):-

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"The test, according to the authorities, is, whether under the circumstances in which the writing was published, reasonable men, to whom the publication was made, would be likely to understand it in a libellous sense."

To the same effect were the words of Lord Blackburn who stated (at 772):-

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"In construing the words to see whether they are a libel, the Court is, where nothing is alleged to give them an extended sense, to put that meaning on them which the words would be understood by ordinary persons to bear, and say whether the words so understood are calculated to convey an injurious imputation. The question is not whether the Defendant intended to convey that imputation; for if he, without excuse or justification, did what he knew or ought to have known was calculated to injure the Plaintiff, he must (at least civilly) be responsible for the consequences ....."

Further in his speech Lord Blackburn said (at 786):-

"..... it is unreasonable that when there

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are a number of good interpretations, the only bad one should be seized upon to give a defamatory sense to the document."

The correct method of approach to the question of construction was considered at length in the House of Lords in *Lewis v. Daily Telegraph Ltd.* ((1964) A.C. 234). Lord Reid put the matter as follows (at 258):-

"There is no doubt that in actions for libel the question is what the words would convey to the construction in the legal sense. The ordinary man does not live in an ivory tower and he is not inhibited by a knowledge of the rules of construction. So he can and does read between the lines in the light of his general knowledge and experience of wordly affairs .....". 10

"What the ordinary man would infer without special knowledge has generally been called the natural and ordinary meaning of the words. But the expression is rather misleading in that it conceals the fact that there are two elements in it. Sometimes it is not necessary to go beyond the words themselves, as where the Plaintiff has been called a thief or a murderer. But more often the sting is not so much in the words themselves as in what the ordinary man will infer from them, and that is also regarded as part of their natural and ordinary meaning." 20 30

And in the same case Lord Devlin said (at 277):-

"My lords, the natural and ordinary meaning of words ought in theory to be the same for the lawyer as for layman, because the lawyer's first rule of construction is that words are to be given their natural and ordinary meaning as popularly understood. The proposition that ordinary words are the same for the lawyer as for the layman is a matter of pure construction undoubtedly true. But it is very difficult to draw the line between pure construction and implication, and the layman's capacity for implication is much greater than the lawyer's. The lawyer's rule is that the implication must be necessary as well as reasonable. The layman reads in an implication much more freely; and unfortunately, as the law of defamation has to take into account, is especially prone to do so when it is derogatory." 40 50

Lord Morris of Borth-y-lest in the Privy Council in Jones v. Sketon ((1963) 3 All E.R. 952) said (at 958):-

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10 "The ordinary and natural meaning of words may be either the literal meaning or it may be implied or inferred or an indirect meaning; any meaning that does not require the support of extrinsic facts passing beyond general knowledge but is a meaning which is capable of being detected in the language used can be a part of the ordinary and natural meaning of words (see Lewis v. Daily Telegraph Ltd. (6)). The ordinary and natural meaning may therefore include any implication or inference which a reasonable reader, guided not by any special but only by general knowledge and not fettered by any strict legal rules of construction, would draw from the words."

20 And in Grubb v. Bristol United Press Ltd. ((1963) 1 Q.B. 309) Holroyd Pearce L.J. said (at 327):-

30 "But in deciding the ordinary and natural meaning of the words the jury must take into account the ordinary reasonable implications of the words. As Cotton L.J. said in Henty's case in the Court of Appeal, "One must consider, not what the words are, but what conclusion could reasonably be drawn from it, as a man who issues such a document is answerable not only for the terms of it but also for the conclusion and meaning which persons will reasonably draw from and put upon the document." If the Defendant published of John Smith: "His name is certainly not George Washington," then however, much the Defendant may argue that the words were a harmless truism concerned merely with nomenclature, the natural and ordinary implication of the words is that John Smith is untruthful, and presumably the jury would find that to be the ordinary meaning of the words."

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50 Now, what is the meaning of the words complained of? They must in my view, be considered in the context that it was not the intention of the Defendant to praise the Plaintiff. Nor was it his intention to point out that the Plaintiff and members of his family had all been highly successful because of their own skills. It was his intention to be derogatory of the Plaintiff. The attack is clearly aimed primarily at the Plaintiff. On two occasions the Defendant refers to the fact that the Plaintiff has managed his personal fortune very well and the

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Defendant is saying that the Plaintiff's wife and brother are the means by which the Plaintiff has managed his personal fortune. The suggestion that the Tat Lee Bank was given a banking licence with alacrity when other banks were having difficulties getting their licence is a very clear suggestion that the Plaintiff's brother's bank was shown favour. The Defendant was therefore suggesting that one of the ways in which the Plaintiff manages his personal fortune well was by dispensing deliberate favours to his brother. The meaning is reinforced by the use at the beginning of the next sentence by the word "So". This relates the general comment that "Mr. Lee Kuan Yew is very adapt at managing his own personal fortune" to the previous statements in which the Defendant had made it plain that the Plaintiff had shown favour to his family. The Defendant is clearly saying that the Plaintiff is adept in managing his own fortune because he used corrupt methods. This is further reinforced by the later words of the Defendant where he said, "If I become Prime Minister, there will be no firm of J.B. Jeyaretnam & Co. in Singapore because I wouldn't know how to manage my own personal fortune". There can be nothing wrong in principle with a Prime Minister's wife continuing to practise law. In suggesting that his firm would be wound up, the Defendant is really saying nothing more than that he is not going to show favour to his family in the way in which, so he alleges, the Plaintiff shows favour. These words do not mean that the Plaintiff ought to have insisted that the name of the firm in which his wife and brother are carrying on practice be changed, but they are a direct attack upon the way the Plaintiff has managed his personal fortunes. The references to Lee & Lee, Mr. Lee Kim Yew's directorship and the circumstances in which the Tat Lee Bank was granted a licence are all suggestions being part and parcel of the way the Plaintiff has managed his fortunes. The clear suggestion is made that the Plaintiff influenced the grant of the licence to the Tat Lee Bank and secured the grant of preference to that bank. There can be no doubt that the words bear the meaning that the Plaintiff had procured the grant of favours to Lee & Lee and to his family. To put it in blunt terms the words mean that the Plaintiff had been guilty of nepotism and corruption, and this would mean that the Plaintiff is unfit to be Prime Minister.

The Plaintiff has proved that the words complained of were published of him by the Defendant and that the words were defamatory of him. It is now necessary to consider the defences set up by the Defendant.

The Defendant pleaded that the words were

published on an occasion of qualified privilege to electors who had an interest to receive the information.

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10 It is submitted that the Defendant said what he said in answer to an attack upon his financial capacity, character and reputation which had been made by the Plaintiff at the press conference when the Plaintiff opened his election campaign on the 13th December 1976. Counsel for the Defendant says that the whole attitude of the Plaintiff to the Defendant was to belittle him, to cover him with ridicule and contempt and to humiliate him in the eyes of the electors. And to say of the leader of the Workers' Party, which is a moderate socialist democratic party, that he wishes to introduce policies which the Malayan Communist Party would find popular is highly defamatory. The Defendant was incensed and having regard to the words of the Plaintiff which sparked off this  
20 controversy how can it be said that the speech of the Defendant on the 18th December is not a proper, perfectly fair and unmalicious reply.

It is clear that the fact that it was election time gives no privilege (see Defamation Act (Cap.32) section 14). In Plummer v. Charman ((1962) 1 W.L.R. 1469) Diplock L.J. said (at 1474):-

30 "I need hardly say that there is no privilege known to the law which entitles persons engaged in politics to misstate a fact about their opponents provided they say it honestly even though untruthfully. They can comment upon the conduct of persons in public life, provided they do so honestly and without malice." A person whose character or conduct has been attacked is entitled to answer such attack and any defamatory statements he may make about the person who attacked him will be privileged, provided they are published bona fide and are fairly relevant to the accusations made.

40 In Turner v. M.G.M. Pictures Ltd. ((1950) 1 All E.R. 449) Lord Oaksey said (at 470):

50 "There is, it seems to me, an analogy between the criminal law of self Defence and a man's right to defend himself against written or verbal attacks. In both cases he is entitled, if he can, to defend himself effectively and he only loses the protection of the law if he goes beyond defence and proceeds to offence. That is to say, the circumstances in which he defends himself, either by acts or by words, negative the malice which the law draws from violent acts or defamatory words. If you are attacked

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with a deadly weapon you can defend yourself with a deadly weapon or with any other weapon which may protect your life. The law does not concern itself with niceties in such matters. If you are attacked by a prize fighter you are not bound to adhere to the Queensberry rules in your defence. The "Lion's Roar" was probably not as far reaching as the appellant's voice on the B.B.C. wireless, nor could the Respondent, so far as the evidence show, command so pointed a pen as that of the Appellant. They had, therefore, to adopt other means of defence, but provided that they were means of defence and not of offence or attack, they are not evidence of malice, but merely the adoption of the most effective method of defence available."

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The authorities are clear. A man may defend himself against an attack but he may not proceed to make a counter-charge which is not part of his reputation of the attack made on him.

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What is the position in the present case? Here the defamatory statement made by the Defendant is quite unconnected with and irrelevant to the accusations made against him by the Plaintiff and they are not published bona fide. The charge of nepotism and corruption against the Plaintiff was in no sense a defence by the Defendant against a charge of incompetence. The Defendant made an unwarranted and unjustifiable attack on the Plaintiff's honesty and integrity. The words were published by the Defendant recklessly without an honest belief in their truth with the intention of denigrating and insulting the Plaintiff and in speaking and publishing those words the Defendant was actuated by malice.

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The Defendant says that the Plaintiff was attacking his incapacity and suggesting that he was influenced by communist policies and that he was incensed. If that was the real position one would have expected him to reply to those points in his speech on the 18th December or recorded the fact that he was incensed about these inaccuracies in his letter of the 10th January 1977 (AB 14) but he did not do so on either occasion. I have come to the conclusion that the Defendant was upset not by the Plaintiff's suggestion that he was influenced by communist policies but by the suggestion that the opposition leaders had not shown themselves able to accumulate anything, and he was out to make an attack upon the Plaintiff on the 18th December.

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I hold that the plea of qualified privilege fails.

In the High Court

The Defendant pleads that the words complained of were published by him as fair comment on a matter of public interest. He has given particulars of the facts on which he alleges the comment to be based.

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To succeed in a defence of fair comment, the words complained of must be shown to be :

- (1) Comment
- (2) Fair Comment
- (3) Fair comment on some matter of public interest.

A comment is a statement of opinion on facts. The defence of fair comment cannot arise if the words convey imputation of fact. The imputations in the present case are undoubtedly imputations of fact. A libellous statement of fact is not a comment or criticism on anything (see R. v. Flowers (1880) 44 J.P. 377). I am of the view that the plea of fair comment is not available to the Defendant.

Even if the words were comments, for the plea to succeed it must be fair comment. There is no specific definition of fair comment, but from the authorities it is clear that, in order that a comment may be fair, the following conditions must be satisfied:

- (a) Subject to the provisions of section 9 of the Defamation Act (Cap 32) it must be based on facts truly stated.
- (b) It must not contain imputation of corrupt or dishonourable motives on the person whose conduct or work is criticised, save in so far as such imputations are warranted by the facts.
- (c) It must be the honest expression of the writer's real opinion.

(See para 716 Gatley on Libel & Slander 7th Ed.)

In the present case the comment (if it is a comment) does not satisfy any of the conditions that I have set out.

Even though the comment satisfies the



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objective test of fair comment, the defence of fair comment will nevertheless fail if it is found that in making the comment the Defendant was actuated by express malice. The test of malice has now been summarised by the House of Lords in *Horrocks v. Lowe* ((1975) A.C. 135).

In the present case the Defendant made the publication recklessly, being indifferent to truth of what he published and neither considering nor caring whether it was true or not and he should be treated as if he knew it to be false. In speaking and publishing those words the Defendant was actuated by express malice.

10

I know come to deal with the Plaintiff's claim for damages.

In an action for defamation the only relief which the Plaintiff can obtain from a Court, apart from an injunction in appropriate circumstances to prevent repetition of the libel or slander, is an award of damages. The general rule is that the damages are to be assessed on a compensatory basis. The principles governing such awards are summarised in para 1358 of *Gatley on Libel & Slander*, 7th Ed., thus:

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"In an action of libel "the assessment of damages does not depend on any legal rule." The amount of damages is "peculiarly the province of the jury", who in assessing them will naturally be governed by all the circumstances of the particular case. They are entitled to take into their consideration the conduct of the Plaintiff, his position and standing, the nature of the libel, the mode and extent of publication, the absence or refusal of any retraction or apology, and "the whole conduct of the Defendant from the time when the libel was published down to the very moment of their verdict. They may take into consideration the conduct of the Defendant before action, after action and in court at the trial of the action," and also, it is submitted the conduct of his counsel, who cannot shelter his client by taking responsibility for the conduct of the case. They should allow "for the said truth that no apology, retraction or withdrawal can ever be guaranteed completely to undo the harm it has done or the hurt it has caused." They should also take into account the evidence led in aggravation or mitigation of the damages. They should not take into account in assessing damages any part of the words complained of in respect of which

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the Defendant has made out a defence, or any damage done to the Plaintiff's reputation or feelings by any defamatory matter for which the Plaintiff is not responsible. They should not speculate on whether the Defendant will be indemnified."

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10 Counsel for the Plaintiff says that the Plaintiff seeks only in this action such damages as are fair to compensate him for the injury which the Defendant has done to his reputation; he in no way seeks excessive or vindictive damages, but it is submitted that in the circumstances of this case the award should include an element of "aggravated damages."

20 On the other hand counsel for the Defendant submits that the amount of damages must be judged solely on the damage personally suffered by the Plaintiff and not because he feels that some high or exorbitant figure would impress the electors in some future political contest. Counsel says if the Plaintiff had accepted the Defendant's apology instead of insisting on heavy damages the Plaintiff's damages would have been mitigated and the "black cloud" the Plaintiff referred to would long ago have been lifted from his head. Counsel submits that damages in this case should be modest for the following "cogent and powerful reasons":-

- 30 (a) The words were spoken in the heat of an election campaign. Moreover, by his words on the 13th December the Plaintiff provoked the Defendant's attack.
- (b) By his letter from the 10th January 1977, onwards the Defendant withdrew all suggested allegations of nepotism or corruption. This was done in prompt reply to the Plaintiff's complaint and shortly after the speech.
- 40 (c) The Defendant's conduct of his case has in no way inflamed the damages. He has conducted it without making any allegations of nepotism or corruption, he made it quite clear in his evidence he made no such allegations. Moreover he made no attack on the Plaintiff in the witness box, although the Plaintiff made strong attacks upon the Defendant.
- 50 (d) The defence of the action was made necessary by the Plaintiff's insistence on "heavy damages" and the Defendant must not be penalised for exercising his legal right to defend or to save costs by administering interrogatories to establish agreed facts.

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- (e) The speech was not reported in the press and the Plaintiff has suffered minimal damage - see his election results and those of his party.

It is further submitted by counsel for the Defendant that damages for the defamation should not be more than damage for physical injury (per Diplock L.J. in *McCarey v. Associated Newspapers Ltd.* ((1964) 3 All E.R. 947 at 960).

The learned authors of *Gatley on Libel & Slander*, 7th Ed. has this to say as regards aggravated damages:

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"1359. Aggravated damages. The conduct of Defendant, his conduct of the case, and his state of mind are thus all matters which the Plaintiff may rely on as aggravating the damages. "Moreover it is very well established that in cases where the damages are at large the jury (or the judge if the award is left to him) can take into account the motives and conduct of the Defendant where they aggravate the injury done to the Plaintiff. There may be malevolence or spite or the manner of committing the wrong may be such as to injure the Plaintiff's proper feelings of dignity and pride. These are matters which the jury can take into account in assessing the appropriate compensation." "In awarding 'aggravated damages' the natural indignation of the court at the injury inflicted on the Plaintiff is a perfectly legitimate motive in making a generous, rather than a more moderate award to provide an adequate solatium ..... that is because the injury to the Plaintiff is actually greater, and, as the result of the conduct exciting the indignation, demands a more generous solatium."

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There does not seem to be any general trend in England to relate damages in actions for defamation to awards made in cases involving personal injuries. The case cited by counsel for the Defendant is almost fifteen years old. The large subjective element in an award for damages in an action for defamation makes it difficult to draw a fair comparison with awards in other types of action. This difficulty was discussed by Lord Hailsham of St. Marylebone L.C. in *Cassel & Co. Ltd. v. Broome* ((1972) A.C. 1027 where he said (at 1071):-

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"This is why it is not necessarily fair to

compare awards of damages in this field (in defamation) with damages for personal injuries. Quite obviously, the award must include factors for injury to the feelings, the anxiety and uncertainty undergone in the litigation, the absence of apology, or the reaffirmation of the truth of the matters complained of, or malice of the Defendant. The bad conduct of the Plaintiff himself may also enter into the matter, where he has provoked the libel, or where perhaps he has libelled the Defendant in reply. What is awarded is thus a figure which cannot be arrived at by any purely objective computation. This is what is meant when the damages in defamation are described as being 'at large'." In *Re Bernstein v. The Observer Ltd. and Others* ((1976) Times 5th May) the jury awarded the Plaintiff £35,000 damages in a libel action. The Defendants appealed. Lord Denning M.R. in dismissing the appeal said as to damages that the award of £35,000 was a large sum as damages, but one had to remember Lord Bernstein's standing in the community the reputation which he had built up over a long life, and the outrage to his feelings which he might well have felt at what was said at the end of his life and that the damages were well within the province which a jury could give.

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In the present case there are factors that make this a serious case. This was a very grave slander which struck at the heart of the Plaintiff's political reputation. The standing of the Plaintiff is such as to mean that the injury done to him was grave. It was spoken by the principle opposition speaker and a prominent person whose words would carry more weight than that of a lesser individual and his hearers would be inclined to believe that there must be something in the accusation he was making. The words would eventually be spread by word of mouth. Slander is insidious, the poison would spread over a period of time. The fact that the Government won the election and the fact that the Plaintiff was not unseated by the Defendant's words does not lessen their gravity. The Defendant has never retracted or apologised for a word he had said. The Defendant had in correspondence offered a qualified apology which understandably the Plaintiff would not accept. He has sought to aggravate the injury at every turn. He has, in an attempt to avoid responsibility, pretended that the words do not bear the meaning put on them by the Plaintiff when in truth he must know that his words bore this meaning and he intended them to do so. In my view

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the plea of fair comment is not an honest one. He has administered interrogatories of a kind designed to convey a smear. He approved of the name of the "Save Democracy Trust Fund." He has suggested that this case is all about the ability to contest the next election and has tried to distort the Plaintiff's motives in bringing this action and so further to bring the Plaintiff into disrespect. The Defendant accepts that in no sense is the Plaintiff seeking to attack democracy. That being so I think he should have attempted to persuade the trustees of the fund to change the name of the Fund and should if the Trustees had declined to do so have issued a public disclaimer of the title.

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The Plaintiff alleges in his pleading that the article in the Financial Times of the 1st November 1977 has aggravated damages. The newspaper cutting in itself is no evidence as to its contents and the Plaintiff has not called Mr. Smith of the Financial Times. The Defendant has denied that he told Mr. Smith that this action was brought to silence an opposition leader and that the Plaintiff's resort to actions for defamation cows potential opposition candidates at General Elections. The contents of the Financial Times article having not been proved damages have not been aggravated.

20

Arising out of the 1976 General Election the Plaintiff had brought four other defamation actions for similar slanders. In none of these cases was the Defendant legally represented and judgment in default was entered in each case and damages were assessed at \$65,000 in three of these cases and \$100,000 in the fourth. The awards in those cases provided some guide in this case.

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In all the circumstances I award the sum of \$130,000-00 damages which in my view is a fair compensation for this very serious slander.

In the result there will be judgment for the Plaintiff with costs. There will also be an order for an injunction against repetition of the slander as prayed for.

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Sgd: F.A. Chua.

JUDGE

Singapore, 9th January 1979.

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IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 218 of 1977

Between

Lee Kuan Yew

Plaintiff

And

Joshua Benjamin Jeyaretnam

Defendant

J U D G M E N T

The 9th day of January 1979

This action having been tried before the Honourable Mr. Justice Chua on the 20th, 21st, 22nd 23rd, 24th 27th and 28th days of November 1978, and the Judge having this day ordered that Judgment as hereinafter provided be entered for the Plaintiff and directed that execution be stayed for the period and on the terms hereinafter provided IT IS ADJUDGED that the Defendant do pay the Plaintiff S\$130,000-00 damages and his costs of action to be taxed and in taxing the said costs of the Plaintiff the Registrar is to allow the costs of the attendance before the Court of two Counsel on behalf of the Plaintiff AND IT IS ORDERED that:

1. The Defendant by himself, his servants or agents, or otherwise, be restrained from further speaking and publishing of and concerning the Plaintiff and of and concerning him in the office of Prime Minister of Singapore, and in relation to his conduct therein, the words mentioned in the Statement of Claim herein, or any similar slanders upon the Plaintiff.

2. If the Defendant gives notice of appeal within the time for so doing execution be stayed until the determination of such appeal, but that the taxation of costs do proceed and such costs when taxed be paid forthwith by the Defendant to the Plaintiff's solicitors upon their personal undertaking to return the same if the said appeal be successful.

Entered in Volume 202 page 91 at 11.00 a.m. of the 18th day of January 1979.

Sd: TAN TECK SAM  
ASSISTANT REGISTRAR

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of Appeal

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Notice of Appeal - 8th February 1979

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Notice of  
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February 1979

IN THE COURT OF APPEAL IN SINGAPORE

CIVIL APPEAL NO. 26 OF 1979

Between

JOSHUA BENJAMIN JEYARETNAM

Appellant

And

LEE KUAN YEW

Respondent

In the Matter of Suit No. 218 of 1977

Between

LEE KUAN YEW

Plaintiff

And

JOSHUA BENJAMIN JEYARETNAM

Defendant

Notice of Appeal

TAKE NOTICE that Joshua Benjamin Jeyaretnam, the abovenamed Appellant being dissatisfied with the decision of the Honourable Mr. Justice F.A. Chua given at Singapore on the 9th day of January 1979, appeals to the Court of Appeal against the whole of the said decision.

Dated the 8th day of February 1979

Sgd: Hilborne & Co.

Solicitors for the Appellant

To the Registrar,  
Supreme Court,  
Singapore.

And to the abovenamed Respondent,  
and his Solicitors,  
Messrs. Drew & Napier,  
Singapore.

The address for service of the Appellant is at the office of Messrs. Hilborne & Company, Advocates and Solicitors, No. 701 Colombo Court, Singapore.

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IN THE COURT OF APPEAL IN SINGAPORE

CIVIL APPEAL NO. 26 1979

Between

Joshua Benjamin Jeyaretnam

Appellant

And

Lee Kuan Yew

Respondent

In the Matter of Suit No. 218 of 1977

Between

Lee Kuan Yew

Plaintiff

And

Joshua Benjamin Jeyaretnam

Defendant

PETITION OF APPEAL

To the Honourable the Judges of the Court of Appeal. The Petition of the abovenamed Appellant sheweth as follows:-

1. The appeal arises from a claim by the Plaintiff for damages for alleged slander spoken of him by the Defendant at an election rally on the 18th of December 1976.

2. By a Judgment dated the 9th day of January 1979, Judgment was given for the Plaintiff in the sum of Dollars One hundred and thirty thousand only (\$130,000-00) for damages and costs to be taxed and the Defendant was further restrained by an Order of Court from speaking the said or similar words.

3. Your Petitioner is dissatisfied with the said Judgment on the following grounds:-

(A) Whether the words complained of were defamatory

1. The trial Judge was wrong in law in holding that the words were capable of the defamatory meaning of which he found them capable, namely that the words meant and were intended to mean that the Plaintiff was guilty of corruption whereas in fact properly understood in the context in which the words were uttered they meant no more than the Plaintiff was enabled to accumulate his wealth



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because his wife was the senior partner of Lee & Lee along with his brother who was also at the same time a director of several companies.

2. The trial judge failed to appreciate that the words "and his brother is a director in several companies including Tat Lee Bank Ltd. in Market Street" understood in the context of accumulation of wealth were capable of meaning no more than that the Plaintiff's brother's directorships could be a source of income to Messrs. Lee & Lee which would mean increased for the Plaintiff's wife.

10

3. The trial judge was wrong in law and in fact in finding that the Defendant by his statement that Tat Lee Bank was granted a licence with alacrity when other banks were having difficulty getting their licences was alleging or suggesting that the "Plaintiff (corruptly) influenced the grant of the licence to the Tat Lee Bank and secured the grant of preference to that bank."

20

4. The trial judge erred in law and in fact in not recognising that in his speech on the 14th December the Defendant was not alleging that the Plaintiff was guilty of any corrupt conduct but was attacking what he alleged was the Government's dishonesty in public matters and the Plaintiff's untruthfulness in one of his public statements. The trial judge would appear to have unduly allowed his wrong preception of the Defendant's speech of the 14th December to influence him to find that the Defendant was alleging that the Plaintiff was corrupt in his speech on the 18th December 1976.

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5. That alternatively the words complained of if they were capable of a defamatory meaning (which is denied) were also capable of an innocent or non-defamatory meaning and the trial judge erred in law and in fact in failing to make a finding in his judgment that the words were not capable of any innocent or non-defamatory meaning.

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(B) Qualified Privilege

1. The trial judge erred in law in holding that the defence of qualified privilege failed on the ground that the words spoken by the Defendant were not a reply nor constituted a reply to the Plaintiff's words

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spoken of the Defendant on the 13th of December and in holding that the defamatory statement made by the Defendant "is quite unconnected with and irrelevant to the accusations made against him by the Plaintiff and they are not published bona fide."

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10 2. The trial judge in considering the defence of qualified privilege failed to appreciate that the Plaintiff's words to which the Defendant's words were a reply were all related and linked to the topic of accumulation of wealth of which the Plaintiff had made an issue in his press conference.

(C) Fair Comment

20 The trial judge failed to give any consideration or alternatively adequate consideration to the Defendant's defence of fair comment and he was wrong in law in finding as he did that the Defendant had not satisfied any of the conditions for that defence to succeed.

(D) Damages

The trial judge erred in law and in fact in awarding damages against the Defendant amounting to \$130,000-00 for the following reasons:-

30 (i) That he failed to take into consideration in mitigation of the damages the fact that the Defendant's words were provoked by the words uttered by the Plaintiff of the Defendant on the 13th December 1976.

(ii) There was no evidence that the Plaintiff had suffered any damage either personally or politically as a result of the words uttered by the Defendant.

40 (iii) The trial judge erred in law in taking into consideration the speculative possibility of the Plaintiff suffering any damage in the future.

(iv) The damages were manifestly excessive having regard to the fact that the words were uttered at an election rally during an election campaign.

(v) The trial judge erred in law and in fact

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in his finding that "the Defendant has never retracted or apologised for a word he had said" ignoring completely that the Defendant in his very first letter to the Plaintiff's solicitors had offered to withdraw publicly any imputation that the Plaintiff was corrupt.

(vi) The damages were manifestly excessive again having regard to the fact that none of the Defendant's words appeared in any newspaper nor was broadcast unlike the Plaintiff's words which received considerable publicity.

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(vii) The damages were manifestly excessive when compared to the damages awarded in other slander actions arising out of the same elections.

(viii) The trial judge erred in law in failing to take into consideration that the Plaintiff had already obtained judgments for a total of \$310,000-00 for slander of him to the same effect uttered by others.

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(ix) The trial judge misdirected himself in law in finding, as he did, that the Defendant had aggravated the damages by administering interrogatories. The trial judge ought to have found that the interrogatories administered by the Defendant were proper and reasonable, neither did he consider the fact that such interrogatories and their replies were not capable of being published or being made known to the public having regard to Order 60 Rule 4 of the Rules of the Supreme Court.

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(x) The trial judge misdirected himself in law in finding as he did that the Defendant had aggravated the damages by failing to take any steps to change the name of the Save Democracy Fund.

(xi) The trial judge erred in law and in fact in finding that the Defendant "pretended that the words did not bear the meaning put on them by the Plaintiff when in truth he must know that the words bear this meaning and he intended them to do so. In my view the plea of fair comment is not an honest one."

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(xii) The trial judge failed to give any consideration to the fact that the Plaintiff in his evidence at the trial went out of

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his way to humiliate the Defendant whilst the Defendant repeatedly stated on oath that he at no time charged the Plaintiff with corrupt conduct and did not speak ill of the Plaintiff.

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4. The trial judge was wrong in law in awarding the Plaintiff his costs of two Counsel at the trial.

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5. Your Petitioner prays that such judgment may be reversed or set aside or varied or that such order may be made herein as to this court many seem just.

Dated the 21st day of March 1979

Sgd: Hilborne & Co.

Solicitors for the Appellant

To the abovenamed Respondent  
and to his Solicitors,  
Messrs. Drew & Napier,  
Singapore.

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IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

CIVIL APPEAL NO. 26 OF 1979

Between

Joshua Benjamin Jeyaretnam Appellant

And

Lee Kuan Yew Respondent

(In the Matter of Suit No. 218 of 1977

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Between

Lee Kuan Yew Plaintiff

And

Joshua Benjamin Jeyaretnam Defendant)

Coram: Wee Chong Jin, C.J.  
T. Kulasekaram, J.  
D.C. D'Cotta, J.

In December 1976 the Government called a General Election and fixed 23rd December as polling day. Mr. Lee Kuan Yew, the Prime Minister, opened the election campaign of the People's Action Party, the party in power, at a press conference on 13th December during which he questioned the competence of opposition leaders. He said that the pity of it was that nobody in the present opposition had it in him to oppose. He said "the public are entitled to something better, but unfortunately we are faced with an opposition whose leaders were inconsequential men unable to propound a credible alternative on how to make Singapore more viable and secure or how to give the people a better standard of living." He said most of them wanted to give everything away - lower taxes, lower rents and lower public utilities rates. He said he did not believe the public would go in for the give aways proposed by the opposition. As an example, he said that none of those who proposed to give things away, either by their management of their own parties or even of their own personal fortunes, had shown they could accumulate anything. In contrast, he referred to what the P.A.P. had built up in the government - over \$8,000 million and that "if we start giving things away we would end up as paupers."

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Criticising and questioning the credibility and competence to govern of each other by the leaders of political parties during election time is common currency in all democracies. Ripostes to such criticisms are also common currency. Mr. Jeyaretnam was then and still is the leader of an opposition party, the Workers' Party. He was thus one of those whom the Prime Minister so criticised. How did he react? At the final election rally of his party on 18th December he made a speech at Fullerton Square before an audience of 1,500 people who appeared to be mostly office workers, executive and managers from banks and other businesses in the area. In his speech, Mr. Jeyaretnam said:-

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"Now I want, this afternoon to spend some time my dear friends in reply to some of the statements that have been made by the PAP leaders and the leaders of government against the oppositions and in particular the Workers' Party. I will begin with the Secretary-General of the People's Action Party, oh sorry Pay and Pay Party and the Prime Minister now of Singapore, that practise the government and holding the

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reign of power. I don't know whether the Secretary-General, Prime Minister of Singapore realised what he was saying.

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Very unfortunate. I'll tell you what he said. On nomination day when he was filing his papers, he says, "What can you expect from the opposition leaders. They haven't shown in the management of their own personal fortune that they could accumulate anything." This is, I've taken this from the Straits Times that the opposition leaders have shown in the management of their own personal fortune that they could accumulate anything. Well, my dear friends, I feel guilty for that.

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I'm not very good in the management of my own personal fortune but Mr. Lee Kuan Yew had managed personal fortune very well. He is the Prime Minister of Singapore. His wife is the senior partner of Lee & Lee and his brother is the Director of several companies, including Tat Lee Bank in Market Street; the bank which was given a permit with alacrity, banking permit licence when other banks were having difficulties getting their licence. So Mr. Lee Kuan Yew is very adept in managing his own personal fortune But I'm not. I'm a fool for your sake and I tell you this, my dear friends, that if I should become the Prime Minister of Singapore, I'm not saying will. Mr. Lee Kuan Yew keeps talking as though he is going to remain for the next 20 years. I know it's left to the people; the people will decide who will form the government and then the people in Parliament will decide who will be the Prime Minister; all I'm saying is, If I become Prime Minister there will be no firm of J.B. Jeyaretnam & Company in Singapore because I wouldn't know how to manage my own fortune."

From the start the Prime Minister contended that the underlined words were defamatory. He said they meant and were understood by Mr. Jeyaretnam's audience to mean that he had procured preferential treatment for his brother and/or his wife to his own and/or their personal financial advantage, had thereby abused and would continue to abuse the office of Prime Minister of Singapore, is wanting in honesty and integrity and is unfit to hold the office of Prime Minister of Singapore. Accordingly, as soon as the General Election was over he sought through his solicitors a public apology from Mr. Jeyaretnam because the imputation of corruption and nepotism was completely and totally false and unless his reputation was vindicated by a public retraction by Mr. Jeyaretnam of this grave slander the

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consequences of these false allegations could erode the position of a Prime Minister and his government and drive him from political life.

Correspondence then ensued between the solicitors acting for the Prime Minister and Mr. Jeyaretnam. As no satisfactory apology was offered the Prime Minister commenced the present action against Mr. Jeyaretnam for damages for slander.

In the Statement of Claim, after setting out the words complained of (see supra), it is alleged as follows:-

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"4. The said words in their natural and ordinary meaning meant and were understood to mean that the Plaintiff had procured preferential treatment for his brother and/or wife to his own and/or their personal financial advantage, had thereby abused and would continue to abuse the office of Prime Minister of Singapore, is wanting in honesty and integrity and is unfit to hold the said office.

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5. The said words were calculated to disparage the Plaintiff in his aforesaid office.

6. In the premises, the Plaintiff has been injured in his character, credit and reputation as Prime Minister."

In his Defence, Mr. Jeyaretnam denied that the said words bore or were understood to bear any of the meanings as alleged in the Statement of Claim or any meaning defamatory of the Prime Minister. In his Defence, Mr. Jeyaretnam also raised the pleas of fair comment and qualified privilege. In support of his plea of fair comment, he administered interrogatories which were directed to details of the Prime Minister's and his wife's and Brother's personal fortunes.

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The action was tried before Chua, J. who held that the words complained of bore the meaning that the Prime Minister had procured the grant of favours to Lee and Lee of which his wife is the senior partner, and to his family and that the Prime Minister had been guilty of nepotism and corruption and were defamatory to him. Chua, J. rejected the pleas of fair comment and qualified privilege. He found, in rejecting the plea of qualified privilege, that the words were published by Mr. Jeyaretnam recklessly, without an honest belief in their truth, with the intention of

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denigrating and insulting the Prime Minister and that in publishing those words, Mr. Jeyaretnam was actuated by malice. With regard to the plea of fair comment, Chua, J. found that the words were published by Mr. Jeyaretnam recklessly, being indifferent as to their truth or falsity and that Mr. Jeyaretnam was actuated by express malice. In the result Chua, J. gave judgment for the Prime Minister and awarded \$130,000 damages. Chua, J. further made an order restraining Mr. Jeyaretnam from further publishing the same or similar words.

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Mr. Jeyaretnam now appeals against the judgment of Chua, J. Mr. Hilborne, counsel for Mr. Jeyaretnam, contends that the words uttered by Mr. Jeyaretnam on 18th December are not capable of bearing a defamatory meaning in that under all the circumstances in which the words were spoken the natural and ordinary meaning of the words relates to the accumulation of wealth, not by corrupt means at all but by legitimate and legal means which nevertheless the speaker deprecated and thus the words complained of are not capable of conveying a defamatory meaning.

The Judicial Committee of the Privy Council in the case of Jones v. Skelton (1963) 1 WLR 1362 stated the law as follows:-

"It is well settled that the question whether words which are complained of are capable of conveying a defamatory meaning is a question of law and is therefore one calling for decision by the court. ... In deciding whether words are capable of conveying a defamatory meaning the court will reject those meanings which can only emerge as the product of some strained or forced or utterly unreasonable interpretation. In Capital and Counties Bank v. George Henty & Sons Lord Selborne L.C. said: 'The test, according to the authorities is whether, under the circumstances in which the writing was published, reasonable men to whom the publication was made, would be likely to understand it in a libellous sense.' The ordinary and natural meaning of words may be either the literal meaning or it may be implied or inferred or an indirect meaning: any meaning that does not require the support of extrinsic facts passing beyond general knowledge but is a meaning capable of being detected in the language used can be part of the ordinary and natural meaning of words. See Lewis v. Daily Telegraph Ltd. The ordinary and natural meaning may therefore



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include any implication or inference which a reasonable reader guided not by any special but only by general knowledge and not fettered by any strict legal rules of construction would draw from the words. The test of reasonableness guides and directs the court in its function of deciding whether it is open to the jury in any particular case to hold that reasonable persons would understand the words complained of in a defamatory sense."

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We reject Mr. Hilborne's contention. It is plain, applying Lord Selborne's test, that reasonable persons would be likely to understand the words in a libellous sense, i.e. that Mr. Lee Kuan Yew had managed his fortune very well by using his position as the Prime Minister of Singapore to procure preferential treatment for his wife and his brother to his own and to their personal financial advantage. The implication or inference which a reasonable person would be likely to draw on hearing the words is that Mr. Lee Kuan Yew had used his position as Prime Minister for personal and family financial gain by corrupt means and by acts of nepotism. In our opinion, the meaning suggested by Mr. Hilborne is not a meaning capable of being detected in the language used and under the circumstances in which it was spoken by any reasonable hearer. Such an interpretation would, in our opinion, be an utterly unreasonable interpretation of the words.

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Mr. Hilborne's next contention is that Chua, J. erred in rejecting the defence of qualified privilege and in holding that in publishing the words Mr. Jeyaretnam was actuated by malice. The law is not in dispute. A man is entitled to defend himself against written or verbal attacks provided he does not go beyond defence and proceeds to offence or attack. Chua, J. found that the accusation of corruption and nepotism made by Mr. Jeyaretnam against the Prime Minister was not a defence against a charge of incompetence. Mr. Hilborne's argument is that the words complained of did not in point of their character or their substance exceed the legitimate bounds of reply in answer to a charge by the Prime Minister during his Press Conference that Mr. Jeyaretnam, an opposition leader, was an inconsequential person who proposed to give everything away when by the management of his party's or even his own personal fortune he had shown he could not accumulate anything. We agree with the finding of Chua J. and reject Mr. Hilborne's contention. An accusation of corruption and nepotism is clearly unrelated to a criticism of incompetence in

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financial affairs and can in no sense amount to a defence against such criticism, however strong that may be. On the contrary it amounts to a counter attack which exceeds the bounds of legitimate defence. Mr. Hilborne also submit that there was no evidence to support the finding of malice. That submission is in our opinion entirely devoid of merit. The evidence was all the other way. Mr. Jeyaretnam himself in his evidence admitted that he never believed otherwise than that the Monetary Authority of Singapore acted with complete propriety and that the Prime Minister had nothing to do with the granting of a banking licence to the Tat Lee Bank. Furthermore, Chua, J. found, clearly on his own assessment of the credibility of Mr. Jeyaretnam, that Mr. Jeyaretnam published the words without an honest belief in their truth and with the intention of denigrating and insulting the Prime Minister. These findings, which we accept, were open to Chua, J. on the evidence before him.

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We do not propose to deal with the defence of fair comment which is raised as a ground of appeal in the Petition of Appeal but not supported by any argument during the hearing of the appeal. It is sufficient for us to say that in the light of the findings of fact by Chua, J. this ground must fail.

It remains for us to deal now with the question of damages. Mr. Hilborne contends that the award of \$130,000 is manifestly excessive. The law on assessment of damages is set out in Gatley on Libel and Slander (7th Ed.) at pages 1358 to 1360 as follows:-

"They (the jury or the judge if the award is left to him) are entitled to take into their consideration the conduct of the plaintiff, his position and standing, the nature of the libel, the mode and extent of publication, the absence or refusal of any retraction or apology, and the whole conduct of the defendant from the time when the libel was published down to the very moment of their verdict. They may take into consideration the conduct of the defendant before action, after action, and in court at the trial of the action and also, it is submitted the conduct of his counsel, who cannot shelter his client by taking responsibility for the conduct of the case. They should allow 'for the sad truth that no apology, retraction or withdrawal can ever be guaranteed completely to undo the harm it has done or the hurt it has caused'. They

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should also take into account the evidence led in aggravation or mitigation of the damages. They should not take into account in assessing damages any part of the words complained of in respect of which the defendant has made out a defence, or any damage done to the plaintiff's reputation or feelings by any defamatory matter for which the plaintiff is not responsible. They should not speculate on whether the defendant will be indemnified." "The conduct of the defendant, his conduct of the case, and his state of mind are thus all matters which the plaintiff may rely on as aggravating the damages. 'Moreover, it is very well established that in cases where the damages are at large the jury (or the judge if the award is left to him) can take into account the motives and conduct of the defendant where they aggravate the injury done to the plaintiff. There may be malevolence or spite or the manner of committing the wrong may be such as to injure the plaintiff's proper feelings of dignity and pride. These are matters which the jury can take into account in assessing the appropriate compensation.' In 'awarding damages' the natural indignation of the court at the injury inflicted on the plaintiff is a perfectly legitimate motive in making a generous, rather than a more moderate award to provide an adequate solatium ... that is because the injury to the plaintiff is actually greater, and as the result of the conduct exciting the indignation, demands a more generous solatium." 10 20 30

"Compensatory damages ... may include not only actual pecuniary loss and anticipated pecuniary loss or any social disadvantages which result, or may be thought likely to result, from the wrong which has been done. They may also include the natural injury to his feelings - the natural grief and distress which he may have felt at having been spoken of in defamatory terms, and if there has been any kind of high-handed, oppressive, insulting or contumelious behaviour by the defendant which increases the mental pain and suffering caused by the defamation and may constitute injury to the plaintiff's pride and self-confidence, these are proper elements to be taken into account in a case where the damages are at large' - but these matters may not be taken into account as a reason for giving punitive damages." 40 50

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In arriving at his award, Chua, J. took several matters into consideration. He said that the words amount to a very grave slander which struck at the heart of the Prime Minister's political reputation. Of that there can be no doubt at all. In our opinion, for an incumbent prime minister of a democratic country who has continuously held office for over a decade to be publicly falsely accused by the leader of an opposition party at the final election rally of that party during a coming general election of corruption and nepotism for personal financial advantage must be the gravest of slanders, must cause the greatest indignation to him, and the gravest harm, if believed, to his political life. The gravity of such a slanderous accusation is enhanced if the standing of the accuser is such that people who hear the accusations are likely to take it seriously and are likely to repeat it to others.

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Chua, J. also took into consideration that Mr. Jeyaretnam never retracted or apologised for a word he had said. It was not in dispute that Mr. Jeyaretnam never made a public retraction or apology for the words he spoke. The correspondence passing between the solicitors showed that while Mr. Jeyaretnam was prepared to apologise, he was not prepared to concede that his words were defamatory. We have a finding of Chua, J. that Mr. Jeyaretnam knew that the words bore the meaning put on them by the Prime Minister and intended them to bear that meaning. In the light of that finding the inference is inescapable that Mr. Jeyaretnam never intended to make a public retraction or apology for the words he spoke.

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Chua, J. also took into consideration his finding that the plea of fair comment was not an honest one and was thus an aggravating factor. It was a defence that was persisted throughout the trial in spite of the fact as found by Chua, J. that Mr. Jeyaretnam knew that he was falsely accusing and intended to falsely accuse the Prime Minister of corruption and nepotism. The interrogatories that Mr. Jeyaretnam administered as to the personal fortunes of the Prime Minister, his wife and his brother were administered as though there was truth in the accusation though he did not believe it to be true.

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Chua, J. also took into consideration the fact that Mr. Jeyaretnam made no attempt to persuade the trustees of a fund called "Save Democracy Fund", established by some senior officials of the Workers' Party to assist him to defend the present action, to change the name of

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the Fund. The title of the Fund clearly misrepresented the Prime Minister's motives for bringing the action. It was saying in plain terms that the Prime Minister's action was an attack on democracy and not, as was the case, the exercise of the right of an individual to vindicate his reputation.

Mr. Hilborne attacked the award of \$130,000/- as outrageous. His submission is that all the actions of Mr. Jeyaretnam are those of a man who is convinced he has said nothing defamatory, who only took steps to protect and defend himself as best he could, and the law allows him no less. He submits there were no aggravating factors. It is plain from what we have already said that this submission disregards the findings of Chua, J. with which we agree entirely. Mr. Hilborne relies on a dictum of Diplock L.J. (as he then was) in *McCarey v. Associated Newspapers Ltd.* (1964) 3 AER 947 at page 960. He said:-

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"I am convinced that it is not just (and I do not think that it is the law, as counsel for the plaintiff has contended) that, in equating incommensurables when a man's reputation has been injured, the scale of values to be applied bears no relation whatever to the scale of values to be applied when equating those other incommensurables, money and physical injuries. I do not believe that the law today is more jealous of a man's reputation than of his life and limb."

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With respect, we think it would be beyond what the present law on defamation requires to have regard to the relation of the scale of values applied in equating money and physical injuries in the field of personal injuries. We prefer the approach of Lord Hailsham in *Broome v. Cassell & Co.* (1972) AC 1027 where he said at page 1071:-

"In actions of defamation and in any other actions where damages for loss or reputation are involved, the principle of restitution in integrum has necessarily an even more highly subjective element. Such actions involve a money award which may put the plaintiff in a purely financial sense in a much stronger position than he was before the wrong. Not merely can he recover the estimated sum of his past and future losses, but, in case the libel driven underground, emerges from its lurking place at some future date, he must be able to point to a sum awarded by a jury sufficient to convince a

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bystander of the baselessness of the charge. As Windey J. well said in Uren v. John Fairfax & Sons Pty. Ltd., 117 C.L.R. 115, 150:

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10       'It seems to me that, properly speaking, a man defamed does not get compensation for his damaged reputation. He gets damages because he was injured in his reputation, that is simply because he was publicly defamed. For this reason, compensation by damages operates in two ways - as a vindication of the plaintiff to the public and as consolation to him for a wrong done. Compensation is here a solatium rather than a monetary recompense for harm measurable in money.'

20       This is why it is not necessarily fair to compare awards of damages in this field with damages for personal injuries. Quite obviously, the award must include factors for injury to the feelings, the anxiety and uncertainty undergone in the litigation, the absence of apology, or the reaffirmation of the truth of the matters complained of, or the malice of the defendant. The bad conduct of the plaintiff himself may also enter into the matter, where he has provoked the libel, or where perhaps he has libelled the defendant in reply. What is awarded is thus a figure  
30       which cannot be arrived at by any purely objective computation. This is what is meant when the damages in defamation are described as being 'at large'. In a sense, too, these damages are of their nature punitive or exemplary in the loose sense in which the terms were used before 1964, because they inflict an added burden on the defendant proportionate to his conduct, just as they can be reduced if  
40       the defendant has behaved well - as for instance by a handsome apology - or the plaintiff badly, as for instance by provoking the defendant, or defaming him in return."

50       In our judgment, there was no misdirection by Chua, J. in arriving at the award of \$130,000/-. We are also of the opinion that the award is not only not excessive but is reasonable having regard to all the circumstances of the case. It was a grave slander perpetrated deliberately and not only without regard to the truth but knowing that it was untrue. It was perpetrated for political gain not caring what distress it would cause and what harm it would inflict on the personal and political reputation

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of an incumbent prime minister.

Finally, we turn to deal with a ground of appeal raised in the Petition of Appeal and which is based on Section 16 of the Defamation Act (Ch. 32). This ground reads as follows:-

"(D) Damages

(viii) The trial judge erred in law in failing to take into consideration that the Plaintiff had already obtained judgment for a total \$310,000-00 for slander of him to the same effect uttered by others."

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Section 16 of the Defamation Act, which is in identical terms with Section 12 of the Defamation Act 1952 of England, reads as follows:-

"16. In any action for libel or slander the defendant may give evidence in mitigation of damages that the plaintiff has recovered damages or has brought actions for damages, for libel or slander in respect of the publication of words to the same effect as the words on which the action is founded, or has received or agreed to receive compensation in respect of any such publication."

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At the trial of the action no evidence was given in mitigation of damages as required by Section 16 and it would appear from the record that Section 16 was not raised on behalf of Mr. Jeyaretnam for consideration of Chua, J. In *Lewis v. Daily Telegraph Ltd.* and *Lewis v. Associated Newspapers Ltd.* (1964) A.C. 234 similar libels were published in two national newspapers on the same day and each had to be dealt with by a different jury. Lord Reid said (pg. 261):-

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"If each jury were to award damages without regard to the fact that the plaintiffs are also entitled to damages against the other newspaper, the aggregate of the damages in the two actions would almost certainly be too large. Section 12 of the Defamation Act, 1952, is intended to deal with that. In effect it requires that each jury shall be told about the action, but the question is what each jury should be told. I do not think it is sufficient merely to tell each jury to make such allowance as they may think fit. They ought, in my view, to be directed that in considering the evidence submitted to them they should consider how far the damage suffered by

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the plaintiffs can reasonably be attributed solely to the libel with which they are concerned and how far it ought to be regarded as the joint result of the two libels. If they think that some part of the damage is the joint result of the two libels they should bear in mind that the plaintiffs ought not to be compensated twice for the same loss.

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They can only deal with this matter on very broad lines and they must take it that the other jury will be given a similar direction. They must do the best they can to ensure that the sum which they award will fully compensate the plaintiffs for the damage caused by the libel with which they are concerned, but will not take into account that part of the total damage suffered by the plaintiffs which ought to enter into the other jury's assessment."

In all the circumstances this ground of appeal must also fail.

In the result, the appeal is dismissed with costs.

Sgd. WEE CHONG JIN  
CHIEF JUSTICE  
SINGAPORE.

(Sgd. T. Kulasekaram)  
Judge

(Sgd. D.C. D'Cotta)  
Judge.

SINGAPORE, 5TH September 1979.

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IN THE COURT OF APPEAL IN SINGAPORE

Civil Appeal No. 26 of 1979

Between

Joshua Benjamin Jeyaretnam

Appellant

And

Lee Kuan Yew

Respondent



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of Appeal

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(cont'd)

(In the matter of Suit No. 218 of 1977

Between

Lee Kuan Yew

Plaintiff

And

Joshua Benjamin Jeyaretnam

Defendant)

CORAM: THE HONOURABLE THE CHIEF JUSTICE  
THE HONOURABLE MR. JUSTICE KULASEKARAM  
THE HONOURABLE MR. JUSTICE D'COTTA

J U D G M E N T

The 5th day of September 1979

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This appeal coming on for hearing on the 31st day of July and the 1st and 2nd day of August 1979, in the presence of Counsel for the Appellant and for the Respondent And Upon Reading the Record of Appeal And Upon Hearing Counsel for the Appellant and for the Respondent this Court did order that this appeal should stand for Judgment and this appeal standing for Judgment this day in the presence of Counsel for the Appellant and for the Respondent IT IS ORDERED that:-

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1. The said appeal be dismissed with costs.
2. The sum of \$500-00 deposited in Court as security for the Respondent's costs of the appeal be paid out by the Accountant-General to the Respondent's Solicitors.

Sgd: Ng Peng Hong  
ASSISTANT REGISTRAR

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No. 22

Order of Court granting leave to  
appeal to Judicial Committee of the  
Privy Council - 15th October, 1979

In the Court  
of Appeal

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Order of Court  
granting leave  
to appeal to  
Judicial  
Committee of  
the Privy  
Council - 15th  
October 1979

IN THE COURT OF APPEAL IN SINGAPORE

CIVIL APPEAL NO. 26 of 1979

Between

Joshua Benjamin Jeyaretnam      Appellant  
And

10      Lee Kuan Yew      Respondent

In the matter of Suit No. 218 of 1977

Between

Lee Kuan Yew      Plaintiff

And

Joshua Benjamin Jeyaretnam      Defendant

Before: THE HONOURABLE THE CHIEF JUSTICE MR.  
JUSTICE WEE CHONG JIN  
THE HONOURABLE MR. JUSTICE D'COTTA  
THE HONOURABLE MR. JUSTICE A.P. RAJAH

20      IN OPEN COURT

ORDER OF COURT

30      UPON Motion preferred unto the Court by the  
abovenamed Appellant, Joshua Benjamin Jeyaretnam  
coming on for hearing this day in the presence of  
Counsel for the Appellant and for the abovenamed  
Respondent AND UPON READING the Notice of Motion  
dated the 11th day of September, 1979 and the  
Affidavit of Joshua Benjamin Jeyaretnam affirmed  
and filed herein on the 25th day of September  
1979 for leave to appeal to the Judicial Committee  
of Her Britannic Majesty's Privy Council under  
Section 3(1) (a) (i), (ii) and (iii) of the  
Judicial Committee Act, (Cap. 8) and the Affidavit  
of Joseph Grimberg and the exhibits therein referred  
to filed herein on the 12th day of October 1979  
40      AND UPON HEARING what was alleged by Counsel aforesaid  
THIS COURT DOTH GRANT LEAVE to the said Joshua  
Benjamin Jeyaretnam to appeal to Her Britannic  
Majesty's Privy Council against the whole of the  
judgment of the Court of Appeal delivered herein  
at Singapore on the 5th day of September 1979  
AND IT IS FURTHER ORDERED that the Appellant do  
give security for costs in the sum of \$5,000-00  
within one month from the date hereof AND IT IS

In the Court  
of Appeal

No. 22

Order of Court  
granting leave  
to appeal to  
Judicial  
Committee of  
the Privy  
Council - 15th  
October 1979.  
(cont'd)

ORDERED that upon the Appellant furnishing not later than the 25th day of October, 1979, a bank guarantee for \$130,000-00, the terms whereof are to be approved by the Respondent's Solicitors, in respect of the Judgment debt in the Court below execution on the Judgment in the Court below be stayed until the determination of the appeal to the Judicial Committee, but that taxation of the costs in the Court of Appeal do proceed and such costs when taxed be paid forthwith by the Appellant to the Respondent.

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Dated this 15th day of October, 1979

Sgd: Ng Peng Hong

Asst. Registrar.

No. ~~2~~4 of 1980

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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O N A P P E A L

FROM THE COURT OF APPEAL IN SINGAPORE

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B E T W E E N :

JOSHUA BENJAMIN JEYARETNAM

Appellant/  
Defendant

- and -

LEE KUAN YEW

Respondent/  
Plaintiff

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RECORD OF PROCEEDINGS  
PART I

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Ward Bowie,  
Clement House,  
99 Aldwych,  
London W.C.2.

Herbert Smith & Co.,  
Watling House,  
35-37 Cannon Street,  
London EC4M 5SD.

Solicitors for Appellant

Solicitors for Respondent