50 CONSTITUTIONAL MOMENTS THAT DEFINED A NATION

Singapore inherited a Westminster-style constitution from the British who ruled the island for 140 years. Since Singapore's independence in 1965, this constitution has been amended and augmented many times wherein unique institutions — such as the Elected Presidency and Group Representation Constitutions — were created. All these changes occurred against the backdrop of Singapore's special geographical location, multi-ethnic population and vulnerability to externalities.

This collection of short essays describes and explains 50 Constitutional Moments — major inflexion points in the trajectory of Singapore's constitutional development. The authors have selected each of these 'moments' on the basis of their impact in the forging of the modern constitutional order.

These easy-to-read essays introduce the reader to what the authors consider to be the most important episodes that have shaped the Singapore Constitution.

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DEDICATION

We dedicate this book to those charged with upholding the letter and the spirit of the Rule of Law.

CONTENTS

PREFACE

In 2015, all of Singapore celebrates SG50 — the 50th anniversary of Singapore. However, many forget that independent Singapore is not really 50 years old, but 52 instead. That is because few people remember that Singapore achieved statehood twice. It first became independent from Britain in 1963, and then again in 1965 when it seceded from the Federation of Malaysia. That said, 2015 does mark the 50th anniversary of the Singapore Constitution, a golden jubilee that may well go unnoticed in a year overflowing with events celebrating Singapore's nationhood. By the end of 2015, several dozen books would have been written and published to commemorate this landmark anniversary.

While we have felt some vibrations of these celebrations, this book follows logically from our earlier collaboration, *Evolution of A Revolution: Forty Years of the Singapore Constitution* (Routledge-

Cavendish, 2009) in which we brought together a group of scholars to assess how the Singapore Constitution measured up to its highest ideals over the course of 40 years, from 1965 to 2005. This volume is different in two ways. First, this is not a scholarly tome but a popular work. We felt it important to bring conversations about the Constitution to the wider general public and sought to do this through a series of what we term 'constitutional moments'. Second, the essays contained herein reflect our views only and are a distillation of our many long conversations, debates and arguments about the Constitution over the past 22 years.

This book's title is likely to invite controversy. Constitutional law scholars immediately impute certain meanings to the term 'constitutional moment' which was first coined and defined by American scholar Bruce Ackerman in his 1984 Storrs Lectures and in his book *We The People: Foundations* (Belknap, 1993). Ackerman argued — in relation to the American Constitution — that at certain points in history, a highly-mobilized public may effect a major transformation in the prevailing constitutional paradigm thus bringing about an effective break from the past. Ackerman's "moments" are momentous ones; ours are rather more "momentary". If Ackerman only found three "constitutional moments" in America's long history; is it possible that we should have 50? We think not. Our only Ackermanian constitutional moment would be our secession from the Federation of Malaysia in 1965.

Our object is rather more modest. Each "constitutional moment" encapsulates a milestone in Singapore's constitutional history. The 50 moments featured in this volume represent key inflection points along the curve of Singapore's constitutional development. Someone suggested that we might use the term "landmarks". Even that is too ambitious. Many of the "moments" discussed here are important but they are not necessarily ground-breaking or novel. In writing about these moments, we consider the ripple effects of each moment on later constitutional developments.

Viewed collectively, these moments present a good snapshot of the key issues in Singapore constitutional law, and point to a possible trajectory of where the discourse is headed. Not everyone will agree with our choice of "moments". That is good because it will spark debate and discussion, for it is in hearing the diversity of views that we refine, change, modify or mature and confirm our own views. And the more we think and talk about our Constitution and its meanings, the more we can enlarge the discourse and impact of the values it represents to the citizens of this little red dot, this "accidental nation", who share a common destiny.

Kevin YL Tan & Thio Li-ann
August 2015

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Kevin YL Tan & Thio Li-ann

SECTION 1

GENERAL

01

JURISPRUDENTIAL EPOCHS OF THE SUPREME COURT

The constitutional law of Singapore is not to be found solely in the words of its Constitution, but also in the judgments of its courts. Words in the Constitution need to be interpreted and because most constitutions are drafted in broad strokes, ambiguities need to be resolved. Also, the meaning of words change or acquire a different meaning over time, and any ambiguities or doubts must be settled through constitutional interpretation. Over the past 50 years, the courts' attitude and approach to constitutional interpretation has evolved considerably. Anyone familiar with Singapore constitutional law will know instantly if a judgment was written in the 1970s or in the 2010s. Judges of these different epochs approach constitutional questions differently, and this is manifest in the judgments and outcomes. For our purposes, it is convenient to divide these judicial or jurisprudential epochs along the lines of the four Chief Justices that have led the courts since independence: Wee Chong Jin, Yong Pung How, Chan Sek Keong and Sundaresh Menon.

The Wee Chong Jin Court (1965–1990)

Wee Chong Jin (1917–2005) started professional life as a civil litigation lawyer. Educated at Cambridge University and called to the Bar at the Middle Temple in 1938, he practiced with the firm of Allen & Gledhill and then with Wee Swee Teow & Co between 1940 and 1957. On 15 August 1957, he was appointed puisne judge, the first Asian practitioner to be so appointed. In January 1963, as Singapore was moving steadily towards independence, Wee was appointed Chief Justice. In the 18 years that Wee was Chief Justice, the Supreme Court was small and staffed by many of Wee's contemporaries, most of whom were among the first wave of local judicial officers who were appointed to the Bench as part of the Malayanisation process that began in the mid 1950s. Among those of that generation were: Tan Ah Tah, FA Chua, JWD Ambrose, AV Winslow, T Kulasekaram, Choor Singh, DC D'Cotta and AP Rajah. Later appointments to the bench included TS Sinnathuray, Lai Kew Chai, LP Thean, Punch Coomaraswamy, Chan Sek Keong, Chao Hick Tin and Yong Pung How.

The senior members of the judiciary in the earlier years of the Wee Court, especially between 1965 and 1985, were men

who had studied and qualified in England and who commenced practice at a time when European law firms and legal civil servants still dominated the scene. They were well-trained and schooled in the common law and were as familiar with English precedents and legal concepts as erstwhile English judges. Constitutional law for these judges, was little more than an extension of English administrative law, transposed to suit local conditions. As judges who bore the responsibility of upholding Singapore's legal system, they concerned themselves with ensuring compliance with legal forms and instinctively looked to English precedents and English textbooks and practitioners' texts in much the same way an English judge might do. This tendency did not arise purely from professional habit but also from the cognisance that all decisions of Singapore courts were potentially appealable to the Privy Council in England which tended to apply English precedents and principles save in exceptional circumstances.

The Wee Court was functioning at a time when Singapore was also pursuing development most aggressively. The will of Parliament was given the greatest latitude and the judges saw their roles as keeping the inherited legal system operating optimally, and doing so in accordance with the accepted legal precepts of the day. This can be seen in the way judgments from other jurisdictions, such as India and Malaysia — whose constitutional provisions are similar — were cited in great detail, and those of other "non-traditional" jurisdictions, such as the United States of America and Canada were given lesser

consideration. Many constitutional judgments of this period were functional, workmanlike and read like trial court judges' judgments even when they emanated from the Court of Appeal. Trial courts saw their role primarily as resolving the dispute at hand as quickly and fairly as possible and did not, by and large, take a long view of how the law will or should develop. As such, most of the Wee Court's decisions are rarely studied today as they seldom offer the detailed consideration and probing that lawyers in search of normative and logical (rather than factual) precedent require.

Supreme Court judges at the opening of 1990 legal year.
(L-R): Judicial Commissioner Chao Hick Tin, Justice AP Rajah, Justice FA Chua, Justice LP Thean, Justice TS Sinnathuray, Chief Justice Wee Chong Jin, Justice Lai Kew Chai, Justice Punch Coomaraswamy, Justice Chan Sek Keong, Justice Yong Pung How and Judicial Commissioner Tan Teow Yeow.

Towards the end of Wee's tenure as Chief Justice, a number of locally-trained judges were appointed. The first of these was Lai Kew Chai (1941–2006), a 1966 graduate of the Faculty of Law of the University of Singapore. Lai, who had a very successful commercial and shipping practice in the firm of Lee & Lee, was appointed a puisne judge in 1981. Aged only 40 then, Lai was the youngest judge to be appointed to the Supreme Court bench. The second appointment was Chan Sek Keong (b 1937) who was appointed Singapore's first Judicial Commissioner on 1 July 1986, and was elevated as puisne judge on 1 July 1988. The appointment of more locally-trained judges in the years to come would significantly change the approach of the court, and coupled with the abolition of appeals to the Privy Council in 1994, helped develop in Singapore, a more localised, home-grown or autochthonous legal system.

The most significant public law decisions from the Wee Court era which continue to be studied are *Lee Mau Seng v Minister for Home Affairs* (1971) and *Chng Suan Tze v Minister for Home Affairs* (1989), both cases concerning the legality of detentions under the Internal Security Act (and which are discussed in greater detail elsewhere in this book). In *Lee Mau Seng's* case, Chief Justice Wee Chong Jin, sitting in the High Court held that a Minister's discretion in ordering detention under the Act was a subjective matter that was not amenable to judicial review.

Some 18 years later, Chief Justice Wee, who was also on the Court of Appeal in *Chng Suan Tze*, reversed this decision, holding that the test for the exercise of discretion was an objective one. *Chng* is rightfully regarded as one of the landmark constitutional law cases in Singapore, and while Chief Justice Wee is listed as the author of the judgment in that case, it seems clear that Mr Justice Chan Sek Keong contributed significantly to the writing of that opinion.

The Yong Pung How Court (1990–2006)

By the time Wee Chong Jin retired as Chief Justice, he was already 73 years old and many had expected that Lai Kew Chai, who had been on the Court for almost a decade would be appointed the next Chief Justice. Instead, a former lawyer and banker, Yong Pung How (b 1926) was appointed Singapore's second Chief Justice. Yong came from a prominent family; his father, Yong Shook Lin had founded the well-known local firm of Shook Lin & Bok. Yong Pung How had studied law at Cambridge at the same time Lee Kuan Yew and his wife Kwa Geok Choo were there. Yong was called to the Bar at the Inner Temple in 1951 and practiced in his father's firm from 1952 to 1970. In 1971, Yong switched from law to banking and established the Singapore International Merchant Bankers Limited (SIMBL) and the Malaysian International Merchant Bankers (MIMB) in Malaysia, serving as Chairman and Managing Director of both companies. In 1976 he retired from both offices and was appointed Vice-Chairman of the Oversea-Chinese Banking Corporation (OCBC). It was Lee Kuan Yew who persuaded

Yong to give up banking to go onto the Bench, which he did in 1989. A year later, he became Chief Justice.

Chief Justice Yong brought a lifetime of corporate experience and expertise to the Bench. Although he had been out of touch with legal practice for almost two decades, he succeeded in transforming the judiciary into one of the most dynamic and efficient in the world. When Yong took over as Chief Justice, the Supreme Court was small as the Government had had a very difficult time getting top practitioners to give up their lucrative practices to become judges. But as Singapore became increasingly developed as a commercial centre, the demands on the courts grew correspondingly and the Supreme Court was saddled with a serious back log of cases to be determined and judgments to be written. Yong made it his task to turn this court into one that was "as efficient as the best business". The court would take charge of case management and lawyers were pushed to meet deadlines established by the courts. Adjournments and postponements were discouraged and often refused and the legal profession rushed to catch up with the courts' deadlines.

It was during Yong's tenure as Chief Justice that the salaries for judges were raised substantially, and he was able to entice onto the court many more judges, having at one time, over 20 judges on the bench. Many of these new appointees were from private practice. Yong also began the practice of appointing would-be judges as Judicial Commissioners for between six months and a year before full elevation as puisne judges.

Among the judges appointed during Yong's 16-year tenure were: S Rajendran, Goh Joon Seng, Goh Phai Cheng, GP Selvam, MPH Rubin, Kan Ting Chiu, Lai Siu Chiu, KS Rajah, Michael Hwang, Warren Khoo, Amarjeet Singh, TQ Lim, Judith Prakash, Choo Han Teck, Christopher Lau, CR Rajah, Tan Lee Meng, Chan Seng Onn, Lee Sieu Kin, Tay Yong Kwong, Woo Bih Li, Belinda Ang, VK Rajah, Andrew Phang and Andrew Ang.

Decisions on constitutional matters during the Yong Court era were decidedly statist in orientation. The Court evinced a distinct distrust of scholarly writing and in the precedents of foreign courts and more often than not took a literal anti-rights interpretation of the Constitution. It was in this era that the court applied the "four walls" test to the interpretation of the Constitution. Where an individual's right comes up against the exercise of state power, the Yong Court preferred an interpretation that favoured the state and there have been no instances where the court attempted to balance the rights of individuals with the interests of the state. Three cases from the Yong Court illustrate these points: *Chan Hiang Leng Colin v Public Prosecutor* (1994); *Jabar v Public Prosecutor* (1995) and *Rajeevan Edakalavan v PP* (1998).

The first case concerned the right to religious freedom under Article 15 of the Constitution and the constitutionality on the Government's ban on Jehovah's Witnesses' right to form a church. Mr Justice Yong (as he then was) held:

> I am of the view that religious beliefs ought to have proper protection, but actions undertaken or flowing from such beliefs must conform with the general law relating to public order and social protection. The right of freedom of religion must be reconciled with 'the right of the State to employ the sovereign power to ensure peace, security and orderly living without which constitutional guarantee of civil liberty would be a mockery'. The *sovereignty, integrity and unity of Singapore are undoubtedly the paramount mandate of the Constitution* and anything, including religious beliefs and practices, which tend to run counter to these objectives must be restrained. [*emphasis added*]

It remains a puzzle how the Court was able to read in an extra-constitutional "paramount mandate" to restrict religious freedom. In *Jabar*, Chief Justice Yong seemed to have forgotten that Singapore had a written constitution and conferred ultimate sovereignty in Parliament when he held that

> Any law that provides for the deprivation of a person's life or liberty is valid and binding so long as it is validly passed by Parliament. The court is not concerned with whether it is also fair, just and reasonable as well.

Finally, in *Rajeevan*, a case concerning the right to counsel under Article 9(3), the court held that the clause a person "shall be allowed to consult and defended by a legal practitioner of his choice" did not include the right to be informed of his right. This was a literal interpretation since the Court held that nowhere in Article 9(3) did it provide a further right for an individual to be told of his right to legal counsel, and to read in this right was tantamount to "judicial legislation".

The Chan Sek Keong Court (2006–2012)

As we saw earlier, Chan Sek Keong was appointed Judicial Commissioner in 1986 and puisne judge in 1988. In April 1992, Chan left the bench and became Attorney-General, occupying that position till April 2006 when he returned to the bench as Chief Justice. While Chan's tenure as Chief Justice was brief, his impact on the bench was tremendous. Universally regarded as one of the most learned and erudite judges to grace the Singapore bench, Chief Justice Chan demonstrated a deep understanding of constitutional and administrative law and appreciated the work of academics, habitually citing helpful articles by local scholars in his judgments.

The quality of judgments — on the whole — improved dramatically during this period. In constitutional and administrative law, there was much greater focus on the intrinsic values of the law, such as matters of procedural fairness, and the procedural aspects of the Rule of Law and the Separation of Powers.

Judgments were much longer, expository in nature and offered serious and nuanced reasoning justifying the verdicts. Unlike the Yong Court, the Chan Court took rights seriously and took pains to explain why constitutional rights are important and sought to balance individual rights against public interest. For example, in *Attorney-General v Tan Liang Joo John & Ors* (2009), the court sought to balance an individual's right to criticise the court, and the need for the court to protect its own independence by way of contempt proceedings and formulated a test for "fair criticism".

While the Chan Court also consciously worked towards developing great autochthony in its own jurisprudence, it also abandoned the "four walls" approach of the Yong Court and demonstrated its willingness to consider legal arguments and cases from all jurisdictions, even cases emanating from the European Court of Human Rights. The Chan Court was willing to study and borrow foreign ideas, but to modify them to suit local circumstances in what Thio Li-ann called "principled pragmatism" — the attempt to strike a balance between principle and political pragmatism. Chief Justice Chan himself was most concerned with the workings of a constitutional supremacy and the nature of judicial power under the Constitution, for example, *Mohammed Faizal bin Sabtu v Public Prosecutor* (2012), and the ambit of prosecutorial and presidential discretion under the Constitution. See *Ramalingam Ravinthran v Attorney General* (2012) and *Yong Vui Kong v Attorney-General* (2011) respectively.

The tenure of the Chan Court also coincided with the period of greatest constitutional litigation activity in the courts. Litigants were more willing to take on the state and the efforts of cause lawyers, resulted in numerous constitutional matters being litigated for the first time. Today, it is the judgments of the Chan Court that are seen as authoritative and are being studied by students of public law. The Chan Court was by no means activist, preferring a calibrated approach to review of executive action but adhering largely to the "green light theory" which "sees public administration not as a necessary evil but a positive attribute". Courts thus do not see "the objective of administrative law as not (primarily) to stop bad administrative practices but to encourage good ones." "Courts", Chan publicly stated, should not be "the first line of defence against administrative abuses of power; instead control can and should come internally from Parliament and the Executive itself in upholding high standards of public administration and policy." In this respect, Chan saw courts as playing "a supporting role by articulating clear rules and principles by which the Government may abide by and conform to the rule of law."

The Menon Court (2012 to date)

Sundaresh Menon (b 1962) was a graduate of the Faculty of Law, National University of Singapore and of Harvard Law School. A highly-successful practitioner, Menon had risen to the top of the profession, becoming a partner in Shook Lin

& Bok, Wong Partnership, Rajah & Tann and international firm, Jones Day. Menon was appointed Judicial Commissioner in 2006 and appointed Senior Counsel in 2008. After a year as Judicial Commissioner, he returned to Rajah & Tann as Managing Partner. On 1 October 2010, he was appointed Attorney-General and served in this capacity till November 2012, when he succeeded Chan Sek Keong as Chief Justice.

From the moment he stepped onto the Bench, Judicial Commissioner Menon (as he then was) demonstrated his great felicity with public law even though the subject occupied no part of his professional practice. In the case of *Lee Hsien Loong v Review Publication* (2007), he had occasion to consider which matters were justiciable (capable of being adjudicated by the court) and which were not, and in a very important decision, spelt out the principles governing justiciable issues before the court. Although this case went up on appeal to the Court of Appeal, these principles were not challenged and remain good law. A recent decision of the Chan Court — *Vellama d/o Marie Muthu v Attorney-General* (2013) — established the implied constitutional right to vote and interpreted the Constitution to require the Cabinet to hold a by-election where a seat in a single-member constituency has been vacated "within a reasonable time". This judgment was remarkable in that the matter — whether the Cabinet was required to call a by-election in Hougang constituency upon the vacation of the seat by the incumbent — had become moot by the time the matter reached the courts. However, as the Court felt that it was a matter of grave national importance, leave was granted for the applicant to proceed with the hearing all the way to the Court of Appeal.

The Menon Court, like the Chan Court has also taken every opportunity to clarify the role of international law in the domestic courts. The reception of customary international law into the local system had been settled earlier by the Yong Court in *Nguyen Tuong Van v Public Prosecutor* (2005) but was elaborated upon by the Chan Court in *Yong Vui Kong v Public Prosecutor* (2010) and more recently by the Menon Court in *Yong Vui Kong v Public Prosecutor* (2015).

There is no detectable shift in approaches to constitutional interpretation between the Chan and Menon Courts and it may be surmised that much that was initiated in the Chan Court era appear to be continue in practice in the Menon Court. Judgments continue to be extremely long and detailed and judges, even at trial level, are taking the opportunity to examine intricate and complex arguments advanced by counsel.

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THE PRESIDENTIAL ELECTIONS (2011)

In 1991, a momentous constitutional experiment took place with respect to the office of the Presidency, who is the head of state within the parliamentary system Singapore inherited from Britain. Prior to this, Presidents were chosen by Parliament and played a purely ceremonial function. With the advent of the elected presidency, the office was clothed with additional non-reactive executive powers and functions and was filled by popular elections, independent of general elections. Duallist democracy had arrived in Singapore, where the President and Prime Minister (through Parliament) are separately elected.

The rationale was that the office should be elected so that it would have the moral legitimacy needed to discharge its new mandate which might entail the President standing up to the Prime Minister. In tandem with various advisory councils, the President was vested with powers to withhold assent to specified fiscal measures (e.g. Supply Budgets), key civil service appointments, Internal Security Act detention orders and Maintenance of Religious Harmony Act restraining orders. The office was popularly described as the "second key" in a two key system designed essentially to protect national reserves from fiscal imprudence, the first key being held by the Cabinet or parliamentary executive.

Given the importance the creators attributed to the role of this office, stringent qualification criteria were set out in Article 19 of the Constitution. It is actually easier to qualify to be the Prime Minister, who is really the chief executive officer of the nation, than the President, as the Prime Minister need only satisfy the qualifications criteria of what is needed to run for Parliament set out in Article 44(1) which is basic (Singapore citizen, 21 years, language proficiency, resident in Singapore for at least 10 years, and not subject to disqualification through, e.g., becoming an undischarged bankrupt).

The requirements that a Presidential candidate be at least 45 years, a Singapore citizen and not a member of a political party are relatively unexceptional. What is onerous is the requirement set out in Article 19(2)(g)(i)-(iv) that the candidate must have held high public office for at least three years (Minister, Chief Justice, Speaker, Attorney-General, Chairman of the Public Service Commission, Accountant-General, Chairman or CEO

of a statutory board etc…) or a private sector equivalent (Chair or CEO of a company with a paid-up capital of at least $100 million). Those in analogous positions of seniority and responsibility in other public or private sector organisations which would equip them with the experience and ability to manage financial affairs could also qualify. Clearly, these criteria had a technocratic and pro-establishment bent. This has raised concerns that equality of candidature would be affected, as only a small pool of Singaporeans could potentially qualify. Estimates of the size of this pool have ranged from 400 to 700–800.

In addition, rather than direct elections, a Presidential Elections Committee (PEC) would act as a filter, as potential candidates would need to receive a Certificate of Eligibility before they could run for office. The PEC would have to be satisfied that candidates met the requirements of Article 19(2)(g) as well as the requirement in Article 19(2)(e) that the candidate was "a person of integrity, good character and reputation". A highly subjective contrary finding might be defamatory. However, Section 8A of the Presidential Elections Act (Cap 240A) confers immunity on the PEC against any such suit in the "absence of malice". Thus, contrary to the rule of law which requires that all exercises of discretion be subject to judicial scrutiny, decisions of the PEC in this respect are not subject to judicial review.

While the first Presidential elections in 1993 involved two candidates who held the requisite high office (Minister and

Accountant-General), what became an issue in subsequent elections was not the want of candidates, but the PEC's denial of certificates to aspirants in the 1999 and 2005 presidential elections. Both these elections were uncontested and Mr SR Nathan, a former diplomat who was the sole recipient of the certificate, became President and served for 12 years.

The oxymoron of an unelected elected president emerged, and the phenomenon of "walkover elections" where wards went uncontested, a common feature of General Elections, contributed to what one might justifiably describe as a landscape of political apathy.

All this changed in 2011 which ushered in what is now known as the "new normal", characterized by fierce politicking and competition for elective seats. During the heated 7 May 2011 general elections, the incumbent PAP Government was returned to office with 81 out of 87 elective seats. An overwhelming victory by any standard, the PAP lost a Group Representation Constituency (Aljunied) for the first time, including two ministers and a minister of state. This revitalised the parliamentary opposition. Against this repoliticised backdrop, the Presidential Elections were held on 17 August 2011.

The following table illustrates the results of Singapore's four presidential elections, two of which were contested, as well as the PEC decisions in awarding certificates of eligibility:

Year	Results	Denied Certificate of Eligibility
1993	Ong Teng Cheong: 58.7% Chua Kim Yeow: 41.3%	JB Jeyaretnam (Opposition politician, former senior district judge)
1997	SR Nathan (Unopposed)	Ooi Boon Ewe (private tutor) Tan Soon Phuan (Opposition politician)
2005	SR Nathan (Unopposed)	Ooi Boon Ewe RG Naidu Andrew Kuan (former Chief Financial Officer, Jurong Town Corporation)
2011	Tony Tan: 35.19% Tan Kin Lian: 4.91% Tan Cheng Bock: 34.85% Tan Jee Say: 25.04%	Ooi Boon Ewe (private tutor) Andrew Kuan (former Chief Financial Officer, Jurong Town Corporation)

Rather than the usual deficit of candidates, there was what some considered a surfeit of candidates in the form of the 'four Tans': former Deputy Prime Minister Dr Tony Tan Keng Yam, former PAP MP Dr Tan Cheng Bock (non-executive chairman and medical practitioner), Mr Tan Jee Say (investment adviser), who had unsuccessfully contested the general elections under the Singapore Democratic Party banner and Mr Tan Kin Lian (former CEO of NTUC Income, an insurance cooperative). All but Tan Jee Say were former PAP members.

It was an aggressively contested four horse race by candidates waged in print, public fora and Facebook; new media creates an insatiable appetite for news, both serious and frivolous, for participation and direct engagement, which the candidates vigorously attended to. The Prime Minister's Office issued a set of guidelines emphasising that campaigning over the nine-day period should "differ fundamentally" from general elections and

Election poster of presidential candidate, Tan Kin Lian (top), and identification documents for counting agents (right) for the 2011 presidential election. Photos from English Wikimedia Commons

be "dignified and above the political fray". During the nine-day campaigning period, all candidates were to participate in a joint TV interview on national television and each candidate would be allowed to hold one rally at designated locations. Given the custodial and non-partisan role of the President, political parties were not to be directly involved in campaigning by using their names or symbols to support a candidate.

Individual Opposition politicians campaigned for candidates, public interest was engaged. There was ultimately no outright winner, with President Tony Tan edging out his closest competitor by a sliver of a margin (0.34 per cent).

In the aftermath of the elections, concerns were raised as to whether the pre-selection criteria had been applied too liberally: for example, MP Alvin Yeo asked before Parliament in October 2011 whether the reference to a chairman in the same breath as a chief executive officer connoted an executive or non-executive chairman. Was a co-operative equivalent to an incorporated company? Was a senior position in a fund management company which did not have a paid-up capital of over $100 million a comparable position to what the Constitution required?

What was striking was the declared campaign plans of certain candidates, which left one with the impression they were not running for the existing office, but an office they wanted to exist. These included creating people's councils for feedback-gathering, calling for more compensation for national servicemen, or the desire to be a centre of executive power or countervailing check

against the Government beyond what was constitutionally provided for. A fair bit of confusion between the "is" and "ought" of presidential powers and functions was evident. In response, the Attorney-General and various ministers issued public statements seeking to clarify the ambit of presidential powers. The Law Minister spoke at a Institute of Policy Studies forum on the powers of the President, convened because of renewed public interest in the presidency. He underscored that apart from constitutional exceptions, the President in general acted on the advice of the Cabinet.

More active political campaigning styles befits a newly repoliticised environment, and the desire for more effective checks on the Government in a dominant party system clearly spilled over to affect the tone and timbre of the 2011 Presidential Elections. This prompted one PAP MP Denise Phua in May 2014 to call for a scrapping of the elected presidency and a return to a ceremonial head of state. In an interview with *The Straits Times*, she criticised the admission of "candidates who were non-executive chairmen of companies or portfolio managers with no stronger solid executive experience", placing them in a position where they might have to exercise "very critical executive functions". She expressed her longing for the return of the senior statesman, like Yusof bin Ishak and Benjamin Sheares, who need not engage in divisive political campaigning that divided the country, "instead of healing and uniting the people of Singapore". In other words, she preferred a return to

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