Supreme Court of Malaysia — Inauguration

January 1, 1985 is an auspicious date in the legal history of Malaysia. It signifies the end of the Privy Council jurisdiction in relation to decisions of the Federal Court of Malaysia and judicial institutions. To accord with this new development the Federal Court goes out of existence and the Supreme Court of Malaysia comes into being with effect from January 1, 1985. Judges of the Federal Court (which comprise the Honourable the Lord President, Tan Sri Dato' Haji Mohamed Salleh bin Abas P.M.N., P.S.M., S.P.M.T., D.P.M.T., J.M.N., S.M.T., the Honourable the Chief Justice (Malaya), Tan Sri Dato' Abdul Hamid bin Haji Omar P.S.M., D.P.M.P., P.M.P., the Honourable the Chief Justice (Borneo), Tan Sri Datuk Lee Hun Hoe P.M.N., S.P.D.K., P.G.D.K., P.N.B.S., A.D.K., the Honourable Tan Sri Datuk Wan Suleiman bin Pawan Teh P.S.M., D.B.S.D., the Honourable Datuk George Edward Seah Kim Seng P.N.B.S., the Honourable Tan Sri Dato' Haji Mohamed Azmi bin Dato' Haji Kamaruddin P.S.M., D.P.M.S., the Honourable Tan Sri Datuk Hashim Yeop bin Abdullah Sani P.S.M., D.P.M., J.M.N., K.M.N., the Honourable Tan Sri Dato' Eusoffe Abdoolcader P.S.M., D.P.C.M., D.K.I.P., D.M.P.N., J.M.N., A.D.K., the Honourable Datuk Syed Agil bin Syed Hassan Barakbah D.P.M.K., the Honourable Datuk Wan Hamzah bin Wan Muhammad Salleh, D.P.M.K., J.M.N.) have accordingly been designated Judges of the Supreme Court with effect from January 1, 1985.

The first sitting of the Supreme Court was held on January 7, 1985. The Attorney-General, Malaysia, Y.B. Tan Sri Datuk Abu Talib bin Othman, P.S.M., D.M.P.N., D.C.S.M., J.S.M., K.M.N., P.P.T., gave the following speech:

"My Lord President,
My Lord the Chief Justices and
My Lords,

At this first sitting of the Supreme Court of Malaysia, in our joy and just pride at having achieved our legal 'Merdeka', may I take this opportunity to congratulate Your Lordships for being the first members of the Supreme Court. It is the high standard of your work of Legal Decisions in the Federal Court and your predecessors in office in that court which has engendered such a confidence in your administration of justice that today we stand free from the Privy Council. I have no doubt that the confidence of the Government in taking this momentous step of setting up this Supreme Court as the last and final Court of Appeal in all matters is amply justified. I am also confident that if there should be any doubt in the mind of the public with regard to the wisdom of setting up of the Supreme Court as a substitute for the Privy Council, Your Lordships will quickly demonstrate that there is no basis for such doubt and that as in the past in criminal and constitutional matters, your Lordships will administer the law on the civil side with the same efficiency and impartiality.

The effectiveness of the Court performing their functions depends upon the public acceptance of them as impartial and objective bodies. Judges who lose the general respect of the public, for whatever reason, weaken the entire structure of the judiciary, and consequently damage an important factor contributing to social stability and peace.

Indeed it is true that judges in most democratic countries enjoy the supremacy of power and the unique position which stem from the need to maintain the independence of the judiciary. It is on this basis that judges should be given special treatment which no person holding any other high office in the land has the privilege of enjoying. However this special treatment carries with it certain unique responsibilities. The foremost responsibility calls for the need of a judge to be always vigilant that he should exercise the awesome power endowed upon him with great care and indeed with some self-restraint. The need to be vigilant applies with greater force when a judge is called upon to decide the constitutionality of a statute or an executive act. In deciding upon the validity of a statute or the constitutionality of an executive act, judges should bear in mind that they only interpret the law and not to act as a third or revising institution. It must be remembered that our system is equal justice *before* the law and not equal justice *above* the law. Judges are therefore not authorised to revise the Constitution in the interests of 'justice' Justice Frankfurter, a renown judge of the U.S. Supreme Court argued this proposition forcefully when he claimed that members of the court should not strike down legislation they considered to be unwise. The wisdom of a statute is a matter for the legislature and therefore a statute can be declared invalid or unconstitutional only when those who have the the right to make laws have not merely made a mistake but have made a very clear one – so clear that it is not open to rational question. This approach was adopted by Lord Scarman of the House of Lords in the case of *Duport Steels Ltd.* v. *Sirs* [1980] 1 W.L.R. 142 when he said '... in the field of statute law the judge must be obedient to the will of Parliament as expressed in its enactments. In this field Parliament makes and unmakes the law: the judge's duty is to interpret and to apply the law, not to change it to meet the judge's idea of what justice requires. ... Great judges are in their different ways judicial activists. But the Constitution's separation of powers, or more accurately functions, must be observed if judicial independence is not to be put at risk. For if people and Parliament come to think that the judicial power is to be confined by nothing other than the judge's sense of what is right, (or, as Selden put it, by the length of the Chancellor's foot), confidence in the judicial system would be replaced by fear of its becoming uncertain and arbitrary in its application. Society will then be ready for Parliament to cut down the power of the judges. Their power to do justice will become more restricted by law than it need be, or is to-day.' I fully subscribe to the approach of these two great judges and urge the court when determining an issue involving the policy of parliament or the executive or in exercising the power of judicial review of administrative acts to adopt some measures of self-restraint and not to exercise their awesome powers within the context of their own personal beliefs of what should and should not have been done. As Justice Benjamin Cardozo observed: 'When the legislature has spoken and declared one interest superior to another, the judge must subordinate his personal and subjective estimate of value to the estimate thus declared ... He is to regulate his estimate of values by objective rather than subjective standards, by the thought and will of the community rather than by his own idiosyncrasies of conduct and belief.' This salutary proposition should be guidance to all judges and also to those who may in future be appointed as judges in their dispensation of justice.

As judges of the Supreme Court, it is Your Lordships' privilege and duty now to decide and determine the future development of the law. We look to Your Lordships for guidance. We are confident that when Your Lordships decide on any particular point of law, Your Lordships will fully review all the past authorities or other decisions of court on the point and come to a firm and proper decision of the law on that particular point. Only in this way can we the Law Officers of the Crown and the Members of the Bar and indeed the Government and people of Malaysia learn with reasonable certainty what the law of the country is. Your Lordships are fully aware that there have been decisions in the past which perhaps are not all that consistent or properly supported by authorities or full reasoning and in some cases dictated by the likes and dislikes of Judges. Further Your Lordships may perhaps not now feel yourselves bound by any decisions of the Privy Council or by those of the Federal Court. That being the case, Your Lordships will see the great importance of giving certainty to the law. Your Lordships will now also have the duty and privilege of developing our own case law on a proper interpretation of our statutes and of building up our own common law, as Australia has done, in the context of the situation prevailing locally. We therefore look with eagerness to future judgments of this Supreme Court because we are fully confident that the relevant law will be taken into full consideration and there will be a full reasoning and also a discussion of all previous decisions and judgments and perhaps, also at Your Lordships' discretion, of such decisions from other jurisdictions to support the rationale of Your Lordships' decisions, particularly those that are in complete accord with Your Lordships' own reasoning and thinking. So, while Parliament remains the constitutional makers of the law, Your Lordships and no other now become the sole interpreters of that law and the sole developers of the common law of Malaysia.

But perhaps there are other duties. Not only because of Your Lordships' status as final judges of appeal, but even as judges of appeal, Your Lordships have necessarily a duty and a responsibility to see that the administration of the law and the dispensation of justice in all courts subordinate to Your Lordships' Court must be such as not to invite or to invite as little as possible any appeal to Your Lordships' Court. Litigants come to court for redress or in pursuit of their legitimate claims. So that they may not leave any court with any sense of dissatisfaction, that court surely owes the parties before it in the proper discharge of its functions a duty to hear them fully and impartially and just as important, as soon as reasonably possible after hearing all the relevant evidence on the matter and the submissions of Counsel, not only to come to a proper decision without fear or favour but also to give, particularly when required to do so, full or at least some reasons for its decisions. Where there is a case of a failure to deliver a judgment within a reasonable time after the conclusion of the hearing, quite understandably the parties and their counsel are reluctant to remind the Judge of his failure to give judgment for fear of annoying the Judge and thereby swing the judgment against him. Thus it has to be recognised that nobody can do anything about it unless it be Your Lordships. I am, however, not talking of those cases where the Judge has failed even after the lapse of some considerable time or refused to come to any decision and he has apparently forgotten all about the case he had heard. There can be no doubt that such a case, if there be one, merits the strongest condemnation and calls for immediate action on the part of all parties concerned with the admi-

nistration of law and the dispensation of justice, to remedy the situation and see that it dispenses the justice for which the parties came to court in the first place. There should also be no doubt in the mind of any right thinking man that such judicial negligence and behaviour are an inexcusable dereliction of duty and an abuse of judicial power and position, are intolerable and should not be allowed to continue. What I am talking about is an administration of justice in the courts subordinate to Your Lordships' Court such as to frustrate or prevent the proper dispensation of justice to the people of this country. Where there is such a situation, we confidently expect that Your Lordships will not hesitate or be reluctant to show in no uncertain terms your disapproval, as the Privy Council, in whose shoes Your Lordships now stand, has not hesitated or been slow to do so, in the case of an inordinate delay between the service of the writ and the final disposal of the case,, as in *Jamil bin Harun* v. *Yang Kamsiah & Anor.* [1984] 1 M.L.J. 217, 221. Your Lordships have yourselves come out with a strong and proper condemnation of intemperate and vituperative language of counsel and improper manner of address and advocacy and stressed that while Counsel must act fearlessly at all times, he must act within the bounds of propriety and not make any attacks of the trial Judge on the grounds of partiality or veniality without any creditable and acceptable evidence for it as in *Dato Mokhtar bin Hashim* v. *Public Prosecutor* [1983] 2 M.L.J. 232, 282. We trust that Your Lordships will long continue to insist that all parties who have the privilege of appearing in court do not deviate from the straight and narrow path of propriety.

Regretfully I have to mention another area of abuse. It lies in the sad cases where the trial court has failed or refuses to give its grounds of decision. That there are such cases is unfortunately undeniable. The necessity for the grounds of decision and the reasoning of the trial Judge is so apparent that it should not be grounded on any rule of court. These grounds must without argument be seen to be the only means of showing to the litigants who is right and who is wrong. They must persuade the losing party whether there is any prospect of an appeal. They will reduce the number of appeals. And when an appeal is lodged, they are indispensable to enable the appellate court to come to a proper decision whether the trial Judge was on the evidence right or wrong in his findings of fact and in law. Unfortunately, no party to the litigation can do anything about it. Perhaps only Your Lordships can. If Your Lordships cannot, there must be something wrong in the system and a call for a remedy.

Apart from the duty to hand down sound and reasonable decisions, judges must also remind themselves that their integrity is invariably seldom if ever been questioned. What they say in court is privileged and it hardly need to say that such privilege is indeed a valuable asset to the independence of the judiciary. Nevertheless such privilege like any other privileges can be abused and one way of abusing such privilege is the exhibiting of arrogance by a judge beyond the need to maintain the decorum of his court. In my view, there is no room for a display of judicial arrogance. A litigant, be he a private citizen or government, would expect a Judge to be courteous, have a sufficient knowledge of law, quickness on the uptake, ability to grasp facts, see the point without repetition he takes for granted, and hardworking.

Perhaps I should also take the opportunity of referring to the persistent demand in some quarters for the creation of an intermediate Court of Appeal between Your Lordships' Court and the High Court. Those who advance this demand suggest that if not absolutely necessary it at least contributes to justice. How, these advocates of this system do not say except that there is an ingrained, an almost constitutional right to being heard thrice in a two-tiered appellate system. Whether they have any other motives is not for me to say. Of course more litigation means more fees but it ought to be realised that ultimately it is the poor litigants who pay the piper, the one who calls the tune, the legal adviser who suggests the appeal. In my view, litigation must be made as cheap as possible, because it is only by doing so that the courts are accessible to all and not merely the rich. I should perhaps mention that the government took into consideration everything which was relevant and must be considered before it came to the conclusion that there was no justification for the setting up of the intermediate Court of Appeal following the abolition of the Privy Council.

In conclusion, for myself and on behalf of the officers of my Chambers, I pledge to Your Lordships our wholehearted co-operation and our promise to render what assistance we can to enable Your Lordships to discharge your high office and to maintain the confidence and the support of the whole community in this country."

The President of the Malaysian Bar Council, Mr. Ronald Khoo said:

"My Lord President, My Lord Chief Justices, My Lords, I am deeply conscious of the honour which has fallen to me to be the first member of the Bar of Malaysia to be heard in the Supreme Court. The Supreme Court as it is now constituted will play a great role in our legal history. Justice has to be done between the subject and the State and finally between the individual States and between any of the States and the Central Government. The Supreme Court will be the final Court of Appeal in this country.

My Lords, we are this morning witnessing the birth of the Supreme Court. We witness the cutting of the umbilical cord which has bound us to the Privy Council a system of appeal which we have known in our more recent history as an appeal to the Yang di-Pertuan Agong.

It is also only right that we record formally this morning our thanks to their Lordships of the Privy Council for their many years of service that they have rendered to our nation and to the people of Malaysia.

One of our former Chief Justices, Ong Hock Thye C.J., whilst still a Federal Judge, in the course of a very short judgment in a case reported in [1966] 1 M L J 190, said –

'This case points a moral – that persons in all walks of life may confidently expect equal justice from an independent Judiciary, pledged to maintain the Rule of Law. Every person in the land, from the humblest to the most exalted, has a right to expect the same protection by the courts of his fundamental and civil rights. He is entitled to no less, he can claim no more.'

That passage, perhaps, sums up the role and what is expected, of the Judiciary. It is this expectation, more than all the other various reasons that had been advanced from time to time, that had caused most people to feel concerned with the proposal to discontinue appeals to the Judicial Committee of the Privy Council: there is no doubt that their Lordships in the Privy Council, by reason of their distance from the site of the disputes they were asked to advise His Majesty the Yang di-Pertuan Agong on, enjoyed that advantage of being able more easily to put into effect what is signified by the symbol of justice – the blind person holding a pair of scales – unconcerned with and indifferent to the personalities or the status of the parties involved, and intent only on weighing impartially the opposing contentions on their merits so that the equal justice referred to in the passage I have cited, may be disposed to the parties.

That natural advantage of distance and detachment will not be available to the Mahkamah Agung, and the task which must befall upon all your Lordships in the Mahkamah Agung must be the more onerous. One has also to appreciate that the Mahkamah Agung as the last court of appeal, and as the only court having jurisdiction to hear appeals from the High Court, must assume an even more responsible role than that played by the former Federal Court of Malaysia or by the Judicial Committee of the Privy Council. Whereas an error of law found to have been made in the Federal Court could previously be put right by the Judicial Committee on appeal, an error, not only of law but also of fact, made by the High Court, if not corrected in the Mahkamah Agung, will leave the affected appellant without any further avenue for complaint on his grievance. Whereas previously appellants aggrieved by the Federal Court's overruling of a High Court's findings of facts could, subject to the requisite conditions being met, test the conflicting findings of the two courts by appealing to the Privy Council, a party now similarly aggrieved has no other remedy. I have thought it necessary to emphasise these few aspects of the matter in order to indicate to your Lordships our appreciation of the great responsibility judges of the Mahkamah Agung will have to assume.

We, at the Bar, do seem to many to be a very cautious and conservative lot in certain matters. This is especially true on the issue of discontinuance of appeals to the Privy Council, primarily because of our having become accustomed to a system of administration of justice which had existed since even before most, if not all, of us here, even obtained our qualifications to be members of the profession. But we are by no means pessimists in our outlook. We are confident that, given the realisation by each and every one of us of our respective roles, responsibility and functions under the new system, the establishment of the Mahkamah Agung can enhance the image and prestige of our Judiciary in the eyes of those countries of the world that have adopted, and still practise, the common law. While reading the report of *Johnson* v. *Agnew* [1979] 1 All E.R. 883 recently, I came across a rather interesting passage in the speech of Lord Wilberforce. That learned and respected judge, having found that there was a dearth of authority on a particular point then being considered by the House of Lords, said at P.892 of the report –

'Fortunately, there is support for a more attractive and logical approach from another bastion of the common law whose courts have adopted a robust attitude.'

That is illustrative of the respect which even the highest Court of Appeal in England can have of good decisions of courts of those countries which, like Malaysia, once had, but now no longer continue with, the Judicial Committee of the Privy Council as their final court of appeal. The country referred to in that case is Australia; but the law reports abound with examples of citations with approval of judgments of courts in Canada, New Zealand and other countries having similar jurisdictions. It must be our aim, in spite of the change in the system of administration of justice brought about by the establishment of the Mahkamah Agung, to maintain the high standard of judicial integrity and independence which we have hitherto come to expect from the final court of appeal.

Finally, it would be opportune upon this occasion for me on behalf of the Malaysian Bar to reiterate to you, My Lords, our fullest support and reassure you that the Bar will always strive its very best to play its part in contributing to the administration of justice in this country. As has often been said, a strong independent Bar of impeccable ingrity must mean a strong and independent judiciary.

On behalf of all my colleagues at the Bar, I wish the Supreme Court well. I pray that it will grow from strength to strength from its date of birth so that in the fullness of time in its development it will stand its equal with all Supreme Courts in which territory the common law is practised".

In reply the Honourable Lord President, Malaysia, Tan Sri Dato' Haji Mohamed Salleh bin Abas, P.M.N., P.S.M., S.P.M.T., D.P.M.T., J.M.N., S.M.T., delivered the following speech:

"29 haribulan Disember 1984 yang lepas merupakan hari terakhir Mahkamah Persekutuan bersidang sebelum memberi jalan bagi penubuhan Mahkamah Agung. Pada hari ini kita semua berkumpul dalam Mahkamah ini kerana mengucapkan selamat tinggal kepada era lama iaitu penamatan bidang kuasa Majlis Privy berhubung dengan rayuan-rayuan dari Malaysia dan juga untuk menandakan permulaan Mahkamah Agung Malaysia yang memikul tanggungjawab Mahkamah Persekutuan lama yang digantikannya serta menerima tanggungjawab-tanggungjawab baru sebagai mahkamah rayuan muktamad dalam dan bagi negara ini.

Saya dan para Hakim Mahkamah Agung ingin mengucapkan terimakasih dan menyampaikan penghargaan kepada Yang Berhormat Peguam Negara dan Pengerusi Majlis Peguam atas kata-kata sanjung tinggi dan sokongan yang mereka telah nyatakan. Mengenai dengan kelemahan-kelemahan di-Mahkamah Rendah, ini sememang-nya ada dalam peringatan saya, tetapi hal ini tidaklah patut di-bahathkan dalam majlis ini.

Saya tidak bercadang untuk menerangkan dengan lanjut mengenai sejarah bidang kuasa Majlis Privy berhubung dengan rayuan-rayuan dari Malaysia kepadanya dan perubahan Mahkamah Persekutuan kepada Mahkamah Agung. Adalah memadai kiranya kita rujuk kepada ringkasan mengenai perkara ini yang dicetak dalam Buku Cenderamata istiadat persidangan ini.

Kira-kira dua puluh tahun dahulu pada hari Isnin 1 haribulan Oktober 1963, dalam istiadat perasmian persidangan permulaan Mahkamah Persekutuan, Ketua Hakim Negara yang pertama bagi Mahkamah tersebut, Dato' Sir James Thomson PMN, PJK, telah menyatakan harapannya

agar persidangan itu tidak merupakan bab pertama dan yang terakhir bagi sejarah institusi-institusi kehakiman Malaysia. Harapan ini kini nya terbukti benar. Berakhirnya bidang kuasa Majlis Privy bukan sahaja bererti tertubuhnya Mahkamah Agung, tetapi juga mencerminkan kematangan kehakiman dan profesion undang-undang kita dan juga melambangkan kemerdekaan negara kita sepenuhnya dari kesan-kesan terakhir penjajahan. Kini kita tidak perlu lagi menjawab soalan-soalan janggal dari pemerhati-pemerhati luar negeri yang biasa dikemukakan kepada kita berhubung dengan rayuan-rayuan Majlis Privy. Soalan-soalan seperti itu tidak lagi timbul.

Sebaliknya, dengan adanya Mahkamah ini sebagai mahkamah rayuan muktamad, maka tanggungjawab kita menjadi bertambah mustahak dan berat. Penelitian mestilah dititik-beratkan supaya tidak berlaku apa-apa kesilapan dan kita tidak boleh melakukannya kerana tiada terdapat pihak berkuasa kehakiman yang lebih tinggi yang dapat membetulkan keputusan-keputusan kita. Kita akan bertanggungjawab sepenuhnya ke atas keputusan-keputusan kita dalam membentuk jalan undang-undang dan keadilan dalam negara ini. Banyak negara yang kini menghadapi masalah-masalah politik dan perlembagaan yang serius yang menggoncang asas kewujudan negara mereka. Masalah-masalah ini juga menimbulkan ketegangan hubungan diplomatik dengan negara-negara lain. Kita di Malaysia amat bernasib baik kerana sejak berbalik kepada demokrasi berparlimen selepas peristiwa 13 haribulan Mei 1969, negara ini telah mencapai kemajuan bukan sahaja dalam bidang ekonomi tetapi juga dalam lain-lain lapangan. Kemajuan ini tentu sekali tidak akan tercapai melainkan dengan adanya kestabilan politik. Asas kestabilan ini ialah keyakinan rakyat terhadap sistem demokrasi kita dan kedaulatan undang-undang dalam mana kehakiman memainkan peranan penting. Jika keadilan ditadbirkan dengan sempurna, keyakinan rakyat terhadap sistem tersebut akan terjamin, tetapi jika sebaliknya, keyakinan rakyat akan hancur dan mungkin rakyat akan mengambil langkah-langkah tersendiri untuk menyelesaikan pertikaian mereka dan jika kejadian-kejadian ini sering berlaku, perpaduan dan kestabilan politik negara yang menyatupadukan rakyat akan terancam. Inilah keadaan sebenarnya. Maka suatu badan kehakiman yang bebas adalah kunci perpaduan dan pembangunan negara, terutamanya apabila ianya terdiri daripada orang-orang yang boleh dihormati dan mempunyai integriti, yang bertanggungjawab dan setia, serta sanggup menjalankan keadilan menurut undang-undang dan ikrar sumpah jawatan mereka.

Kedudukan yang telah kita capai sehingga masa ini tidaklah diperolehi dalam tempoh sehari, tetapi ianya adalah hasil pengasuhan yang lama bila mana tradisi dan kesetiaan telah dibina yang telah mengukuhkan sistem itu. Kami berharap dengan peranan yang baru ini kami akan dengan sedaya-upaya memajukan serta membina bidang undang-undang dan keadilan untuk negara kita.

Lurus dan tetap adalah asas yang kukuh kepada undang-undang. Yang demikian adalah menjadi tanggungjawab kami dalam mempastikan perkembangan dan pembentukan undang-undang oleh Mahkamah Agung supaya wujud satu sistem undang-undang yang lurus (rational) dan tetap (consistent) dan juga dilakukan dengan bijaksana dan sifat kasihan belas. Ini bukanlah suatu tugas yang mudah dan dari itu kami memerlukan kerjasama semua pihak, khususnya profesion perundangan dalam usaha mencapai matlamat ini dan seterusnya mengawal kami supaya tidak terpesong dari jalan yang benar.

Kami berdoa dan berharap semoga Mahkamah ini mencapai matlamat tertinggi di masa hadapan dan akan menjadi satu institusi yang mustahak yang membanggakan Negara ini."

We reproduce below the English version of the above speech of the Honourable Lord President, Malaysia:

"It was on December 29, 1984 that the Federal Court sat for the last time before giving way for the establishment of the Supreme Court. Today we are all gathered in this court room to bid farewell to the ending of an old era, i.e. the ending of the Privy Council jurisdiction, and to dedicate the commencement of the Supreme Court of Malaysia which carries on the responsibility of the old Federal Court which it replaces and takes on the new responsibilities as the final Court of Appeal in and for the country.

On behalf of myself and my brother Judges of the Supreme Court I wish to express our thanks and appreciation to the Honourable Attorney-General, and Chairman of the Bar Council for their observations of esteem and the assurances of support which they had so eloquently expressed. Regarding the difficulties and weakness experienced in the lower courts, we do not think that this is a proper occasion to go into. We do not think that we should discuss this matter in public.

I do not wish to bore you here with the history of the Privy Council jurisdiction in respect of appeals from Malaysia and the transformation of the Federal Court to Supreme Court. It is sufficient for me to refer you to the short note on the subject which is printed in the Souvenir Programme of this ceremonial sitting.

Some twenty years ago on Monday October 1, 1963 in the ceremonial sitting to inaugurate the establishment of the Federal Court, the first Lord President of the Court, Dato' Sir James Thompson, PMN, PJK., expressed the hope that the sitting was not to be the first and the last chapter of the history of Malaysian judicial institutions. This prophetic hope is now proved true. The ending of the Privy Council jurisdiction does not just mean the establishment of the Supreme Court but above all reflects the maturity of our judiciary and the legal profession and represents the complete independence of our country from the last form of colonial vestiges. We are now spared of the need to answer awkward questions which our foreign observers were fond of putting to us regarding the appeals to the Privy Council. The questions no longer arise.

On the other hand with the court as the final court of appeal, our responsibilities become more grave as they are also onerous. Meticulous care will have to be exercised lest mistakes are made and we can't afford to take them as there is no more higher judicial authority to correct our decisions. We will be completely responsible for our decisions and for developing the path of law and justice in the country. Many countries have grave political and constitutional problems shaking the very foundation of their exis-

tence. These problems even cause strained diplomatic relations with other countries. We in Malaysia are very fortunate, because since the return to parliamentary democracy after May 13, 1969 incident, this country has chalked up progress not only in economic development but also in other fields. This progress certainly cannot be achieved unless there is political stability. Underlining this stability is the public confidence in our democratic system and the rule of law in which the judiciary plays a major role. If justice is administered properly, the public confidence in the system is assured, but if it is not, the public confidence is eroded and people are likely to resort to measures of self-help in order to settle their disputes and if these incidents occur too frequently, national unity and political stability which hold the nation together will be in jeopardy. It is as simple as that. Thus, an independent judiciary is the key to national unity and progress, especially when it is comprised of men of high honour and integrity and men with the sense of responsibility and loyalty, who are there to do justice according to law and according to the Oath of office which they have taken.

The position we have achieved this far was not arrived at overnight, but a result of a long period of tutelage, during which traditions and loyalty were built which went to strengthen the system. We hope that in our new role we will do our utmost to forge ahead building new frontiers of law and justice for our country.

The strength of law is rationality and consistency. It is therefore our responsibility to see that the law developed by the Supreme Court will be rational and consistent and that it must also be guided by wisdom and tempered by mercy. This is not an easy task and we therefore need the cooperation of everyone, especially the legal profession in achieving this objective and preventing us from straying off the path.

We pray and hope for the great future the court so that it should become a vital institution which this nation will truly be proud of."

"Arising out of my recent television interview, there seems to be a great deal of misunderstanding due to misquotation. I like to take the opportunity to clarify the misquotation.

(1) On the need of two tier-system of appeal, I did not say that if a two tier-system is to be introduced, there are two options to be considered. Either of these options will be difficult to implement because of difficulties regarding manpower and money. For the time being I say we will go along with one tier-system, and make adjustments if necessary later on.

(2) Regarding opposition by Bar Council, I said that the Bar Council, as far as I know, did not oppose that appeals to Privy Council be abolished.

That is all my statement went.

I did not, however, say that the Bar Council agrees to the one tier-system. I made no reference about the Council's view on the maintenance of the two tier appeal system.

Still less did I mention that the Sessions Court should be turned into an appeal court. If I say that I am not fit to be the Lord President today!"