# SINGAPORE APPEALS TO THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL — AN ENDANGERED SPECIES?

With the recent abolition of appeals from Malaysia to the Privy Council, the time might now be ripe to consider whether appeals to that body should continue from Singapore. This article explores some of the issues which may influence any decision on the part of Singapore to abolish such appeals, and looks at possible changes which might be made within the existing system in preparation for eventual abolition. It concludes that abolition must, ultimately, be desirable for Singapore's legal development, but that there is nothing in the present state of affairs to justify the taking of precipitous action.

THROUGHOUT 1984, the Republic of Singapore celebrated twenty-five years of nation building. For all of those twenty-five years, the highest appellate tribunal within the Singapore judicial system has been the Judicial Committee of Her Britannic Majesty's Privy Council, a court sitting in London and one comprised largely of British judges. Similarly, for those twenty-five years, the Privy Council has exercised jurisdiction as the final court of appeal for cases from Malaysia, Singapore's closest neighbour. However, with effect from January 1, 1985, Malaysian litigants may no longer appeal to the Judicial Committee,[1] and one might wonder whether developments in Singapore over the past twenty-five years, so publicly celebrated in 1984, will result in similar action in the Republic.

The thrust of this article will be a consideration of whether the appellate jurisdiction of the Judicial Committee with respect to Singapore should be retained. It is submitted that the Privy Council should only be retained if it provides a net benefit to the local judicial system. Whether such a net benefit exists depends upon whether the advantages of the system outweigh the disadvantages. With the global decline of the Privy Council's appellate jurisdiction over former British colonies throughout this century, much has been written about the merits and demerits of that jurisdiction. It is now necessary to examine those arguments in the Singapore context.

Before doing that, however, it will be useful to look briefly at the extent of Privy Council jurisdiction over Singapore appeals. In addition, as many of the arguments relating to retention of jurisdiction depend on the past performance of the Privy Council in the specific jurisdiction in question, it is necessary to summarize recent Privy Council performance with respect to Singapore. This will permit a full discussion of the advantages and disadvantages of retaining appeals. This article will then conclude with a discussion of the manner and means

[1] See Courts of Judicature (Amendment) Act 1984, No. A600 of 1984, s. 3, which repeals Part IV of the Courts of Judicature Act 1964, Act No. 91 of 1964; and the Constitution (Amendment) Act 1983, Act No. A566 of 1983, which repeals s. 131 of the Federal Constitution of Malaysia.

by which such appeals might be abolished should Singapore decide to join the continuous line of former colonies which have vested appellate jurisdiction in their own local courts.[2]

## I. JURISDICTION OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Jurisdiction over Singapore appeals by the Judicial Committee is extensive. The current basis of that jurisdiction is provided by the Judicial Committee Act,[3] and a specific provision, passed in 1966, in the Singapore Constitution.[4] Legislation was also passed in the United Kingdom to provide for appeals from the newly independent state.[5] As a result of the reorganization of the courts in 1969,[6] the Constitution was amended,[7] so that the current constitutional provision with respect to appeals provides:

> (1) The President may make arrangements with Her Majesty for reference to the Judicial Committee of Her Britannic Majesty's Privy Council of appeals from the Supreme Court.
>
> (2) Any appeal under this Article shall be subject to such conditions as to leave or otherwise as may be prescribed by any written law or by or under the enactments regulating the proceedings of the Judicial Committee of Her Britannic Majesty's Privy Council.[8]

Currently, the provisions regulating access to the Privy Council state:

> (1) An appeal shall lie from the appellate court to the Judicial Committee with the leave of the appellate court granted in accordance with the provisions of section 4 of this Act —
>
> (a) from any final judgment, decree or order in any civil matter where—
>
> (i) the matter in dispute in the appeal amounts to or is of the value of five thousand dollars or upwards; or
>
> (ii) the appeal involves, directly or indirectly, some claim or question to or respecting property or some civil right of like amount or value; or
>
> (iii) the case is from its nature a fit one for appeal; and
>
> (b) from any interlocutory judgment or order which the appellate court considers a fit one for appeal; and
>
> (c) from any decision in the exercise of any original or advisory jurisdiction conferred on the appellate court.

2 For a review of some of the former colonies following this trend, see Marshall, "The Judicial Committee of the Privy Council: A Waning Jurisdiction", (1964), 13 I.C.L.Q. 697.

3 Judicial Committee Act, No. 37 of 1966.

4 Constitution (Amendment) Act 1966, No. 35 of 1966. This Act provided for the repeal of s. 131 of the Federal Constitution of Malaysia and substituted new provisions for appeals.

5 The Republic of Singapore (Appeals to Judicial Committee) Order 1966, S.I. 1966 No. 1182, issued under the authority of s. 3 of the Singapore Act 1966, (U.K.) 1966, c.29.

6 See Supreme Court of Judicature Act 1969, No. 24 of 1969.

7 Constitution (Amendment) Act 1969, No. 19 of 1969.

8 Reprint of the Constitution of the Republic of Singapore, 1980, s. 100.

(2) An appeal shall also lie from the appellate court to the Judicial Committee in the following cases, namely:—

(a) in any case mentioned in subsection (1) of this section where the leave of the appellate court has not been duly obtained; and

(b) in any case arising in a civil matter other than the cases referred to in subsection (1) of this section; and

(c) in any criminal matter,

where application for special leave to appeal has been made to the Judicial Committee, and the Judicial Committee has granted special leave to appeal.[9]

A brief historical review reveals that this jurisdiction has remained virtually unchanged since Singapore gained self-rule in 1959. Prior to merger with Malaysia in 1963, appeals lay from any final judgment or order, provided the amount or value of the subject matter exceeded $2,500, concerned a claim or question respecting property of like amount, or involved a case of a nature fit for appeal, and from any interlocutory judgment or order which the Court of Appeal considered to be of a nature fit for appeal.[10] Through a rather complex series of legislative provisions, the jurisdiction of the Privy Council with respect to Singapore appeals was preserved when Singapore joined the Federation of Malaysia in 1963,[11] and continued until separation in 1965.[12] Appeals lay to the Judicial Committee in similar circumstances

9 Judicial Committee Act, Cap. 8, 1970 Rev. Ed., s. 3. Similar provisions are contained in the Republic of Singapore (Appeals to Judicial Committee) Order 1966, *supra,* n. 5, s. 2.

10 Courts Ordinance, 1955 Rev. Ed., Cap. 3, s. 36. S. 38 goes on to provide for the preservation of the Royal Prerogative with respect to appeals. The Royal Prerogative was the traditional foundation for appeals from all courts in Her Majesty's dominions outside the United Kingdom. For a general historical review of the Privy Council see Eddy, "India and the Privy Council' The Last Appeal" (1950), 66 L.Q. Rev. 206.

11 S. 131 of the Federal Constitution of Malaysia provided that the Yang di-Pertuan Agong could make arrangements for reference of local appeals to the Judicial Committee. Such an arrangement had existed prior to 1963, and was dated March 4, 1958, G.N. 1254/58. A further Agreement, dated December 10, 1963, L.N. 30, 1964, between Her Britannic Majesty and His Majesty the Yang di-Pertuan Agong, extended the earlier Agreement providing for appeals from the Court of Appeal of the Federation, to include appeals from the Federal Court of Malaysia after September 16, 1963. Article 2 of this later Agreement specifically continues the Privy Council jurisdiction with respect to appeals of cases heard prior to September 16, 1963, by the Court of Appeal and Court of Criminal Appeal in Singapore.
Due to the independent status of the Federation of Malaya prior to September 16, 1963, and Malaysia thereafter, legislation was also required in the United Kingdom to confer the necessary jurisdiction on the Privy Council. Prior to 1963, s. 3 of the Federation of Malaya Independence Act, 1957, 5 & 6 Eliz. 2, c. 60, provided that Her Majesty, by Order in Council, could confer upon the Privy Council such jurisdiction as was provided in the earlier agreement mentioned above. Such jurisdiction was indeed conferred under The Federation of Malaya (Appeals to Privy Council) Order in Council, 1958, S.I. 1958 No. 426. S. 5 of the Malaysia Act, 1963 (U.K.), 1963, c. 35, permitted the continuation of jurisdiction provided under s. 3 of the Federation of Malaya Independence Act, 1957, and The Malaysia (Appeals to Privy Council) Order in Council, 1963, S.I. 1963 No. 2086, continued the provisions of the earlier Order in Council for appeals after September 16. S. 3 of the 1963 Order in Council made specific reference to appeals from pre-Malaysia Singapore.

12 The provisions of s. 74 of the Courts of Judicature Act, 1964, No. 91 of 1964, provided for appeals to the Privy Council through His Majesty the Yang di-Pertuan Agong.

to those which had existed prior to 1963, save for the fact that the dollar value became $4,500 rather than $2,500, and provided leave to appeal was granted by the Supreme Court of Malaysia.[13] The Judicial Committee itself had the power to grant leave in any case whatsoever, including cases in which the Supreme Court itself had refused to grant leave.[14]

Privy Council jurisdiction with respect to Singapore appeals continued after the creation of the Republic in 1965. The Constitution and Malaysia (Singapore Amendment) Act 1965 provided for the current law in force in Singapore to remain in force until amendment or repeal[15] and there was a specific provision for the continuation of the appellate jurisdiction of the Judicial Committee of the Privy Council until provision was made otherwise by the Legislature of Singapore.[16] Similar provisions were contained in the Republic of Singapore Independence Act.[17]

## II. SINGAPORE APPEALS TO THE PRIVY COUNCIL, 1959-84: A STATISTICAL SUMMARY

It is not the aim of this article to examine the role and significance of the Privy Council since 1959 from a statistical viewpoint, as that has been canvassed elsewhere.[18] However, as explained at the beginning, a statistical summary of cases from Singapore heard by the Privy Council, from both a quantitative and qualitative perspective, is relevant to the arguments that need to be canvassed in an evaluation of the usefulness of retaining the Privy Council as the final appellate court in Singapore.[19]

Table 1 provides the quantitative perspective for the years in question. These figures, which represent all cases decided by the Privy

[13] The Federation of Malaya (Appeals to Privy Council) Order in Council, 1958, *supra,* n. 11, s. 2(1), continued by The Malaysia (Appeals to Privy Council) Order in Council, 1963, *supra,* n. 11.

[14] *Ibid.,* s. 2(2).

[15] Constitution and Malaysia (Singapore Amendment) Act 1965, No. 53 of 1965, s. 7.

[16] *Ibid.,* s. 8.

[17] Republic of Singapore Independence Act, No. 9 of 1965. S. 6 provides for the continuation of s. 131 of the Federal Constitution of Malaysia, which provided for the Agreement between sovereigns providing for appeals; s. 11 provides for the continuation of appeals to the Privy Council; and s. 13 provides that current laws in force in Singapore continue in force until otherwise provided,

[18] See Helena H.M. Chan, "The Privy Council As Court of Last Resort in Singapore and Malaysia: 1957-1983" in *"The Common Law in Singapore and Malaysia: — A volume of Essays Marking the 25th Anniversary of the Malaya Law Review 1959-1984"* (Harding ed.) p. 75 (Butterworths, Singapore, 1985)

[19] This review or summary of statistics will cover much the same ground as that canvassed by Chan, *ibid.* However,as much of this information is necessary to a full discussion of the merits and demerits of retaining the Privy Council, it should be useful to provide a brief summary of the statistics at this stage. In addition, there are several disparities in the approach and sources taken in that article and this. Chan covers only the period of 1963-1983 for Singapore statistics, whereas this article goes back as far as 1959, the year of self-rule. The period covered here is sufficient to provide a broad enough analysis of issues covered by the Privy Council for the purposes of this article and ties in with the twenty-five years of nation building celebrated in 1984. Further, Chan has relied on reported cases in the Malayan Law Journal for both her quantitative and qualitative analysis, whereas we rely on that source for the latter only. Finally, Chan's article is general and historical in perspective, whereas this article is issue specific with respect to its statistical review and is basically prospective in nature.

Council for each given year, are taken from annual statistics produced by the Lord Chancellor's Office in London,[20] with the exception of those for 1984, which are not yet available from that source. The 1984 figures are taken from a list of cases forwarded to London, maintained by the Registrar of the Supreme Court of Singapore. That list merely indicates the cases forwarded to the Privy Council and provides no indication as to whether or not the cases have been disposed of or the manner of any such disposition. In addition, the figures for 1963-65 may be distorted somewhat with respect to appeals which have actually arisen from within the territorial boundaries of Singapore, due to the fact that some appeals from Singapore in 1963 and 1965 and all appeals for 1964, would have been reported by the Lord Chancellor as part of the Malaysian statistics.

*Table 1*

*Appeals from Singapore to the Judicial Committee of the Privy Council 1959-1984*

| Year | New Appeals Filed | Appeals pending at beginning of Year | Dismissed for non-Prosecution, Abandoned or withdrawn | Judgment Given | Affirmed | Reversed | Varied |
|---|---|---|---|---|---|---|---|
| 1959 | 1 | 3 | 0 | 1 | 1 | 0 | 0 |
| 1960 | 0 | 3 | 0 | 2 | 1 | 1 | 0 |
| 1961 | 2 | 1 | 1 | 0 | 0 | 0 | 0 |
| 1962 | 1 | 2 | 0 | 1 | 0 | 1 | 0 |
| 1963 | 2 | 2 | 0 | 0 | 0 | 0 | 0 |
| 1964 | 0 | 4 | 0 | 2 | 0 | 2 | 0 |
| 1965 | 0 | 2 | 1 | 1 | 1 | 0 | 0 |
| 1966 | 3 | 0 | 0 | 0 | 0 | 0 | 0 |
| 1967 | 3 | 3 | 1 | 1 | 0 | 1 | 0 |
| 1968 | 2 | 4 | 1 | 2 | 1 | 1 | 0 |
| 1969 | 3 | 3 | 0 | 2 | 1 | 1 | 0 |
| 1970 | 2 | 4 | 0 | 1 | 1 | 0 | 0 |
| 1971 | 1 | 5 | 1 | 3 | 2 | 1 | 0 |
| 1972 | 2 | 2 | 0 | 2 | 0 | 2 | 0 |
| 1973 | 2 | 2 | 0 | 1 | 0 | 0 | 0 |
| 1974 | 4 | 3 | 0 | 2 | 1 | 1 | 0 |
| 1975 | 4 | 5 | 0 | 3 | 2 | 1 | 0 |
| 1976 | 4 | 6 | 0 | 6 | 4 | 2 | 0 |
| 1977 | 5 | 4 | 3 | 2 | 1 | 1 | 0 |
| 1978 | 4 | 4 | 0 | 3 | 3 | 0 | 0 |
| 1979 | 7 | 5 | 0 | 2 | 0 | 2 | 0 |
| 1980 | 7 | 10 | 0 | 8 | 4 | 2 | 0 |
| 1981 | 10 | 9 | 2 | 3 | 3 | 0 | 0 |
| 1982 | 10 | 14 | 2 | 7 | 6 | 1 | 1 |
| 1983 | 5 | 15 | 1 | 4 | 2 | 2 | 2 |
| 1984 | 13 | 15 | * | * | * | * | * |
| Total | 97 | — | 13 | 39 | 34 | 22 | 3 |

*Not yet available.

[20] Civil Judicial Statistics, Her Majesty's Stationary Office, London, 1959-1983.

There are a number of significant points to be made from this table. The first is that there have been only fifty-nine cases which have proceeded to judgment at the Privy Council level throughout the twenty-five years of the survey,[21] or on average, 2.36 cases per year. However, the table also indicates the rate at which appeals were made and the extent to which that rate is increasing. Between 1959 and 1968, only ten appeals proceeded to judgment. In the next ten years, between 1969 and 1978, the number rose to twenty-five. Between 1979 and 1983, the number was a more significant twenty-four, and the only statistics available for 1984 show that, in that year alone, thirteen new cases were forwarded to London, although we do not as yet know how many of those will actually proceed to judgment. This substantial increase is not without significance in any argument concerning retention of appeals to the Privy Council.

Finally, on the quantitative analysis, throughout the period, twenty-two appeals from Singapore were allowed, while thirty-four appeals were dismissed (with three varied).[22] This indicates a success rate, discounting those appeals where the judgment was varied, of approximately 39%, a success rate which would not appear to be significantly out of line with success rates on final appeals in other jurisdictions.[23] Further, if one divides the period of the survey into two equal parts, the more recent appeals to London from Singapore have shown a decline in the number of appeals which have succeeded. From 1959 to 1973, ten appeals were allowed and eight dismissed, a success rate of 56%. However, from 1974 to 1983, the success rate was down to only 32%, with twelve cases allowed on appeal and twenty-six dismissed (discounting those varied).

In order to look at the statistics from a qualitative viewpoint, it is necessary to examine those cases which were actually reported throughout the period of the survey. From the beginning of 1959 through to December of 1984, sixty-five cases were reported in the Malayan Law Journal as Privy Council appeals from Singapore.[24] These cases are listed in the Appendix in chronological order. Of these sixty-five cases, there were sixty-two separate reports, five decisions in 1981 being dealt with in only 2 hearings.[25] The reported cases for the

[21] By including both 1959 and 1984 in the survey, there are actually twenty-six years involved. However, as the details of cases which have been decided by the Privy Council in 1984 are not yet available, this average figure can be based on twenty-five years.

[22] The qualitative review of cases actually reported for the years in question revealed slightly different but comparable figures. Of the sixty-five cases listed in the Appendix, twenty-one appeals were allowed in full, including one (case no. 32) where the cross-appeal was allowed, and another (case no. 14) where the cross-appeal was dismissed. Three cases (case nos. 10, 40 and 43) were allowed in part, including one (no. 40) where the cross-appeal was allowed in part. Forty-one cases were dismissed.

[23] Lord Elwyn-Jones, C.H., the Lord Chancellor, in "The Role and Function of a Final Appellate Court," *infra* n. 98, at p. 36, indicated that a one-in-three (33%) success rate seems to occur in a high proportion of appellate systems. A fuller discussion of the success rate can be found in Section III of this article.

[24] It would appear that the Malayan Law Journal is the best source for Privy Council Appeals from Singapore. A cross reference of Privy Council Appeals reported in the Appeal Cases indicates no additional Privy Council appeals from Singapore which are not reported in the Malayan Law Journal. In addition, it is apparent that only a small proportion of appeals originating from Singapore are in fact reported in Appeal Cases.

[25] Case nos. 45 and 47 of the Appendix.

first several years in the Appendix will obviously relate to cases originating and perhaps heard prior to 1959, but it was felt that these cases could validly be included in the survey for two reasons. First, they will be representative of the range of issues which proceed to the Privy Council. Secondly, the inclusion of these figures will help counterbalance the absence of cases which will have been heard in 1984 but which have not yet been reported, and those cases appealed in 1984 but not yet heard.

The figures given in this part of the statistical analysis and the cases listed in the Appendix are based only on decisions actually originating from Singapore, thus omitting decisions on appeal from the Federal Court arising from other parts of Malaysia during the period when Singapore formed part of the Federation,[26] and also omitting decisions on appeal from the Federal Court, other than those arising from the Federal Court in Singapore, during the transitional period when Singapore no longer formed part of the Federation but when the Federal Court, sitting in Singapore, was part of the Singapore judicial system.[27] From January 8, 1970, when Singapore re-established its own Court of Appeal and Court of Criminal Appeal,[28] the origin of appeals ceased to be a problem, as Singapore's court structure became quite distinct from that of Malaysia.[29]

Table 2 provides the detailed breakdown of the subject matter of the various reported appeals covered by the survey. Of the sixty-five decisions, at least twenty-seven[30] involve more than one issue, and a small number involve three or more.[31]

While the subject matter breakdown speaks for itself, a number of points may be made. The number of tort and contract cases is probably not exceptional, but there are perhaps a greater number of property and landlord and tenant cases than might be expected. Given the importance of Singapore as a port, the number of shipping cases seems rather small. There are surprisingly few cases which have involved issues of company law. The criminal cases, though small in number, not altogether surprisingly contain some of the more interesting

26 Between September 16, 1963 and August 8, 1965. This analysis therefore will include cases which may have been missed in Table 1 for 1963-1965, due to the fact that in those years Singapore appeals would have appeared as Malaysian statistics.

27 Under s. 11 of the Republic of Singapore Independence Act, *supra,* n. 17.

28 Supreme Court of Judicature Act, *supra,* n. 6.

29 It is accepted that the omissions resulting from this arguably arbitrary line-drawing during the period 1963-1970 may not be entirely consistent with the doctrine and rules of *stare decisis,* particularly as far as the period when Singapore formed part of the Federation of Malaysia is concerned. It is, however, submitted that the line drawn does provide the closest possible indication of appeals genuinely originating from Singapore, and adheres as nearly as possible to the concept of Singapore's "traditional" court system. This article does not purport to give an accurate analysis of which decisions of the Privy Council are, or should be regarded as being, binding on Singapore courts. Such an analysis has little bearing on the retention or abolition arguments. For a full discussion of this question, and of the general problems relating to *stare decisis* which have arisen as a result of Singapore's brief union with Malaysia, see the articles (expressing partially differing views) by Harbajan Singh, "Stare Decisis in Singapore and Malaysia — A Review", [1971] 1 M.L.J. xvi-xxii, and Walter Woon, *infra* n.43.

30 Appendix, case nos. 1, 3, 6, 9, 10, 11, 12, 13, 20, 21, 27, 29, 30, 31, 34, 36, 39, 41, 42, 43, 45, 47, 50, 52, 56, 57 and 61.

31 Appendix, case nos. 6, 10, 13, and 29.

judgments and involve a disproportionately large number of significant issues such as practice and procedure, evidence, natural justice and the constitutionality of certain laws.

The survey does indicate that the cases which have proceeded to London have involved issues which span the widest range of jurisprudence, with no one or two areas being predominant. Many have involved issues which are relevant to the considerations which concern the question of retention of appeals to the Privy Council, but any discussion of this aspect of the survey may perhaps best be left to the following sections of this article.

*Table 2*

*Breakdown of Subject-Matter of Cases Appealed*[32]

| | |
|---|---|
| Banking | 4 |
| Company | 3 |
| Constitution | 4 |
| Contract | 7 |
| Criminal— | |
| Capital Offences | 8 |
| Disciplinary | 6 |
| Evidence | 3 |
| Justice— | |
| Natural | 3 |
| Miscarriage of | 2 |
| Practice & Procedure *— | |
| Civil | 10 |
| Criminal | 5 |
| Property— | |
| Landlord & Tenant | 6 |
| Other | 6 |
| Shipping | 6 |
| Tax | 6 |
| Tort | 10 |
| Others | 6 |
| Total | 95 |

* Including discussion of the powers of the Privy Council as an appellate court.

[32] These figures are based on the 62 reported decisions listed in the Appendix. The subject-matter of those cases decided together (see case nos 45 and 47) has been treated as if each decision relates only to one case. The total number of issues (95) is reached as follows: 35 cases (see case nos. 2, 4, 5, 7, 8, 14, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 28, 32, 33, 35, 37, 38, 40, 44, 46, 48, 49, 51, 53, 54, 55, 58, 59, 60 and 62) involving only one major issue; 23 cases (1, 3, 9, 11, 12, 20, 21, 27, 30, 31, 34, 36, 39, 41, 42, 43, 45, 47, 50, 52, 56, 57 and 61) involving two major issues; 2 cases (6 and 10) involving three major issues; and 2 cases (13 and 29) involving four major issues.

## III. Advantages of Retaining Privy Council Appeals

One of the earliest arguments in favour of the retention of the Privy Council in the transition from Empire to Commonwealth was that such a body would provide a unifying force in Commonwealth jurisprudence, fostering the continued formulation of common principles of law, reducing diversity and promoting cohesion.[33] However, in view of the fact that many former colonies have already abolished appeals, and in light of the realities of the relationships among member states of the modern Commonwealth, the extent to which the Privy Council promotes cohesion and unification within that august body would appear to be minimal. The extent to which Singapore itself benefits from the continuation of appeals in this regard would presumably be even less. In addition, the Privy Council itself, at least regarding matters of strict common law, has recognized that it is possible for the law to develop differently in different areas under Privy Council jurisdiction.[34] Accordingly this factor can be dismissed today as practically irrelevant.

A similar argument in favour of retention is that, in situations where legislation in a Commonwealth country accords with that of the United Kingdom, or with that of another Commonwealth country, it is advantageous and desirable that there be uniformity of interpretation and construction with respect to that legislation.[35] The overlapping membership of the House of Lords and the Judicial Committee, and within the Judicial Committee itself with respect to appeals from disparate jurisdictions, helps to achieve that uniformity for those nations retaining the Privy Council appeal structure. This argument in favour of retention attains more power in the Singapore context in light of the fact that much legislation is borrowed, word for word, or practically so, from the United Kingdom,[36] and is stronger still by reason of the existence of certain legislative provisions, such as section 5 of the Civil Law Act,[37] which provide for incorporation into local law, on a continuing basis, of certain English legislation. With respect to "mercantile" matters, what better way to ensure that a local case[38] on a relevant matter is decided in a manner similar to the way in which it would be decided in England than to provide an appeal on such matters to the Privy Council? Even in non-statutory and primarily non-mercantile areas, such as tort and contract, there is heavy dependence on English common law. Again, this is an area in which Privy Council judges would be very experienced.

33 See Marshall, *supra,* no. 2, at p. 707; Campbell, "The Decline of the Jurisdiction of the Judicial Committee of the Privy Council" (1959), 33 A.L.J. 1% at 200.

34 See *Australian Consolidated Press Ltd.* v. *Uren,* [1969] 1 A.C. 590 (P.C.).

35 See Campbell, *supra,* n. 33, at 206. This concept with respect to common legislation was given express recognition by the judgment of Lord Diplock in *deLasala,* [1979] 2 All E.R. 1146 (P.C.).

36 See, for example, the Carriage of Goods by Sea Act, No. 30 of 1972; the Bills of Exchange Act, 1970 Rev. Ed. Cap. 28.

37 Civil Law Act, 1970. Rev. Ed. Cap. 30.

38 In one shipping case, *Chan Cheng Kum* v. *Wah Tat Bank Ltd.* (Appendix, case no, 18), which related, *inter alia,* to the question of whether a mate's receipt had come, through custom, to constitute a document of title with respect to shipping passing between Sarawak and Singapore, the Board even invoked s. 5, *ibid.,* usually only considered in relation to statutes, in holding that the decision as to whether or not the alleged custom had become law must be determined in accordance with the requirements of English law, since the matter was a mercantile one, and was thus covered by the section.

If one looks to the subject-matter breakdown of the issues raised in Privy Council appeals from Singapore (Table 2), issues of banking, company, contract, tort and shipping law (all, to a greater or lesser extent, modelled on English law) have comprised about one-third of the total issues raised. Therefore, this factor may indeed be significant in the decision to retain jurisdiction. In almost all of the cases where such issues have arisen, the Board has reached its decision, where no local statute has been involved, by the application of prior English (and, on occasion, Privy Council) decisions[39] or, where local statutory provisions identical with or similar to English statutes have been in dispute, by interpreting the statutes with the assistance of relevant English decisions, always bearing in mind and taking into account whatever differences there may be between the respective provisions.[40]

This argument does not, however, have the absolute strength which at first glance it might appear to have. By virtue of the fact that the Privy Council does not act as the final court of appeal for all Commonwealth countries, it is impossible to ensure complete uniformity of interpretation. Furthermore, legislation will often differ both in form and in wording.[41] In addition, even in cases where there is common, identically worded legislation, a common interpretation need not follow:

> The needs and conditions of our country may be different and the 'borrowing' may have been effected for the sake of expediency. Further, the notion of uniformity cannot be taken too far, otherwise we would hold ourselves bound by applicable decisions of other Commonwealth countries as well.[42]

Moreover, in light of the current reliance of local judges upon English authority,[43] abolition of appeals to the Privy Council will not be likely to reduce significantly uniform interpretation of common legislation or common law. Decisions of the United Kingdom Court of Appeal and House of Lords will continue to be highly persuasive, given the familiarity of the members of the local bench and Bar with those authorities, a familiarity not surprising given their educational back-

39 See *e.g.,* Appendix, case nos. 1, 3, 6, 7, 8, 19, 21, 23, 24, 25 and 42.

40 See *e.g.,* Appendix, case nos. 2, 12, 20, 41, 44 and 58; and see *infra* n. 41.

41 Clearly, where legislation, rules and regulations etc. develop differently this may, and usually will, be for a particular reason, and it can be dangerous in such cases to rely on the interpretation of different English provisions in attempting to resolve questions arising from local provisions. Lord Brandon made this point when delivering the judgment of the Board in the local Privy Council decision of *The "August 8th": The August 8th Owners* v. *Costas Bachas* (Appendix, case no. 56). In that case it had been suggested by counsel that the Rules of the Supreme Court of Singapore 1970 should be interpreted in accordance with the Rules of the Supreme Court in England. Lord Brandon said (at p. 284):

> In their Lordships' opinion, the situation in this respect as it now exists under the present Rules of the Supreme Court in England cannot have any bearing whatever on the situation which exists under the differently worded Rules of the Supreme Court of Singapore 1970. So far as the situation which exist[s] in England... is concerned, there are historical reasons... whether there be sensible reasons or not... so far as English procedure is concerned, their Lordships can see no justification whatever for importing [this] into... the Rules of the Supreme Court of Singapore.

42 Andrew Phang, "Overseas Fetters: Myth or Reality", [1983] 2 M.L.J. cxxxix at cxliv-cxlv.

43 For a statistical review of the role played in local cases by case authority from the United Kingdom, see Walter Woon, "Precedents that Bind — A Gordian Knot: *Stare Decisis* in the Federal Court of Malaysia and the Court of Appeal, Singapore" (1982), 24 Mal. L.R. 1.

ground and the more extensive research tools available for English cases. Having said this, and whilst fully accepting that these factors do detract somewhat from the force of this argument in favour of retaining the Privy Council, it is nevertheless submitted that the argument of "uniform interpretation" does remain a valid one in favour of retention, particularly in view of local legislation expressly incorporating certain aspects of English law.

The Privy Council has also provided many newly independent states with a benefit in the transition from colonial to independent status by giving many such states the time needed to establish a local judiciary as experienced as those judges who sit on the Privy Council, judges with experience in litigation involving large interests, and complex issues.[44] In the transition, the Privy Council has, and has had, the beneficial influence of helping to maintain high legal standards and ideals of justice.[45] Singapore has been among the states able to reap these potential benefits for the last twenty-five years.

The question now is whether such benefits continue to be relevant from a Singapore perspective. It is virtually impossible to provide an answer to that question based on empirical evidence. The benefit could be argued to be of continuing relevance if the success rate of appeals to the Privy Council from Singapore were found to be excessive in comparison to the success rate of final appeals from other jurisdictions.[46] However, if the success rate for Singapore appeals is comparable to or less than that for final appeals elsewhere, the comparison will provide on positive indication that this benefit has any continuing application in the local context.

The success rates from 1960-1983 are shown in Table 3.[47] A comparison indicates that throughout the period from 1960, the success rate on appeal (the number of appeals allowed) from Singapore was comparable to that from the other jurisdictions. Indeed, if one breaks the statistics into two periods, the success rate for the last ten years for which comparable statistics are available indicates that judgments on appeal from Singapore were less likely to be reversed than were judgments on appeal from the English Court of Appeal to the House of Lords, and that the rate was less than the overall success rate on

44 See Campbell, *supra, n.* 33, at 206.

45 See comments to this effect by Farris, in "Abolition of Appeals to the Privy Council — A Symposium" (1947), 25 Can. Bar Rev. 557.

46 Use of the success rate on appeal as empirical evidence of the benefit to be derived from the continuation of the jurisdiction of the Privy Council in this field is, in any event, open to criticism. We appreciate that an appellate court may well affirm a given decision for any number of reasons and that to this extent consideration of success rates on appeal is of limited significance. However, as this is true of all jurisdictions included in the comparison, the comparison presumably retains some relevance. As well, the figures are examined only to determine whether the success rate is excessive, as it can be argued that, if for a given jurisdiction, such is the case, that jurisdiction might continue to benefit from being able to take advantage of the wider experience of judges who sit on the Privy Council.

47 This table is compiled from statistics of all decisions rendered by the appropriate final appellate court and published by the Lord Chancellor, *supra,* n. 20. The starting date of 1960 arises due to the local unavailability of House of Lords statistics for 1959 at the timing of writing this article. The success rates of this table discount those decisions which are shown as having been varied by the appropriate appellate court.

appeal to the Privy Council from all jurisdictions.[48] Accordingly these statistics do not lead one positively to conclude that this is a benefit which is of significance to Singapore in deciding to retain the jurisdiction of the Privy Council.

*Table 3*

*Success Rates of Final Appellate Courts*

| Period | 1960-1983 | | | 1960-1973 | | | 1974-1983 | | |
|---|---|---|---|---|---|---|---|---|---|
| | A* | D* | R* | A* | D* | R* | A* | D* | R* |
| House of Lords | 460 | 649 | 41% | 229 | 317 | 42% | 231 | 332 | 41% |
| Privy Council — all jurisdictions | 299 | 491 | 38% | 174 | 293 | 37% | 125 | 198 | 39% |
| Privy Council — Singapore | 22 | 34 | 40% | 10 | 8 | 56% | 12 | 26 | 32% |

A*=Number of Appeals allowed [*i.e.* "success rate"]
D*=Number of Appeals Dismissed
R*=Success Rate as Percentage

There are, however, other factors which ought to be considered in deciding whether there is any benefit to be derived by Singapore in continuing to have access to the experienced judges sitting on the Privy Council. One intrinsic concern is the relatively small population of Singapore, and its ability to maintain a sufficiently large pool of experienced legal practitioners willing to assume high judicial office. It is significant here to note that many nations which have retained Privy Council jurisdiction after independence are nations with a small population base in which this factor may be important.[49]

[48] The figures used in this comparison only involve decisions rendered to the end of 1983, as figures for the other jurisdictions are only available to that time. Decisions on appeal from Singapore which have been rendered and reported since 1st January, 1984, show no significant contrary trend. Nine additional judgments have been reported in the Malayan Law Journal up to August 1985. The reports of these cases show one appeal allowed in 1984, and three dismissed, and for 1985, up until the August report, three appeals allowed and two dismissed. These two raise the success rate to 31% for the period after 1983, but this is still well below the figures for the other jurisdictions. These nine additional decisions include cases 59, 60, 61, 62, and *Harry Wee Lee* v. *Law Society of Singapore,* [1985] 1 M.L.J. 1; *Chng Boon Huat* v. *Comptroller of Income Tax,* [1985] 1 M.L.J. 6; *Meng Leong Development Pte. Ltd.* v. *Jip Hong Trading Co. Pte. Ltd.,* [1985] 1 M.L.J. 7; *V.M. Peer Mohamed* v. *Great Eastern Life Assurance Co. Ltd.,* [1985] 1 M.L.J. 331; *Neo Tai Kim* v. *Foo Stie Wah,* [1985] 1 M.L.J. 397.

[49] Halsbury's Laws of England, 4th Ed., (Butterworths, London, 1974), reviews the jurisdiction of the Privy Council over Commonwealth countries in Vol. 6, under the heading "Commonwealth and Dependencies". It is quite clear by reviewing that section that many of the smaller nations have retained Privy Council jurisdiction after independence, while nations with larger populations have tended to abolish it. For instance, nations such as Ghana, Uganda, Ceylon, India, and Canada have abolished appeals, while the Bahamas, Fiji, The Gambia, Mauritius, Trinidad and Tobago, and Jamaica have retained appeals. With regard to the latter, many of these nations have very small populations (and, presumably, correspondingly small Bars), and retention of the jurisdiction of the

This is a problem which has indeed been acknowledged by the government. The Prime Minister has indicated [50] that the government faces, and will continue to face, in the short term, problems in finding sufficient numbers of lawyers with the appropriate credentials to be invited to join the ranks of the judiciary. This problem, as pointed out by the Prime Minister,[51] is doubtless compounded by the fact that the salaries paid to judges in comparison to the earnings of successful solicitors and advocates (whose remuneration can be very high) are comparatively unattractive.

It might therefore be concluded that there may be a residual concern relating to the availability of a suitably large pool of legal practitioners from which judges may be appointed. Even with this recognition, it could well be argued that the right to appeal to the Privy Council, a right so infrequently utilized,[52] does little to ameliorate this situation. Having said this, however, there may still be individual cases where the ability to tap the experience of the Judicial Committee remains attractive. Nevertheless, this consideration should at best support a short-term extension of Privy Council jurisdiction. The pool of sufficiently experienced practitioners from which judges may be selected must, within the next few decades, increase, especially in light of the increase in the number of graduates from the National University of Singapore Faculty of Law, with classes of two hundred becoming the norm within the next two years.

One of the most powerful arguments which was advanced in some jurisdictions for retention of the Privy Council was that it served the need to have a court free from local prejudice, one which was capable of safeguarding minority rights. This was indeed at one time perceived as important in the retention of Privy Council appeals from Canada, where the large French minority wished to ensure protection of their

Privy Council may relate to the ability of the nation to sustain a Court of Appeal, in addition to the problem of a large and experienced Bar from which judges may be drawn. This additional problem would not apply to Singapore. Of particular note is the retention of the appellate jurisdiction in New Zealand (with slightly larger population) and Jamaica (with slightly smaller population). While New Zealand may have slightly more sentimental ties with the United Kingdom, such would not necessarily be the case with Jamaica and Singapore, and the population size may be a relevant concern to retention of the jurisdiction in such states. The pattern, however, is not consistent, as Sierra Leone, with a comparable population (2.8 million in 1970 according to the Encyclopeadia Britannica), abolished appeals to the Privy Council in 1972.

[50] The subject of lawyers able and willing to serve in the public sphere rather than remain in private practice was raised by the Prime Minister during the Parliamentary Debate on Ministers' salaries on 22nd March 1985. Mr. Lee spoke of the lack of suitable candidates in the short term for posts such as those of Chief Justice and Attorney-General, and he expressed concern about appointments in the near future to the judiciary, both because of the relative inexperience of potential candidates and because of the comparatively unattractive salaries offered to judges. He went on to say that the situation must be changed, and that good people must be attracted to such positions, otherwise "the judicial system will not be able to stand for another five years". Mr. Lee said that the situation was, in his opinion, so worrying that "I am seriously considering whether we should not have an Enlistment Act to meet this problem." See Parliamentary Debates, (1985), Vol. 45, No. 12, col. 1222.

[51] *Ibid.*

[52] See Table 1, which indicates that only 59 judgment s on appeal from Singapore were rendered by the Privy Council for the twenty-five year period from 1959-1983.

rights through an impartial Privy Council.[53] In light of the composition of the Singapore population, this could be a relevant factor favouring retention. However, of all the decisions reported from the Privy Council in the years in question, there is none which can be regarded as being concerned, even in the most general sense, with minority rights or issues, so whatever the merits of the argument in a theoretical sense, it would seem that, in practice, it is of little or no significance. In addition, the use of this argument presupposes that local judges will not be impartial in their treatment of minorities, a presupposition for which there is no empirical evidence. Further, few countries today would be willing to accept the argument that impartiality and non-prejudicial judgments should be achieved by use of a court sitting outside the territory in question. It light of these considerations, it is submitted that this factor can be ignored in the consideration of whether there is a net benefit to Singapore in retaining the Privy Council.

A final factor which might be advanced as a relevant benefit is that the retention of Privy Council appeals may increase investor confidence in Singapore. The argument assumes that foreign investors will be more confident with respect to local investment and business dealings if they are assured that any legal disputes can be taken, should the need arise, to a court which symbolizes the best of British justice.[54] Obviously, such investor confidence is very important for Singapore at this stage of development. The extent to which the existence of such appeals influences investment decisions is difficult to gauge, but some foreign interests have made use of the Privy Council appeal in the years in question. There have been at least two instances where foreign plaintiffs have initiated an appeal to the Privy Council — one an English company,[55] the other a company incorporated in Hong Kong.[56] Both appeals related to questions involving passing-off and trade marks. At least four other cases have involved foreign individuals, companies or organizations.[57]

Although the number of cases involved here is rather small, the evidence available gives no real indication either way of the number of investors who consider the availability of an appeal to the Privy Council as being relevant to the initial investment decision. Hence, this factor cannot be dismissed precipitously. However, one would suspect that the entire underlying legal and legislative structure, and the attitude of government, would be far more fundamental to investment decisions than would the availability of an appeal to the Privy Council.

53 See Livingston, "Abolition of Appeals from Canadian Courts to the Privy Council" (1950), 64 Harv. L. Rev. 104. See also Herman, "The Founding of the Supreme Court of Canada and the Abolition of Appeals to the Privy Council" (1976), 8 Ottawa L. Rev. 7.

54 This element was indeed raised as being a relevant concern with respect to the retention of Privy Council appeals in Malaysia. See Rajan, "Appeals to the Judicial Committee of the Privy Council — Perpetuating a Legal Fiction" (1975), a project paper submitted in partial fulfilment of the requirement of the Degree of Bachelor of Laws in the Faculty of Law, University of Malaya, University of Malaya Law Library, Kuala Lumpur.

55 Appendix, case no. 7.

56 Appendix, case no. 26.

57 Appendix, case nos. 1 (where the respondent was an English company), and 41 (where the respondent was a company incorporated in England, wholly owned by the Soviet government, with its place of business in Singapore). See also case Nos. 56 and 57.

## IV. DISADVANTAGES OF RETAINING PRIVY COUNCIL APPEALS

On the other side of the argument, numerous disadvantages of Privy Council appeals have been identified. The most obvious criticism of the Privy Council is that, being a court so far away, the costs and delay involved in an appeal are too great to be justifiable.[58] The successful appellant may well feel that the extra cost and delay in achieving a just result are worth the battle, but what of a respondent who is dragged unwillingly to London after having won twice locally, and who wins again on appeal? The cost aspect can indeed be used to the disadvantage of someone who has succeeded locally, as was demonstrated by certain instances in Canada where the threat of appeal to the Privy Council was utilized by wealthy Quebecois to force compromises from litigants who had succeeded in Canadian courts, and who could not afford the cost of a further appeal.[59] The fact that there have been so few appeals in twenty-five years would tend to indicate that cost and delay are very relevant factors in bringing a case before the final court of appeal for Singapore.

The prohibitive cost of such appeals, combined with the concept of horizontal *stare decisis* in the Singapore Court of Appeal, can work to the disadvantage of the legal system itself. Take, for instance, the example of a litigant who has succeeded in establishing a precedent in his favour at the Court of Appeal level. If his unsuccessful opponent is not wealthy enough to afford a further appeal to the Privy Council, that precedent remains on the books and binds Singapore courts until someone has the financial means to bring the issue before the higher court. In the rare event that the opponent can afford an appeal, the successful local litigant, fearing the possibility of an adverse ruling in the Judicial Committee, might agree to settle the case in favour of his opponent, ending the appeal and leaving the Court of Appeal ruling in place. Once again, due to the fact that the Court of Appeal feels itself bound by its own prior decision,[60] this system could perpetuate bad law.[61] This factor can become very acute due to the very small number of cases which actually proceed to the Privy Council.

Of course, it is always open for the Court of Appeal itself to lessen this disadvantage by deciding it will no longer be bound by the rules of horizontal *stare decisis,* and will, in appropriate cases, feel free to depart from its own prior decisions. A similar attempt by the English Court of Appeal to shed the fetters of horizontal *stare decisis* was overruled by the House of Lords.[62] However, the Privy Council might not take such an approach, based on the principle that the reasons for not allowing the English Court of Appeal to depart from its own authority do not apply to many Privy Council jurisdictions, especially

58 See Campbell, *supra* n. 33, at 206.

59 See Herman, *supra* n. 53, at 13.

60 *Re Lee Gee Chong* (1965), 31 M.L.J. 102, a 1964 decision of the Federal Court sitting in Singapore, accepted the rules of horizontal *stare decisis* laid down in *Young* v. *Bristol Aeroplane Co. Ltd.,* [1944] K.B. 718 (C.A.). For an excellent review of the doctrine of *stare decisis* in the Singapore context, see Woon, *supra,* n. 43.

61 The perpetuation of bad law by a similar line of reasoning was an argument put forward by Lord Denning, M.R., to suggest that the United Kingdom Court of Appeal should not be bound by its own prior decisions, in *Davis* v. *Johnson,* [1978] 1 All E.R. 841, at pp. 852-53.

62 See the decision of the House of Lords in *Davis* v. *Johnson,* [1978] 1 All E.R. 1132, overruling the Court of Appeal decision, *ibid.*

in light of the difficulty in a large number of jurisdictions for litigants to take a case to London, making their own courts of appeal *de facto* final courts of appeal. In light of the concern for perpetuation of bad law which the system of Privy Council appeals sometimes entails, the Privy Council might well be convinced to allow a departure from horizontal *stare decisis by* the Singapore Court of Appeal.

Perhaps the most fundamental objection to the continuation of appeals in a post-colonial society has been that an appeal body composed of British judges, sitting outside one's own territory, is a derogation of sovereignty, and is inconsistent with nationhood.[63] This at first glance appears to be a powerful argument, but it must be remembered that the Parliament of Singapore is quite free at any time to abolish appeals to the Judicial Committee, and, in the free exercize of its sovereign power, has voluntarily chosen not to do so. This concept was clearly enunciated by Viscount Radcliffe, speaking for the Privy Council itself in *Ibralebbe* v. *The Queen,*[64] a case on appeal from Ceylon, in which it was suggested that a continuation of appeals to the Privy Council was inconsistent with the independent status of Ceylon:

> … it seems to [be] a misleading simplification to speak of the continuance of the Privy Council appeal as being inherently inconsistent with Ceylon's status as an independent territory or as being bound up with a relationship between Her Majesty and colonial subjects. Historically, the assumption would in itself be inaccurate, and, constitutionally, it is unnecessary. For, it is recognized, as it must be, that the legislative competence of the Parliament of Ceylon includes power at any time, if it thinks right, to modify or terminate the Privy Council appeal from its courts. True independence is not in any way compromised by the continuance of that appeal, unless and until the sovereign legislative body decides to end it.[65]

The recognition of this reasoning tends to deflate the importance of the argument against retention of the appellate jurisdiction of the Judicial Committee. However, it may properly be acknowledged that, even though continuation of appeals is the exercise of a sovereign will, the Privy Council is a symbol of colonialism, somewhat anachronistic in the modern Commonwealth (even in light of more recent trends in the Privy Council to co-opt Commonwealth judges to sit on individual cases). Many former colonies have acted to replace it with a final, local appellate court,[66] as a demonstration of independence of the judiciary, if not independence of the state itself.

A further argument raised by many nations in the abolition of appeals was the fact that a Privy Council panel did not possess the necessary factual background and local understanding of constitutional structures of the systems upon which they were called to adjudicate.[67] In some instances, this problem was counterbalanced for a time by a feeling that it was beneficial to have such constitutional issues deter-

[63] See Marshall, *supra,* n. 2, at 708; Campbell, *supra* n. 33, at 199; and Farris, *supra,* n. 45, at 564-65.
[64] [1964] A.C. 900 (P.C.).
[65] *Ibid.,* at 924-25.
[66] *Supra*, n. 2.
[67] See Marshall, *supra,* n. 2, at 708.

mined by judges who were more objective, impartial and disinterested than were the local judiciary.[68] This concern would appear much more relevant to those former colonies which adopted a federal system, such as Canada and Australia, where constitutional disputes involving distribution of political power between federal and provincial or state Parliaments were often before the courts.[69] As such, the argument has little relevance to Singapore, a unitary state where such disputes do not take place.

Having said this, however, it is perhaps worth noting that, in seven of the sixty-five appeals reported from Singapore, constitutional issues have been raised and considered,[70] although five of the seven appeals were, as stated above, dealt with in only two hearings.[71] In the first case, involving two appeals,[72] it was argued that provisions in the Misuse of Drugs Act 1973 [73] involving a presumption of possession for purposes of trafficking and a mandatory death penalty for trafficking in controlled drugs in excess of certain higher minimum quantities, were inconsistent with the Constitution. In the second case, involving three appeals,[74] the new procedure introduced by the Criminal Procedure Code (Amendment) Act 1976[76] with respect to the accused being called upon to speak, was challenged as being contrary to the fundamental rules of natural justice, which included the privilege against self-incrimination, and hence as being inconsistent with the Constitution.

In both these appeals, the constitutional issue was raised for the first time before the Privy Council. Perhaps being conscious of the criticism mentioned above, Lord Diplock, in delivering judgment in the first case, said:

> It is only most exceptionally that their Lordships would permit a question of the constitutionality of an Act of the Singapore Parliament to be raised for the first time in course of the hearing of an appeal by their Lordships' Board. Such a question is eminently one on which their Lordships would wish to have the benefit of the opinion of members of the judiciary of Singapore who are resident in the Republic and more familiar than their Lordships with local conditions there. But these are capital cases and their Lordships would be reluctant to dispose finally of the

68 See Livingston, *supra,* n. 53, at 190.

69 The key problem in this regard is the fact that such decisions often involve political, rather than legal, choices and solutions, choices which require intimate knowledge of local conditions. Herman, *supra* n. 53, points out that this concern was a leading factor in the abolition of Canadian appeals to the Privy Council, and notes a comment by the Minister of Justice for Canada in 1876, at 25, to this effect:

> A Privy Council 'removed beyond the influence of local knowledge, of local experience, of local habits of thought and feeling, of much of the learning... and experience which Canadians living under the Canadian constitution acquire's was almost bound to err, particularly in constitutional cases.

70 Appendix, case nos. 43, 45, 47 and 48.

71 Appendix, case nos. 45 and 47. The constitutional issues raised in each of those decisions are counted only once for the purpose of computing the subject matter list contained in Table 3. The figure appearing in that table for the number of cases raising constitutional issues is, therefore, only four.

72 *Ong Ah Chuan* v. *Public Prosecutor; Koh Chai Cheng* v. *Public Prosecutor,* [1981] 1 M.L.J. 64.

73 No. 5 of 1973, s. 15, s. 29 and the Second Schedule.

74 *Haw Tua Tau* v. *Public Prosecutor; Tan Ah Tee* v. *Public Prosecutor; Lew Heng Eng* v. *Public Prosecutor,* [1981] 2 M.L.J. 49.

75 No. 10 of 1976, s. 16.

> appeals so long as any plausible argument against the sentences remained unheard, even though the argument was not thought of until the eleventh hour....[76]

These comments were reiterated by Lord Diplock in the second case.[77] His Lordship made it quite clear in both instances that if, at the close of argument, their Lordships had had any doubt about the constitutionality of the provisions, they would have remitted the case to the Court of Criminal Appeal for its opinion prior to the Board making its final determination.[78]

In both cases, the Board concluded that there were no doubts about the constitutionality of the relevant provisions. However, their Lordships' analysis of the constitutional issues was full and detailed,[79] and, in the first case, included a discussion of human rights,[80] natural justice,[81] and, albeit briefly, the concept of equality before the law.[82] It could be argued that such a frank and detailed consideration might have been more difficult for a court within the system. It is true that constitutional issues are not frequently raised before Singapore courts, and that, when they are raised, challenges to the constitutionality of provisions are not usually successful.[83] One understandable reason for the cautious attitude adopted by both the Bar and the judiciary locally in raising and considering such issues could well stem from unfamiliarity with such matters. The Privy Council, on the other hand, (together, presumably, with Counsel representing litigants at that level) has considerably more experience in looking into constitutional matters, and has frequently had to do so on appeals from other jurisdictions.

Thus, it seems that, although at the end of the day, the Privy Council is likely, when constitutional issues are raised for the first time before it, to refer back to Singapore courts for advice on local conditions connected with and relevant to the constitutionality of the provisions in question (thus arguably limiting the significance of the role played by the Privy Council in this respect),[84] it is probably true that the Privy

76 *Supra,* n. 72, at p. 67.
77 *Supra,* n. 74, at p. 50.
78 *Supra,* n. 72, at p. 67; *Ibid.*
79 *Supra,* n. 72, at pp. 70-73, and *supra,* n. 74, at 52-54.
80 *Supra,* n. 72, at 70.
81 *Ibid.,* at 71.
82 *Ibid.,* at 72.
83 Comparatively recent examples of such unsuccessful challenges can be found in the cases of *Mohamed Yusoff bin Samadi* v. *Attorney-General* [1975] 1 M.L.J. 1 and *Harry Lee Wee v. Public Prosecutor* [1980] 2 M.L.J. 56. In the first, a claim that certain public service regulations were *ultra vires* Article 7(2) of the Federal Constitution (the constitution of Malaysia applicable by virtue of s. 6(3) of the Republic of Singapore Independence Act 1965) was rejected, and in the second a claim that particular fines were contrary to Article 7(1) was also rejected. (Article 7(1) relates to the validity of retrospective provisions and Article 7(2) to double jeopardy).
A notable and fairly recent exception was the case of *Howe Yoon Chong* v. *The Chief Assessor, Singapore,* [1985] 1 M.L.J. 182, where Lai Kew Chai J., in the High Court, hearing an appeal from a decision of the Valuation Review Board, held that an administrative practice of the Chief Assessor was unconstitutional, since it did not accord the appellant equal protection of the law given under Article 12(1) of the Constitution.
84 And, it is perhaps worth noting that in neither of the other cases in which constitutional issues were raised was the appeal allowed. An argument that inequality in an amended valuation list, compiled for property tax purposes, was unconstitutional was rejected in *Howe Yoon Chong* v. *Chief Assessor,*

Council does at least provide an additional forum for such issues to be raised and considered. Hence, for Singapore, the constitutional argument may be an advantage for retention rather than a disadvantage. This should not, however, be seen as an argument in favour of indefinite retention — for as time goes on, constitutional issues will no doubt be raised more frequently locally, and the local courts will themselves have the opportunity to consider and dispose of those issues.

A related argument can be made with respect to non-constitutional issues. Decisions of the Privy Council may well be wrong due to a lack of intimate knowledge of local conditions and the relevant system of law.[85] This may be a significant problem for Singapore, where local conditions and aspirations, historical background and ethnic origins may play a significant role in the development of local jurisprudence and attitudes. Such factors may be difficult to convey to the justices of the Judicial Committee, no matter how proficient the counsel, and could best be dealt with by a final appellate tribunal in Singapore.

Finally, a significant, and related, problem arises from the tendency of the existence of continued Privy Council jurisdiction to stultify local development of the law.[86] The current system encourages an uncritical and mechanical approach to cases and a vast overdependence upon case authority from the United Kingdom.[87] Such overdependence is not beneficial:

> … benefits, however, have not always been gained from almost complete dependence, especially during the first half of this century, upon the courts of England for development of the substantive law. This dependence has led some Canadian judges to make uncritical and overly mechanical applications of English precedents and to abnegate an historic function of the judicial process, that of adapting the law to the ever shifting phases which human affairs assume.[88]

The concept of stultification of the law may not apply to all jurisdictions which continue to submit to Privy Council jurisdiction. For many Commonwealth countries with a small population base,[89] a

*Property Tax, Singapore* (Appendix, case no. 43) and, some six weeks after the decision in Haw *Tua Tau, supra,* n. 74, in *Sundram Jaykumal* v. *Public Prosecutor* (Appendix, case no. 48), a petition applying for leave to appeal in relation to the constitutionality of another provision of the Criminal Procedure Code was rejected for the reasons given in *Haw Tua Tau.*

85 See Campbell, *supra,* n. 33, at 200: Marshall, *supra,* n. 2, at p. 708.

86 In the Canadian context, Herman, *supra,* n. 53, opined that the Supreme Court of Canada was unable to develop any distinctive jurisprudence or judicial technique until Privy Council appeals were abolished. Read, "The Judicial Process in Common Law Canada" (1959), 37 Can. Bar. Rev. 365, indicates the same at 268:

> Indeed, a perusal of Canadian law reports not only verifies an absence of creative approach, but conveys the impression that most of the opinions reported there are those of English judges applying English law in Canada, rather than those of Canadian judges developing Canadian law to meet Canadian needs with guidance of English precedent.

87 For a statistical review of local dependence on United Kingdom case authority, see Woon, *supra,* n. 43.

88 See Read, *supra,* n. 86, at 266.

89 See, supra, n. 49. For instance, the Bahamas, Fiji, The Gambia, Mauritius and Trinidad and Tobago have all retained Privy Council jurisdiction. The 1970 population figures given by the Encyclopeadia Britannica indicate the largest population of these countries to be that in Trinidad and Tobago of

decision to retain Privy Council appeals may be based on a possible advantage seen in relying on the English courts to develop the legal system and jurisprudence, leaving it to the local Parliament to legislate in those areas where local circumstances require different law. While Singapore's population base is small, one might argue that it is sufficiently large to remove it from the category of small population states of which this might well be true. In addition, the small amount of jurisprudence emanating from the Privy Council on appeals from Singapore can hardly be said to be of great significance, and at least one local work[89a] has demonstrated that there is an overdependence on English authority locally. Abolition of appeals to the Privy Council might accordingly result in a beneficial, significant growth in local jurisprudence.

## V. DOES A PRIVY COUNCIL JURISDICTION YIELD A NET BENEFIT TO SINGAPORE?

It was suggested at the beginning of this article that the continuation of the appellate jurisdiction of the Judicial Committee of the Privy Council depended upon whether there was a resultant net benefit to Singapore arising from that continuation. Leaving aside for the moment the question of having sufficient experienced personnel to run a completely autonomous judicial system, and discounting those advantages and disadvantages which appear, upon analysis, to have little significance locally, one must compare the advantages of common interpretation by experienced and respected English judges of similar statutes and cases governed by English law, a possible benefit derived from the Privy Council in helping to develop constitutional law, and the possible encouragement or reassurance given to foreign investors with the disadvantages of the cost and delay inherent in the appeal process, the prospect that such an appellate structure may help to perpetuate bad law, the stultification of judicial initiative and overdependence upon decisions of courts in the United Kingdom, and the lack of knowledge and appreciation of local conditions by the Judicial Committee.

The result of the comparison of these factors is obviously very subjective, as the various factors cannot be reduced to positive and negative figures which one need merely add and subtract. However, it is submitted that this comparison leads, at best, to the conclusion that there is, in the long term, no *significant* net benefit derived from the continuation of the appellate jurisdiction of the Privy Council. That conclusion would be even stronger if Singapore were to take a further step and not only abolish appeals to the Privy Council, but also repeal those legislative provisions, such as section 5 of the Civil Law Act, which adopt or incorporate English law into local law, and if it were then to substitute local legislation for those provisions which were felt necessary for local conditions. This would all but eliminate that factor which would appear to be most relevant in favour of retaining appeals.

approximately 1 million, with the Bahamas being a mere 170,000 by comparison. In such countries, one might suspect that this small population leads to a two-fold problem of having a sufficiently large bar with which to operate effectively and the ability to sustain a higher court appellate structure. The latter concern should not apply to Singapore, where there is a significantly higher population.

[89a] *Supra,* n. 43.

The conclusion then, appears to be that these advantages and disadvantages leave the scales relatively evenly balanced. The deciding factor may well be a question of whether Singapore now has, and can sustain, a sufficiently large body of legal personnel, in practice and willing to accept judicial appointment, satisfactorily to administer a system of justice following abolition of appeals to the Privy Council. Such a large body of experienced personnel is essential in order to maintain a respected judicial system. However, such concerns can at best be temporary in nature. It should just be a matter of time before Singapore desires to join the ranks of the many Commonwealth nations which have abolished the appellate jurisdiction of the Privy Council. As indicated above, some of the advantages inherent in Privy Council appeals continue to have some application to Singapore, and any disadvantages inherent in the *status quo* do not provide such a detriment as to require immediate and precipitous action. The disadvantages will, no doubt, in the long term, however, result in the discontinuance of Privy Council jurisdiction.

What is not appropriate at this stage is for the nation to assume that Privy Council appellate jurisdiction can, or should, last forever. If one accepts the concept that the jurisdiction of the Privy Council on appeals from Singapore is something which must eventually be phased out, and the fact that the size and nature of the legal profession is an important consideration here, the question that should be asked is what can be done now to improve the situation and smooth the transition to abolition.

This question is examined in the next section. In the meantime, certain steps could be taken before a firm decision on the question of abolition and transition is made. These steps could help to ameliorate some of the problems which the current system may foster. As an example, the government could do whatever is necessary to entice experienced members of the Bar to accept judicial appointment. The Court of Appeal could be separated completely from the High Court to allow appeal judges more time to devote to writing judgments, hence fostering development of local jurisprudence. Such a Court of Appeal could consider departing from the rules of horizontal *stare deems,* allowing the development to be taken further. The judges might also find they would have more time to write concurring and dissenting opinions, taking the process further still. The restructuring of the court would facilitate this process, as the heavy work load under the current system provides little time for such efforts. Suggestions such as these, and perhaps others which have not occurred to us, should now be considered, discussed, and where appropriate, acted upon.

## VI. ALTERNATIVE METHODS FOR ABOLITION

In the event that Singapore decides to join the ranks of independent states which have abolished appeals to the Privy Council, the legislative mechanics necessary to achieve that aim would simply be a matter of the repeal of those Singaporean and United Kingdom legislative provisions, reviewed in Section II, providing for Privy Council jurisdiction, although on the Singapore side this would involve an amendment to the Constitution. A more difficult consideration, if such a course were to be taken, would be whether to phase in the abolition, or to do it outright, and which transitional provisions would be appropriate.

A number of jurisdictions, rather than provide a full and complete break with the Privy Council at one time, have gradually phased out the jurisdiction of the Board. Canada abolished appeals in criminal matters prior to abolishing appeals in civil cases,[90] and, more recently, Malaysia abolished appeals regarding criminal and constitutional appeals some years prior to the implementation of full judicial autonomy.[91] Singapore, in implementing a decision to abolish appeals, could take either the phased-in-approach, or abolish all appeals at the one time. If indeed the remaining benefits of Privy Council appeals are investor confidence, ability to obtain the opinion of English judges on matters of English law adopted as the law of Singapore, and to provide more time to develop a larger number of experienced judges, a phased-in approach to abolition might make the most sense.

No matter whether the abolition is effected in stages or outright, and no matter what the timing of abolition, a further choice must be made as to how to implement full, or phased-in, transition to judicial autonomy. A number of alternatives would be available. The fastest and most draconian would be to provide for the immediate discontinuance of jurisdiction with respect to all appeals, including all those currently pending before the Privy Council, save for those which have already been heard, but in which judgment has been reserved or those in which judgment has been rendered but where the appropriate Order in Council has not been issued. A less severe approach would be to provide that, after a certain date, no further appeals will be permitted, leaving jurisdiction with respect to all pending appeals and those cases in which documents applying for leave to appeal have been filed. Less severe still would be to allow any case which had been filed in any court in Singapore prior to the effective date of abolition legislation to proceed to Privy Council appeal, but to foreclose jurisdiction for cases filed after the effective date. The most liberal approach would be to continue Privy Council jurisdiction for any case in which the cause of action arose prior to the effective date.

This last approach can be rejected out of hand as it provides too great a degree of uncertainty with respect to the point in time at which Privy Council jurisdiction would cease, for the matter would rest upon the length of relevant limitation periods and uncertainties with respect to the time when a cause of action actually arises. The first approach may also be rejected as too severe, as it would have the effect of depriving litigants who had commenced appeal proceedings of the benefit of their efforts, hence defeating their expectations. If investor confidence were a relevant consideration as argued above, adopting such an approach would foster the conclusion that the government was clearly willing to change the rules in mid-stream — an undesirable result. Such an approach would only be acceptable if a third tier local appeal body were to be established, with jurisdiction to hear appeals from the current Court of Appeal and Court of Criminal Appeal. All pending appeals before the Privy Council could then be transferred to that court. This approach was indeed that adopted by Ceylon in 1971 when it abolished appeals to the Judicial Committee,[92] and transferred

[90] For a discussion of the historical developments involved in Canadian abolition, see Marshall, *supra,* n. 2.

[91] Courts of Judicature (Amendment )Act, 1976, Act A328 of 1976, S. 13, Which came into effect on January 1, 1978 by virtue of P.U.(B) 489/77.

[92] Court of Appeal Act, No. 44 of 1971, s. 18.

pending appeals and petitions for leave to a new appellate court.[93] This left the Privy Council with jurisdiction to deal only with those cases which had been heard but in which judgment was reserved or those in which judgment had been rendered but for which the relevant Order in Council had not been issued.[94]

It is submitted that the most acceptable approach for a smooth transition would be either of the other two alternatives. The first of these would preserve Privy Council jurisdiction over those cases in which judgment has been rendered but no Order in Council issued, cases in which the appeal has been heard but judgment reserved, and cases, including those seeking leave to appeal, which have been lodged with the Privy Council. Such appears to have been the course adopted by India,[95] and more recently, by Malaysia.[96] The other alternative would allow any cases which had been filed in any court in Singapore prior to the effective date to proceed through the appellate structure which had been in place at the time the case had been commenced. Such an approach would necessarily involve a more prolonged residual jurisdiction in the Privy Council, but would in no way defeat any expectation of being able to appeal to London which might have existed at the time the lower court action was commenced. This approach would be a clear indication that the government was not changing rules in mid-stream, and, in light of the fact that Privy Council appeals have continued for so long since independence, the extension of jurisdiction that this would entail might not be viewed as excessive. Either of these alternatives would be acceptable as the transitional means by which abolition could be achieved.

## VII. THE JUDICIAL HIERARCHY FOLLOWING ABOLITION

A further significant concern, if and when a decision is taken to abolish Privy Council jurisdiction, is the form of judicial hierarchy which is to replace the current three-tier structure. There are perhaps only two logical alternatives for consideration. The first would be the creation of a two-tier court system, in which the decisions of the current appellate courts become final. The second would be to maintain a three-tier system but to substitute a new, local appellate court with jurisdiction to hear appeals from both the current Court of Appeal and Court of Criminal Appeal, and perhaps jurisdiction to hear appeals from other tribunals as well.[97]

The choice between the two may well depend upon an analysis of the proper function of a final appellate body.[98] If this is indeed the

93 *Ibid., s.* 19.

94 *Ibid.,* s.20.

95 The Abolition of Privy Council Jurisdiction Act, 1949, Constituent Assembly Act No. V of 1949, s. 2.

96 Court of Judicature (Amendment) Act 1984, No. A600 of 1984, S. 3(1) of which provides:

> The repeal of Part IV of the principal Act shall not apply to any appeal, application for leave or application for special leave made under that Part which is pending at the date of the coming into force of this Act. [January 1, 1985].

97 Such a third tier court might, for instance, be vested with jurisdiction to review a decision of the Military Court of Appeal, a tribunal over which the current courts may not have jurisdiction, according to *Wahab b. Sulaiman* v. *The Commandant, Tanglin Detention Barracks,* [1985] 1 M.L.J. 418.

98 A useful analysis of such functions is contained in "The Role and Function of a Final Appellate Court" by the Rt. Hon. Lord Elwyn-Jones, C.H., The Lord Chancellor (1976), 7 Cambrian L. Rev. 31.

case, there are arguments in favour of either the two or three-tier system. A two-tier structure would obviously involve less cost and delay than would be the case if a third tier were maintained. A two tier system may also be more suited to a unitary state, such as Singapore, where the only court of appeal has clear jurisdiction over the entire territory, a desirable aspect with respect to a final appellate court.[99] For instance, in a federal state such as Canada, a three tier structure is very practical, in that a local court of appeal is provided in each province to allow easy and less expensive local appeals, and a final central court, the Supreme Court of Canada, having jurisdiction over all courts of appeal, is provided to hear important questions of law of national import. There are of course exceptions to this generalization. The United Kingdom is a unitary state with a three-tier structure, although the volume of cases, and the existence of divisions within the Court of Appeal, make the existence of the third tier, the House of Lords, desirable.[1] Such circumstances may not be present in a small unitary state such as Singapore. Malaysia, by contrast, is a federal state which has adopted an essentially two-tier structure.[2]

A three-tier system would provide some advantage.[3] In such a system, the intermediate appellate court can exercize a limited power of review over factual findings of the court of first instance, a review which may well be necessary.[4] The third tier can then accept the concurrent findings of fact of two lower courts and devote time and effort to the research of and formulation of important principles of law. This system would accordingly allow a better evolution of legal precedent and provide greater respect and authority for the decisions of the highest tribunal.

The decision as to which system to adopt may also depend upon an evaluation of the case load of the existing Court of Appeal and Court of Criminal Appeal. If the volume of cases currently before the courts is such that they *must* sit in divisions or panels,[5] or is such that they would not be able to devote sufficient time to a consideration of and formulation of the law,[6] a third tier would clearly be desirable. Such a third tier could consist of perhaps five judges who should act, as far as possible, in a full bench to add respect and weight to decisions. The fact that there were so few appeals to the existing third tier over the past twenty-five years should not necessarily mean that a local third tier should be dismissed out of hand. The distance, cost and time involved with respect to Privy Council appeals no doubt discourages many cases from proceeding to the higher court. Such an impediment would not exist where there was an easily accessible local third court. In addition, the increasing number of appeals to the Privy Council since 1980 might indicate the need for a third tier court. Furthermore,

99 *Ibid.,* at 35.

1 *Ibid.,* at 33.

2 See Constitution (Amendment) Act 1983, No. A566 of 1983, ss. 15-17.

3 A choice in favour of a third tier structure will obviously create some additional problems for a phased-in abolition, discussed above. Such a tier would obviously have a reduced work load while current appeals to the Privy Council were phased out. As such, if a third tier is felt to be warranted, it might well be easier to implement a once and for all abolition of Privy Council jurisdiction.

4 *Supra,* n. 98, at 33.

5 *Ibid.,* at 33.

6 *Ibid.,* at 31-32.

in addition to the cases actually heard by the Privy Council since 1975, the Judicial Committee has heard 60 applications from Singapore for special leave to appeal. Of these, 49 were refused special leave.[7] The refusals may well have been based partly on time constraints of the Privy Council rather than considerations relating to the importance of the appeal. A local third tier might well hear these cases. These factors, in combination, might well result in there being a sufficient volume of local cases to justify a third tier, especially in light of the fact that many appellate courts render judgment in relatively few cases each year.[8]

The choice between the two alternatives, if dependent upon current case volumes, is perhaps better left to the administrators of government. A choice in fact need not be made for the purposes of this article, for it is sufficient at this stage to identify the factors which should form the basis of that decision.

In the event, however, that a two-tier system were to be adopted, it is submitted that certain changes to the current two local tiers would be essential. If a two-tier system were to be chosen, a clear division should be made between judges of the High Court and judges at the appellate level (assuming such a division is not implemented, as suggested above, as an interim measure). The current structure of having the same judges sit as High Court and Court of Appeal judges would lessen the respect necessary for decisions of judges of the final appellate court. Likewise, to ensure the proper respect and authority for decisions of the final court, such decisions should, as far as possible, be given by a full bench of that court rather than by a division thereof These changes would be essential to maintain the integrity and respect for the judicial system in the aftermath of abolition of Privy Council appeals.

## VIII. CONCLUSION

In the long term, it appears that the retention of appeals to the Privy Council will be detrimental to the development of Singapore law, and it would not be surprising if Singapore were to join many of its Commonwealth partners in abolishing Privy Council jurisdiction. Such action, however, should only be taken after full consideration of the transitional period and of the system to be implemented thereafter. The new court system must attempt to maximize the benefits and minimize the detriments of the current system. Whilst the hasty conclusion may be that a two-tier system is the obvious choice, there are some indications that a three-tier system might be appropriate. In the short term, the detriments inherent in the current system are by no means so serious as to require precipitous action. One should not merely rely on the *status quo,* however, and changes to the current system can be made now to allow fuller development of local jurisprudence. While these interim steps are permitted to operate, time may be taken to canvass the relevant considerations relating to the manner in which abolition can be implemented and the judicial structure

[7] Taken from Civil judicial Statistics, *supra,* n. 20.

[8] By way of illustration, Civil Judicial Statistics, *ibid.,* indicates that from 1974-1983, the House of Lords rendered, on average, only 56.3 judgments per year.

which will replace it. This article will have served its purpose if it generates discussion, not only of the merits of retaining the jurisdiction of the Privy Council, but also of the other concerns raised herein.

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## APPENDIX — REPORTED APPEALS TO THE PRIVY COUNCIL FROM SINGAPORE, 1959-84

1. *Sze Hai Tong Bank Ltd.* v. *Rambler Cycle Co. Ltd.,* [1959] M.L.J. 200.
2. *The Official Assignee* v. *Ek Liong Hin Ltd.,* [1960] M.L.J. 85.
3. *Hong Guan & Co. Ltd.* v. *Jumabhoy & Sons Ltd.,* [1960] M.L.J. 141.
4. *Lim Chin Aik* v. *Regina,* [1963] M.L.J. 50.
5. *Lim Chin Aik* v. *Regina (No. 2),* [1963] M.L.J. 226.
6. *Tay Kheng Hong* v. *Heap Moh Steamship Co. Ltd.,* [1964] M.L.J. 87.
7. *White Hudson & Co. Ltd.* v. *Asian Organization Ltd.,* [1965] 1 M.L.J. 186.
8. *Senanayake* v. *Annie Yeo,* [1965] 2 M.L.J. 241.
9. *Chung Kum Moey* v. *Public Prosecutor,* [1967] 1 M.L.J. 205.
10. *Lau Liat Meng* v. *Disciplinary Committee,* [1967] 2 M.L.J. 141.
11. *Liew Sai Wah* v. *Public Prosecutor,* [1968] 2 M.L.J. 1.
12. *Vasudevan Pillai & Anor.* v. *The City Council of Singapore,* [1968] 2 M.L.J. 16.
13. *Osman & Anor.* v. *Public Prosecutor,* [1968] 2 M.L.J. 137.
14. *Syed Ahmad al-Junied & Ors.* v. *Reshty,* [1969] 1 M.L.J. 87.
15. *Ho Tong Cheong & Ors.* v *Overseas Chinese Banking Corporation Limited,* [1969] 1 M.L.J. 129.
16. Sim *Lim Investments Ltd.* v. *Attorney-General, Singapore,* [1969] 2 M.L.J. 56.
17. *Chung Khiaw Bank Ltd.* v. *United Overseas Bank Ltd.,* [1970] 1 M.L.J. 185.
18. *Chan Cheng Kum & Anor.* v. *Wah Tat Bank Ltd. & Anor.,* [1971] 1 M.L.J. 177.
19. *Ramoo* v. *Can Soo Swee & Anor.,* [1971] 1 M.L.J. 235.
20. *Bajaj Textiles Ltd.* v. *Gian Singh & Co. Ltd.,* [1971] 2 M.L.J. 133.
21. *Tay Koh Tat Bus Co. Ltd.* v. *Chua Chong Cher & Ors.,* [1972] 1 M.L.J. 183.
22. *Bank Negara Indonesia* v. *Philip Hoalim,* [1973] 2 M.L.J. 3.
23. *Keppel Bus Co. Ltd.* v. *Sa'ad Bin Ahmad,* [1974] 1 M.L.J. 191.
24. *Gian Singh & Co. Ltd.* v. *Banque de L'lndochine,* [1974] 2 M.L.J. 177.
25. *Wah Tat Bank Ltd. & Ors.* v. *Chan Cheng Kum,* [1975] 1 M.L.J. 97.
26. *Star Industrial Company Ltd.* v. *Yap Kwee Kok trading as New Star Industrial Company,* [1976] 1 M.L.J. 149,

27. *Mohamed Yasin bin Hussin* v. *Public Prosecutor,* [1976] 1 M.L.J. 156.

28. *Isaac Paul Ratnam* v. *Law Society of Singapore,* [1976] 1 M.L.J. 195.

29. *Maria Chia Sook Lan* v. *Bank of China,* [1976] 1 M.L.J. 245.

30. *Raja's Commercial College* v. *Gian Singh & Company Ltd.,* [1976] 2 M.L.J. 41.

31. *Goh Leng Kang* v. *Teng Swee Lin & Ors.,* [1977] 1 M.L.J. 85.

32. *Collector of Land Revenue, Singapore* v. *Philip Hoalim,* [1977J 1 M.L.J. 88.

33. *Karuppan Bhoomidas* v. *Port of Singapore Authority,* [1978] 1 M.L.J. 49.

34. *Mohamed Kunjo* v. *Public Prosecutor,* [1978] 1 M.L.J. 51.

35. *Hilborne* v. *Law Society of Singapore,* [1978] 1 M.L.J. 229.

36. *Teo Hock Seng* v. *Public Prosecutor,* [1978] 2 M.L.J. 1.

37. *Chan Chow Wang* v. *Law Society of Singapore,* [1978] 2 M.L.J. 131.

38. *Union Carbide Singapore Pte. Ltd.* v. *Comptroller of Income Tax,* [1979] 1 M.L.J. 275.

39. *Muthusamy* v. *Ang Nam Cheow,* [1979] 2 M.L.J. 271.

40. *Re Robinson's; Robinson & Co. Ltd. & Anor.* v. *Collector of Land Revenue, Singapore,* [1980] 1 M.L.J. 255.

41. *Malayan Plant (Pte.) Ltd.* v. *Moscow Narodny Bank Ltd.,* [1980] 2 M.L.J. 53.

42. *The "Halcyon Isle" Bankers Trust International Limited* v. *Todd Shipyards Corporation,* [1980] 2 M.L.J. 217.

43. *Howe Yoon Chong* v. *Chief Assessor, Property Tax, Singapore,* [1981] 1 M.L.J. 51.

44. *Cosmic Insurance Corpn. Ltd.* v. *Khoo Chiang Poh,* [1981] 1 M.L.J. 61.

45. *Ong Ah Chuan* v. *Public Prosecutor; Koh Chai Cheng* v. *Public Prosecutor,* [1981] 1 M.L.J. 64.

46. *Chin Ah Loy* v. *Attorney-General,* [1981] 1 M.L.J. 73.

47. *Haw Tua Tau* v. *Public Prosecutor; Tan Ah Tee* v. *Public Prosecutor; Low Hong Eng* v. *Public Prosecutor,* [1981] 2 M.L.J. 49.

48. *Sundram Jaykumal* v. *Public Prosecutor,* [1981] 2 M.L.J. 297.

49. *J.B. Jeyaretnam* v. *Lee Kuan Yew,* [1982] 1 M.L.J. 239.

50. *Tan Choon Chye* v. *Singapore Society of Accountants,* [1982] 2 M.L.J. 1.

51. *Eng Chuan & Company and Others* v. *Four Seas Communications Bank Limited,* [1982] 2 M.L.J. 81.

52. *Loke Hong Kee (S) Pte. Ltd.* v. *United Overseas Land Ltd.*. [1982] 2 M.L.J. 83.

53. *Phoenix Heights Estate (Pte.) Ltd.* v. *Lee Kay Guan & Anor.,* [1982] 2 M.L.J. 86.

54. *H.L. Wee* v. *The LaW Society of Singapore,* [1982] 2 M.L.J. 293.

55. *Merchant Credit Pte. Ltd.* v. *Industrial & Commercial Realty Co. Ltd.,* [1983] 1 M.L.J. 124.

56. *The "August 8th"; The "August 8th" Owners* v. *Costas Bachas,* [1983] 1 M.L.J. 281.

57. *The "Master Stelios" Monvia Motorship Corporation* v. *Keppel Shipyard (Pte.) Ltd.,* [1983] 1 M.L.J. 361.

58. *Kaolim Pte. Ltd.* v. *United Overseas Land Ltd.* [1983] 2 M.L.J. 1.

59. *Tan Lai Wah* v. *First National Bank of Chicago,* [1984] 1 M.L.J. 150.

60. *T.H. Limited* v. *Comptroller of Income Tax,* [1984] 1 M.L.J. 317.

61. *Lai Wee Lian* v. *Singapore Bus Service (1978) Ltd.,* [1984] 1 M.L.J. 325.

62. *Choo Kok Beng* v. *Choo Kok Hoe & Ors.,* [1984] 2 M.L.J. 165.