



## Settle or fight? Far Eastern Economic Review and Singapore

In the summer of 2006, Hugo Restall—editor-in-chief of the monthly *Far Eastern Economic Review* (FEER)—published an article about a marginalized member of the political opposition in Singapore. The piece asserted that the Singapore government had a remarkable record of winning libel suits, which suggested a deliberate effort to neutralize opponents and subdue the press. Restall hypothesized that instances of corruption were going unreported because the incentive to investigate them was outweighed by the threat of an unwinnable libel suit.

Singapore's ruling family reacted swiftly. Lawyers for Prime Minister Lee Hsien Loong and his father Lee Kuan Yew, the founder of modern Singapore, asserted that the article amounted to an accusation against their clients of personal incompetence and corruption. In a series of letters, the Lees' counsel demanded a printed apology, removal of the offending article from FEER's website, and compensation for damages. The magazine maintained that Restall's piece was not libelous; nonetheless, it offered to take mitigating action short of the three demands. But the Lees remained adamant. Then, in a move whose timing defied coincidence, the government Ministry of Information, Communications and the Arts informed FEER that henceforth it would be subject to new, and onerous, regulations.

These actions were not without precedent. Singapore was an authoritarian, if prosperous, country. The Lee family--which claimed that the country's ruling precepts were rooted in Confucianism, a philosophy that vested power in an enlightened ruler—tolerated no criticism. The Lees had been in charge for decades. The Singapore government expected domestic journalists to be team players, helping the city-state maintain stability and increase its wealth.

It tried to regulate the foreign press as well. Since 1987, when the government began to tighten controls, numerous foreign publications had run afoul of Singapore's leaders and the Ministry of Information. The *Economist*, the *International Herald Tribune*, *Time* and *Newsweek* had all clashed with the authorities, incurring steep fines or circulation caps. In 2006, however, there had been no legal action against the foreign press for four years.

When the Lees contacted FEER, the magazine sent the letter to the legal department at its parent company—Dow Jones. Dow Jones owned numerous publications that did business in Asia, including the *Asian Wall Street Journal*, *Barron's* and Dow Jones Newswires. The company had significant business interests in Singapore itself, including a sizeable number of readers, a printing plant and advertisers. But Dow Jones also had a reputation for contesting lawsuits that threatened either its reporters or the larger principle of freedom of the press.

After the Lee family rejected the first Dow Jones offer—and especially after the Singapore government upped the ante with the intervention of the Information Ministry--the media company had to make a strategic choice. Should it fight the case in court, despite a chilling history of failure to win press suits in Singapore? Should it do as other news organizations had done and pay the fine, print the apology and get on with business? If FEER fought back, might the Singapore government decide to retaliate against other Dow Jones properties? What were the consequences if Dow Jones did *not* litigate the case? The Dow Jones lawyer, Stuart Karle—who also served as counsel for FEER—had to weigh the best interests not only of the *Review*, but of the larger publishing group he represented.<sup>1</sup>

### **The Far Eastern Economic Review (FEER)**

The magazine which incurred the Lees' wrath was a venerable one. Founded in 1946, FEER had long enjoyed a reputation for rigorous, intelligent reporting on Asian politics. At its height, the *Review* was a weekly journal that employed 77 correspondents throughout Asia. Its reporters were among the journalistic elite. "For someone who grew up dreaming about swashbuckling journalists reporting from far-flung places, there was no greater model than *The Far Eastern Economic Review*," wrote one journalist.<sup>2</sup> The article recalled the example of John MacBeth who, writing out of East Timor, Indonesia, continued reporting even after losing a leg to disease. In 1975, FEER's Nayan Chanda was the last reporter left in the presidential palace in Saigon when North Vietnamese tanks broke through the palace gates and unplugged the telex, cutting Chanda off midbroadcast. Perhaps most famously, the first interview Cambodian strongman Pol Pot granted from his jungle hide-out was to Nate Thayer, a *Review* reporter based in Cambodia.

*Dow Jones*. The publishing behemoth Dow Jones—which also owned the *Wall Street Journal* (which published an Asian as well as a European edition), *Barrons*, the Dow Jones Newswires and numerous other properties—had first acquired a 40 percent stake in FEER in 1973. It bought the Hong Kong-based journal outright in 1987. But the journal did not fare well in the 1990s.

In 2004, unable to recuperate from the twin shocks of the dot-com implosion and the Asian financial crisis of 1997 that significantly dented advertising revenues for publications in the region, FEER revamped its format, and significantly cut back its operations. Instead of a reported weekly, it became a monthly journal of ideas, with articles contributed by freelance academics and businessmen.

The *Review's* staff shrank from over 80 to two full-time editors, a secretary, and an intern. The *Review* published on the third Friday of every month (except August and September), ran about 80 pages long, and had

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<sup>1</sup> The Knight Case Studies Initiative sought in the summer of 2007 to interview the participants in this case from FEER, the *Wall Street Journal* and Dow Jones. Dow Jones was concerned that participating in this case study could affect the legal proceedings.

<sup>2</sup> Helene Cooper, "The Far Eastern Economic Review." *The New York Times*, November 3, 2004.

a circulation base of 15,000 in Asia and the US.<sup>3</sup> It also operated a website, *feer.com*. In conjunction with the 2004 changes, former Editor-in-chief David Plott left the magazine and Restall—a former editorial writer for the *Wall Street Journal*--took over.

## Brief History of Singapore

FEER had covered Singapore since the British crown colony achieved independence in 1959. Lee Kuan Yew, who guided Singapore to independence, became its first prime minister. The island briefly confederated with Malaysia, but went its own way in 1965. Lee Kuan Yew and his moderate People's Action Party (PAP) soon consolidated their hold on government. While a nominal democracy, in the four general elections between 1968 and 1980 PAP won all the seats in parliament. However, Lee set the country on a course of turbo-powered economic growth. His business-friendly policies aimed at maximizing Singapore's location at the nexus of important sea routes, and at converting it into a hub of information, investment, manufacturing, and trade.

Lee's policies were spectacularly successful. In a generation, Singapore transformed itself from a resourceless backwater to a major financial center; by the 1980s, its per capita income was second in East Asia only to Japan's.<sup>4</sup> Its social and legal policies were equally distinctive, though less applauded: the city-state dealt harshly with corruption, crime and social misbehavior. In 1994, the government famously sentenced an American to caning for spray-painting cars.

*Asian values.* Singapore's leaders often cited its Confucian foundations as justification for strict social control. The country was unusual in its ardent desire to cultivate a Western-style free economic market while maintaining a communitarian political philosophy. The leadership decried, for example, the West's emphasis on individual rights as egotistical and morally corrosive. They emphasized "rowing as a team," echoing the Confucian view of humans as interdependent, social beings who "are who they are not simply because they have worked hard or are talented, but because others have helped them."<sup>5</sup> In politics, the Confucian influence was evident in the ideal of the leader not as a politician pandering to public opinion, but as an "exemplary person," an enlightened, far-sighted helmsman who, holding power as a public trust, steered the body politic in the correct—rather than the momentarily expedient—direction.<sup>6</sup> Singaporean officials aspired to be leaders and resented the title "politician."

In the official Singaporean view, the West was decadent and corrupt because it followed the cult of individuality to its logical and destructive conclusion, resulting in a proliferation of crime and vice, corruption and profligacy. Singapore hoped to keep these out through legislation and aggressive prosecution of offenders. When it came to the media, Singapore thus banned not only the overtly lascivious—*Penthouse*, for example—but even the seemingly benign, like *Cosmopolitan* magazine and the Beatles song "Happiness is a Warm Gun." "Outwardly we are westernized. But the way we do things does not fit neatly into [the Western conception] of what a modern state should be," Prime Minister Goh Chok Tong explained at the anniversary of the Singapore *Straits Times* in 1995. "Nor, I suspect, have they quite accepted the fact that while many societies aspire to

<sup>3</sup> [http://www.dj.com/Products\\_Services/PrintPublishing/FEER.htm](http://www.dj.com/Products_Services/PrintPublishing/FEER.htm)

<sup>4</sup> See Alex Josey, *Lee Kuan Yew*, 2 vol. (1971–74, reprinted 1980); T.J.S. George, *Lee Kuan Yew's Singapore* (1973); James Minchin, *No Man Is an Island* (1986).

<sup>5</sup> Satsuki Kawano, *Ritual Practice in Modern Japan* (University of Hawaii Press, 2005), 25.

<sup>6</sup> Joel Kupperman, *Classic Asian Philosophy: A Guide to the Essential Texts*. (Oxford University Press, 2001), 64.

enjoy the material well-being of the West, not every society wishes to share the cultural and societal norms and values prevailing in the West today.”<sup>7</sup>

Western critics rejected the “Asian values” argument as a not-so-subtle justification for suppressing dissent. Economic prosperity, they charged, had come at the expense of civil liberties. They labeled Lee’s decades-long paternalistic, one-party rule soft authoritarianism.<sup>8</sup> “Lee Kuan Yew,” says Hong Kong University Associate Professor (and former FEER editor) David Plott, “is tough, ruthless, brutal toward his political enemies.”<sup>9</sup> He adds:

[He] shows no mercy and that’s widely understood. But the compact he has with the people of Singapore is to deliver good government, prosperity, a stable, secure, safe society. That’s the bargain. People are willing to give up certain freedoms in return for what the government delivers... To put it bluntly, Lee Kuan Yew just doesn’t like criticism of him or the PAP, and he uses the Singaporean legal system to muzzle the press.

*Ethnic diversity.* Singapore’s officials also often invoked the threat of ethnic violence as reason for a firm hand. During the 1980s, it was common for them to marvel publicly at the nation’s ethnic kaleidoscope while simultaneously warning that its fragile composition could be instantaneously shattered. Created as a trading outpost for the British East India Company, Singapore was indeed Southeast Asia’s melting pot, attracting immigrants seeking economic opportunity. It had a large Chinese majority, subdivided by the immigrants’ province of origin; there were also significant minorities of Malays, Indians, Tamils, and Eurasians. As a result, Singapore operated in four languages—Mandarin, Malay, Tamil, and English—though English was the *lingua franca* of business and government. For most of its existence, Singapore was also fragmented along religious lines, with Christianity, Buddhism, Taoism, Hinduism and Islam all significantly represented.<sup>10</sup>

Not surprisingly, this had proven for a while a volatile mix. Throughout the 1950s and 60s, Singapore erupted in race riots that killed scores and injured hundreds. By advocating a policy of coexistence and “multi-racialism,” and stressing an overarching Singaporean identity, the government largely succeeded in defusing ethnic tensions. The country’s economic boom reinforced this calming trend.<sup>11</sup>

In 1990, Goh Chok Tong became prime minister, though Lee Kuan Yew remained active behind the scenes under a newly-minted title of “senior minister.” Goh served until 2004, when he was succeeded by Lee Kuan Yew’s eldest son, Lee Hsien Loong. Goh remained in government as the new senior minister, and the government created a new title for Lee Kuan Yew: minister mentor. He continued to play a role in Singaporean

<sup>7</sup> Goh Chok Tong, “The Singapore Press: Part of the Virtuous Cycle of Good Government and Good Society.” July 15, 1995.

<sup>8</sup> From 2002-2007, Freedom House classified Singapore as “partly free.” See: [www.freedomhouse.org](http://www.freedomhouse.org)

<sup>9</sup> David Plott, telephone interview with Kirsten Lundberg, September 19, 2007. All further quotes from Plott, unless otherwise attributed, are from this interview. Plott, the former editor of FEER, was in 2007 deputy director of the Journalism and Media Studies Centre at Hong Kong University.

<sup>10</sup> State Department Background Notes, Bureau of East Asian and Pacific Affairs. April 2007.

<sup>11</sup> In a 2000 telephone poll, 70 percent of Singaporeans rated ethnic relations as “better today than they were 10 years ago.” Eighty-three percent said a race riot was unlikely to erupt in the next decade. Diane K. Mauzy and R.S. Milne, *Singapore Politics Under the People’s Action Party* (Routledge, 2002), 113.

politics as a cabinet member and chair of a powerful government investment corporation. Many observers felt that Lee Kuan Yew remained the power behind the throne.

### Singapore's domestic press

The Singapore government was unambivalent about the role of the domestic press in society: it should support, not criticize, government and elected leaders. This arrangement evolved over time. At its birth, Singapore had had a vibrant media scene, with many newspapers dating back to the 19<sup>th</sup> century. During the 1960s and 70s, however, Lee Kuan Yew and the PAP used various means to tame and co-opt the local press, ranging from intimidation to arrest and deportation. The government discredited uncooperative publications by, among other methods, claiming that Communist China sponsored them.<sup>12</sup>

By June 2000, when the government announced that it would issue more media licenses and allow more domestic competition, the Singapore press had been brought fully under state control.<sup>13</sup> Singapore Press Holdings held a monopoly over print media, while MediaCorp controlled local broadcast outlets. Both were state companies; government figures—or people closely allied with the state—sat on their boards, and the government could veto any initiative.

The press, clarified Goh in his 1995 address to the *Straits Times*, had an obligation to provide “accurate reporting, clear analysis, and intelligent interpreting of events and developments through Singapore eyes for Singapore minds.” The task of the mass media was to create an atmosphere in which people were eager to acquire the “knowledge, skills and discipline of the advanced countries... and to avoid the wrong turns some of them have taken.” Singapore’s leaders, he noted, were elected; the press was self-appointed, and consequently had less legitimacy. He added:

The Western idea of the press as the fourth estate of the realm, as an adversarial watchdog of government, goes against our goal of consensus politics... Accurately reporting wrongdoings is a legitimate role... But the concept of the press being all powerful and having the last word smuggles in a power that ordinary citizens do not bestow on them.

As then-Defense Minister Lee Hsien Loong said in a 1987 speech, just as no one system of government “can suit every nation, no single model of the press can serve the purpose of every society.”<sup>14</sup> Singapore’s first priority, according to Lee, was nation building, “creating one nation, one people, out of different races, worshipping different gods,” and generating economic growth “which depends on economic stability, so that our people can enjoy higher standards of living.” Singapore’s success, he said, “only makes [us] more acutely aware of how improbable this happy outcome has been, and how quickly and disastrously things can still go wrong.” After all, Lee said, “our common destiny is a historical accident.”

Over the years, officials continued to raise the specter of ethnic conflict in order to ban discussion in the press of certain topics, like religion or discrimination against ethnic minorities. “These are not cerebral matters which we can discuss in a Western salon,” Lee Kuan Yew once explained. “In our society, these are

<sup>12</sup> Francis B. Seow, *The Media Enthralled: Singapore Revisited*. (Lynn Rienner Publishers, 1998), p. 40.

<sup>13</sup> Article 19, “Freedom of Expression and the Media in Singapore,” 2005.  
<http://www.article19.org/pdfs/publications/singapore-baseline-study.pdf>

<sup>14</sup> Lee Hsien Loong, “When the Press Misinforms,” May 26, 1987. Delivered at the 40<sup>th</sup> World Congress for Newspapers Publishers, in Helsinki.

visceral matters. People take their religion very seriously. It is extremely dangerous to treat this as just another conversational subject.”<sup>15</sup> Though the last race riot in Singapore was in 1969, the authorities pointed out that neighboring Indonesia was convulsed by ethnic violence as late as 1998. Surveys showed that a majority of Singaporeans shared these fears. In a 2000 telephone poll, only 48 percent of respondents said they would trust someone of a different race to protect them should a race riot break out.<sup>16</sup>

Western critics found this argument disingenuous. While earlier in its history a Marxist insurrection, ethnic violence, or foreign meddling was a threat, by the turn of the 21<sup>st</sup> century Singapore was stable. Doreen Weisenhaus, a media law specialist based in Hong Kong, says that “whatever reasons it might have had at an earlier time, [those don’t] seem to exist today. You don’t see foment in the street, you don’t see people wanting to protest.” Grassroots political activity, according to Weisenhaus, “is negligible... Even without any kind of crackdown, even without any laws about it, that just doesn’t seem to be part of what people want to do with their lives.”<sup>17</sup>

## The foreign press and Singapore

As Singapore devised ways to mold the domestic press, it also struggled with how to manage foreign reporters. One principle was clear: foreign media were in the country as a privilege, not a right. Second, they had no right to interfere in the country’s internal politics. “To start from first principles,” Lee Hsien Loong said, “foreign newspapers have no right to circulate in Singapore.”<sup>18</sup> He elaborated:

Singapore... does not object to foreign correspondents reporting about [the country] in any way they choose to foreign audiences, provided they get their facts right... Their ideological biases or political slants do not matter to us... But when foreign based journals with significant circulations in Singapore start to report on Singapore for a Singapore audience, the Government has to take care. We do not want such foreign journals to take sides on domestic political issues... The foreign press has no part to play in what should be a purely domestic political process.

Professor Yuen-Ying Chan, director of the Journalism and Media Studies Centre at the University of Hong Kong, disputes that argument. She concedes that “in general, we cannot transplant ... American standards to this part of the world, given its different culture, given its history. You need to adapt international standards to local realities.” But “there are certain standards that are universal,” she adds. “The basic principles of journalism, I believe, are universal. That’s my position. There’s one journalism. There’s good journalism and bad journalism.”<sup>19</sup> Plott concurs:

The question arises, why does someone like Lee Kuan Yew fear this kind of reporting? And, you know, I can’t answer that question for him, but one of

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<sup>15</sup> As quoted in Hugo Restall’s “Letter from the Editor,” *Far Eastern Economic Review*, October 2006.

<sup>16</sup> Mauzy and Milne, *Singapore Politics*, p. 113.

<sup>17</sup> Doreen Weisenhaus, interview with Kirsten Lundberg, Hong Kong, on September 5, 2007. All further quotes from Weisenhaus, unless otherwise attributed, are from this interview.

<sup>18</sup> Lee Hsien Loong, “When the Press Misinforms.”

<sup>19</sup> Yuen-Ying Chan interview with Kirsten Lundberg, Hong Kong, September 7, 2007. All further quotes from Chan, unless otherwise attributed, are from this interview.

the concerns I have is that it reflects a fear of his own people. A fear of how his own people will respond to critical views of him.

*Newspaper Act.* Whatever the reasons, Singapore had long circumscribed the operations of Western news organizations with legal restrictions and punitive measures, such as circulation caps and libel suits. The foreign media had learned to steer clear of certain hot topics like race and corruption, and to be careful about sourcing potentially sensitive stories. But in the mid-1980s, the government extended controls.

On August 1, 1986, with only two votes opposing, Singapore's parliament passed an amendment to the 1974 Newspaper and Printing Presses Act. The revised law, which went into effect in September, obliged any newspaper published outside of Singapore to obtain the "prior approval" of the Minister of Information and Communications to be imported, sold, or distributed in Singapore.<sup>20</sup> The law also gave the minister the right to "restrict sale or distribution" of any foreign publication found to be "engaging in the domestic politics of Singapore."<sup>21</sup> The minister needed to give no reason for this determination, and anyone found distributing or in possession of more than five copies of an unapproved publication was liable to a stiff fine, imprisonment, or both.<sup>22</sup> Western critics immediately noted that the law allowed no appeal of the minister's decisions, and that it jeopardized Singapore's aspiration to become Asia's information hub.<sup>23</sup>

The new law came at a crucial point in Singapore's economic development. Wooed by the country's technological advancements and the strategic location of its spacious port, foreign publications—*The Economist*, the *International Herald Tribune*, and many others—had set up printing presses in Singapore and were using the country as a base for their regional operations. *Time* magazine, for example, printed its entire Southeast Asian print run—some 100,000 copies—in Singapore. Others, like the *Asian Wall Street Journal* and *Asiaweek*, depended on Singapore's urban, literate population for a large percentage of their total circulation. In the fall of 1986, FEER too, which relied heavily on Singapore's domestic market, transferred 65 percent of its printing operations from an overcrowded Hong Kong.<sup>24</sup> As Professor Chan puts it:

Why do it in Singapore? Singapore is not the most central place... Hong Kong is more central; Bangkok is more central. Well, because Singapore gave them a good deal.

## Crossing the Line

It did not take long for the foreign press to learn what the new legislation would mean in practice. Within a month, *Time* found itself under pressure.<sup>25</sup> Three days after the legislation went into effect, *Time* published an article titled "Silencing the Dissenters." The piece was critical of Prime Minister Lee Kuan Yew

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<sup>20</sup> Newspaper and Printing Presses (Amendment) Act of 1986. Section 24, (2).

<sup>21</sup> *Ibid.* Section 24 (4).

<sup>22</sup> *Ibid.* Section 24 (1), (3).

<sup>23</sup> Oddly, the law had no mechanism for removing circulation caps. In fact, Western publications whose circulation had been restricted in the 1980s continued to operate within those limits for decades.

<sup>24</sup> Steven Butler, "Concern Mounts over Singapore Press Curb," *The Financial Times*, November 13, 1986.

<sup>25</sup> *Time's* run-in with the authorities was the first case of the enforcement of the amended Newspaper Act. An earlier incident that year, however, highlighted the government's increasingly testy relationship with the foreign press. In March 1986, a Reuter's correspondent was expelled from the country after she reported that rescue workers were charging victims of a hotel collapse for their services. The government responded, saying that the reporter had not checked her facts and that she relied exclusively on one source, a victim "who was suffering from shock and delirium at the time." Tommy T.B. Koh, Singapore ambassador to Washington, Letter to the Editor, *The New York Times*, November 1, 1986.

and painted a sympathetic portrait of an opposition politician, J. B. Jeyaretnam. Jeyaretnam, incidentally, was one of the only two parliamentarians to vote against the new newspaper law.

*Time*. The prime minister responded swiftly. His press secretary, James Fu, addressed a detailed letter to *Time*'s editors, pointing out several facts that he alleged were incorrect. *Time* acknowledged one mistake and agreed to publish a redacted version of the letter. After six weeks of negotiations, with Fu demanding that the letter be printed in full, and *Time* invoking editorial privilege and space constraints, the Ministry of Information finally took action.

On October 15, 1986, the government announced in the *Gazette*—an action known as “gazetting”—that *Time* was “engaging in domestic politics,” and capped the magazine’s circulation at 9,000 copies. By January 1, 1987, the magazine’s circulation would be further reduced to just 2,000 copies.<sup>26</sup> Prior to the restriction, Singapore was *Time*'s fastest growing Asian market, with a circulation of 18,000. Within a day, *Time* gave in. The editors agreed to publish Fu’s letter in full, though the circulation restriction remained in effect for nine months until it was lifted in July 1987.<sup>27</sup>

*Asian Wall Street Journal*. In February 1987, the Singaporean government again invoked the new press law, this time against the *Asian Wall Street Journal*, a Hong Kong-based Dow Jones publication. The Ministry of Information declared that the *Journal* had “defamed the government” and was “engaging in the domestic politics of Singapore.”<sup>28</sup> The *Journal*'s circulation was cut from 5,000 to just 400 copies. (Of those, 143 libraries received priority copies in order, the Ministry said, to ensure “continuing public access” to the publication.<sup>29</sup>)

The move stemmed from a December 12, 1986, front-page story called “Singapore Exchange Puzzles Financiers.” The article, written by Stephen Duthie, a resident correspondent who had run afoul of Singapore’s government before, reported on a widely held opinion in the business community that the government’s plans to open a second securities market was just a scheme “to unload state-controlled and government-backed companies.”

The next day, Koh Beng Seng, the director of Singapore’s Banking and Financial Institutions Department, wrote to the *Journal* accusing Duthie of bias and inaccurate reporting. He also demanded that the letter be published in full. In response, the *Journal* dispatched a senior member of its editorial staff to investigate the matter and conduct a new batch of interviews. The new reporting found that Duthie’s December article had been accurate, and the *Journal*'s lawyers advised its editors that Koh’s letter defamed Duthie. The *Journal* therefore decided not to publish the letter but instead invited Koh to write in and express his views on the new securities exchange.<sup>30</sup> Koh refused, and the *Journal*'s circulation was slashed.

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<sup>26</sup> “Singapore Slashes *Time*'s Circulation,” *United Press International*, October 15, 1986.

<sup>27</sup> The letter was published with an editorial disclaimer, which said that *Time* did “not agree with all the corrections cited... but prints this letter in the spirit of full discussion of the issues.” Francis B. Seow, former Solicitor General of Singapore, “Newspapers: A Ban Is Not a Ban Unless Restricted.” Presented at the Conference on The Limits of Control: Media and Technology in China, Hong Kong and Singapore, Graduate School of Journalism, North Gate Hall, University of California, Berkeley, on April 2-3, 1998.

<sup>28</sup> Arthur Richards, “Singapore Government Lashes Out at *Asian Wall Street Journal*,” *United Press International*, February 9, 1987.

<sup>29</sup> Francis Keow, April 1998.

<sup>30</sup> Steven Butler, “*Journal* Draws the Line in Singapore,” *Financial Times*, February 11, 1987.

Dow Jones fought the case in Singapore's courts, ultimately losing on appeal in 1989. In October 1990, Dow Jones decided to stop sales of the *Journal* in Singapore altogether. The *Journal* returned to the Singapore market, however, in the early 1990s. While a circulation cap remained in place, the numbers were higher than in 1987-90, and largely accommodated market demand.

*Asiaweek*. In the fall of 1987 *Asiaweek*, a Hong-Kong based weekly owned by Time Inc., also ran up against Singapore's press laws. The magazine ran a cover story on September 13 called "Battle Against Leftism," by Lisa Beyer. The piece covered Operation Spectrum, a security initiative against social activists in Singapore, many of whom were affiliated with the Catholic Church but whom the government arrested as Marxists plotting a coup. Beyer's piece focused on the detainees, held without trial under a new internal security act, and hinted that their confessions had been extracted under torture.

The next day, Chin Fook Leong, press secretary to the Home Affairs minister, wrote to the magazine. *Asiaweek* published an edited version of the letter under Chin's name, with the title "A Distortion of Facts, You Say?" Chin wrote in again, and the Ministry of Information said in a press statement, "[w]ithout Chin's consent or disclosing it to their readers, *Asiaweek* had deleted significant parts of the original letter and added more than 470 words... thereby altering its focus."<sup>31</sup>

*Asiaweek's* editor-in-chief, Michael O'Neill, wrote to the prime minister and asked him to look into the correspondence. Prime Minister Lee suggested that O'Neill publish both letters verbatim, and publish the magazine's reply separately. When O'Neill refused, the Ministry of Information alleged that the magazine had written a slanted article that "mislead its readers" on a matter "concerning the internal security of Singapore."<sup>32</sup> *Asiaweek's* circulation was cut by 94 percent, from 9,000 to 500 copies.

*FEER*. Next up was *FEER*. On December 26, 1987, two months after limited copies of *Asiaweek* appeared on Singapore's newsstands with white stickers denoting government approval, the *Review* was gazetted for writing about those arrested under Operation Spectrum.<sup>33</sup> Singapore's leaders harbored no affection for the publication; after the passage of the 1986 press law, the government had singled out the *Review's* coverage as an example of the kind of journalism the law aimed to prevent.

The *Review's* December 17 article, "New Light on Detentions" by Michael Malik, focused on six detainees--whom the government alleged were Marxist agitators--held for six months. The article also described a June meeting between Prime Minister Lee and Gregory Yong, the Roman Catholic archbishop of Singapore, regarding the detentions. (Many of the jailed activists were linked to the church.) Details of the meeting were provided by Edgar D'Souza, a Catholic priest who was not at the meeting, and who then fled to Australia and renounced the priesthood.<sup>34</sup>

Under the gazettement order, *Review* circulation was cut to 500 from 10,000 copies. *FEER* responded immediately with a conciliatory offer. Trying to learn from the mistakes of *Time* and the *Wall Street Journal*, it had instituted a policy of "right of reply" giving virtually unlimited space to official letters. It now offered to print any letters the government submitted.

<sup>31</sup> "Singapore to Restrict Sales of Asiaweek Magazine," *Japan Economic Newswire*, October 8, 1987.

<sup>32</sup> Kenneth I. Whiting, "Asiaweek Magazine Sales Restricted," *The Associated Press*, October 12, 1987.

<sup>33</sup> *Sydney Morning Herald*, January 8, 1988.

<sup>34</sup> *The Economist*, January 8, 1988.

This time, however, the prime minister wanted something else. Lee alleged that, even if the *Review* printed letters of rebuttal, the article presented a “false and defamatory” account in a series of “distorted and mischievous articles” that were “calculated to discredit and denigrate the Singapore government.”<sup>35</sup> In January, after giving the *Review* three days to retract and apologize for the article, Lee sued for libel. He alleged that Malik portrayed him as intolerant of the Catholic Church, and that the *Review* tried to undermine the fragile balance within Singapore’s diverse society by pitting the church against the state.

FEER fought the suit in court but lost. In 1991, a Singapore judge ordered FEER to pay \$100,000 in damages.<sup>36</sup> In the meantime, FEER—which had just transferred printing operations to Singapore two years earlier—in 1988 decided to stop printing in Singapore.

## Tightening the screws

In 1990, the Singapore parliament added a new section to its Newspaper and Printing Presses Act. The amendment introduced a new category of foreign publication: the offshore newspaper. An offshore newspaper was defined as a daily or weekly newspaper published outside Singapore which contained “news, intelligence, reports of occurrences, or any remarks, observations or comments, pertaining to the politics and current affairs of South-East Asia.”<sup>37</sup> Any publication that fit into this rather broad definition would now have to obtain a permit to circulate a maximum number of copies in Singapore, a permit to be granted—or revoked—by the minister of information without explanation. Offshore newspapers would be required to name a solicitor in Singapore who could accept any legal notices in the country on behalf of the publication. The paper would also have to post a deposit to cover any “liability costs” that might arise “in connection with the publication of the newspaper.” The amount, determined by the minister, was usually S\$200,000, or roughly \$112,000.<sup>38</sup>

Monthly publications were exempt from these requirements, as were a handful of existing news organizations. The first publication to fall afoul of these new requirements was the *Economist* magazine.

*The Economist*. The tangled case of the *Economist*’s brush with the law began with a June 1993 article called “Psst—wanna see a statistic?” The piece dealt with five journalists from the local *Business Times* who were being prosecuted by the Singapore government under the Official State Secrets Act for reporting on the government’s preliminary, or “flash” GDP estimates.<sup>39</sup> On July 10, 1993, the *Economist* published two letters in response to the piece: one from the country’s leading opposition politician, J.B. Jeyaretnam, and one from Singapore’s high commissioner in London, Abdul Aziz Mahmood. In order to make Mahmood’s letter fit, the editors of the *Economist* cut one sentence.

Two days after the July 10 issue came out, Mahmood wrote in again, protesting the cut and adding another paragraph in response to Jeyaretnam’s letter. He demanded that this latest letter be published in full. The *Economist* declined to publish it, which prompted the Ministry of Information to write to the magazine in support of Mahmood’s request, saying that the deleted sentence was a crucial one. If the *Economist* failed to

<sup>35</sup> "Singapore to Cut Magazine's Circulation," *Japan Economic Newswire*, December 26, 1987.

<sup>36</sup> "Former Singapore Premier Lee Wins Second Media Libel Suit," *Japan Economic Newswire*, May 13, 1991.

<sup>37</sup> Newspaper and Printing Presses Act. Section 23, (7) (a). This definition applies only if the editorial content and policy is set outside Singapore.

<sup>38</sup> The government stipulated that the Ministry would deduct money from the S\$200,000 posting in order to pay for libel damages. The amount would be determined by the Ministry.

<sup>39</sup> "Singapore Moves Against Economist Magazine," *Agence France Presse*, August 2, 1993.

remedy the situation in one of the two upcoming issues, the ministry said, the magazine would be gazetted for refusing the government its right of reply.

After some negotiation, *Economist* Editor Bill Emmott agreed to publish a new letter from Mahmood, one that would contain the omitted sentence and explain its significance, so that it would no longer be, in Emmott's words, "obscure, misleading or distorting."<sup>40</sup> Instead, acting on instructions from the Ministry, Mahmood wrote two letters, one of which was a reply to Jeyaretnam's letter. The *Economist* published just the first letter on July 31, and refused to publish two letters from the same person in one issue.

On August 2, the government announced it was gazetting the *Economist*, freezing its circulation at the current level of 7,500 copies. It also revoked the magazine's exemption from the new rules for offshore newspapers. Now the *Economist* would be required to name a solicitor in Singapore and to post S\$200,000 in case of any libel litigation. If the *Economist* did not print the letter, the ministry said, circulation would be reduced further.<sup>41</sup> "The government's policy on its right of reply is well publicized and applies to all domestic and foreign journals which circulate in Singapore," a ministry statement said.<sup>42</sup>

Initially, the *Economist* balked at the demand, and took aim at Singapore's economic aspirations, threatening to transfer a "substantial printing contract out of Singapore."<sup>43</sup> Even if the *Economist* were banned in Singapore, some reasoned, it would barely make a dent in the publication's circulation of half a million copies.<sup>44</sup> The magazine seemed in a better position to bargain than other gazetted publications had been.

But suddenly, on August 3, the *Economist* agreed to print the letter in its next issue, saying that this had always been its intention. In a statement explaining its decision, the *Economist* explained that it always sought "to obey the laws of countries in which we wish to publish." That said, the *Economist* assured its audience that it would not allow readers to be "misled or somehow abused." If ever its pages were to become "a propaganda sheet," Emmott insisted, "we would choose to cease circulating in that jurisdiction."<sup>45</sup> The *Economist* remained gazetted and its circulation capped at 7,500.

*The IHT*. In 1994, the Paris-based *International Herald Tribune* (IHT) crossed Singapore's leaders three times in one year. The first incident, in May, spun out of the sensational case of an American student, Michael Fay, who had been publicly caned for spray-painting cars. The IHT published a letter from a reader who criticized the Vandalism Act under which Fay had been prosecuted; he also took a shot at Edward Baker, who had been minister of law when the law was passed. The letter-writer mentioned a recent traffic accident for which Baker got off with a light charge. Though the letter-writer, the *Tribune*, and Singapore Press Holdings (the paper's local printers) apologized "unreservedly," Baker brought a defamation suit the following month.<sup>46</sup>

Two months later, the *Tribune* ran into trouble again when it published an article on August 2 called "The Claims About 'Asian' Values Don't Usually Bear Scrutiny," by Philip Bowring (who for a time edited the *Far Eastern Economic Review*). One passage in particular enflamed official tempers: "History almost seems

<sup>40</sup> Correspondence reproduced in "What led to gazetting The Economist," *The Straits Times*, August 3, 1993.

<sup>41</sup> *Agence France Presse*, August 2, 1993.

<sup>42</sup> "Singapore Takes Action Against 'The Economist'," *United Press International*, August 2, 1993.

<sup>43</sup> Ian Stewart, "Magazine Ends Dispute by Agreeing to Request," *South China Morning Post (Hong Kong)*, August 4, 1993.

<sup>44</sup> Philip Shenon, "2 Faces of Singapore: Lofty Aims, Press Curbs," *The New York Times*, August 5, 1993.

<sup>45</sup> "A Singapore Saga," *The Economist*, August 7, 1993.

<sup>46</sup> "Former Minister Sues IHT Over Letter: Report," *Agence France Presse*, June 11, 1994.

to consist of a battle between the corporatist needs of the state and the interests of the families who operate it,” Bowring wrote. “Dynastic politics is evident in ‘Communist’ China already, as in Singapore, despite official commitments to bureaucratic meritocracy.”<sup>47</sup>

Senior Prime Minister Lee Kuan Yew and his son, Deputy Prime Minister Lee Hsien Loong, felt this amounted to an accusation of nepotism. They lodged a complaint with the publisher and threatened to sue the newspaper. As former FEER editor Plott observes:

In any other country when you’ve got these kinds of familial relationships in government, you would acknowledge that the press has a right to raise that concern, right? Now whether you can therefore draw the conclusion that there’s nepotism or that this is corrupt or that there is cronyism, you at least have the right to discuss that. But Singapore has been very, very firm on this issue. Whenever this comes up, they slam a legal suit

On August 31, 1994, the IHT, on advice of its Parisian counsel, printed an apology signed by Bowring, executive editor Jon Vincour, and publisher Richard McClean. The apology, addressed to the two Lees and to then-Prime Minister Goh Chok Tong, said that the allegations were “completely without merit.” The IHT acknowledged that the passage in question “meant to readers” that Lee Hsien Loong had been appointed Deputy Prime Minister “not on his own merits but purely because he was Mr. Lee Kuan Yew’s son.”<sup>48</sup> Though the *Herald Tribune* thought that the printed apology settled the matter, the Lees’ counsel told reporters that they were still negotiating unspecified damages.

Then, on October 7, the *Tribune* published an opinion piece by Christopher Lingle, an American academic halfway through his two-year contract at the National University of Singapore. The article, titled “The Smoke Over Parts of Asia Obscures some Profound Concerns,” did not mention Singapore specifically, but government officials felt the implication was clear. Lingle’s piece was a reply to an October 1 article by a Singapore Foreign Ministry representative who wrote that Europe could solve its many problems by looking East for lessons on good governance. Lingle, a European specialist, disagreed. “Intolerant regimes in the region reveal considerable ingenuity in their methods of suppressing dissent,” Lingle wrote. “Some techniques lack finesse... Others are more subtle: relying upon a compliant judiciary to bankrupt opposition politicians, or buying out enough of the opposition to take control ‘democratically.’”<sup>49</sup>

Ten days later, the police searched Lingle’s home. They seized his original manuscript, research documents, and a hundred periodicals, including the *Far Eastern Economic Review*, the *Asian Wall Street Journal*, and the *Economist*. He was also questioned by two officers who asked him if a reasonable person would infer that his piece maligned the judiciary and undermined the general order.<sup>50</sup> Within the week, Lingle left the country and resigned his post.

The Singapore judiciary charged Lingle and four others with contempt of court. Despite a printed apology for the piece in December, Lee Kuan Yew filed a civil libel suit against the *Tribune*. In November 1995, the paper was ordered to pay Lee damages totaling \$213,000, plus legal costs. Lingle was fined

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<sup>47</sup> As quoted in “Herald Tribune apologizes to Singapore,” *United Press International*, August 31, 1994.

<sup>48</sup> As quoted in “Newspaper Takes Its Lashes; Herald Tribune’s Singapore Apology,” *Washington Post*, September 2, 1994.

<sup>49</sup> As quoted in the *Associated Press*, October 18, 1994.

<sup>50</sup> “S’pore Police Quiz US Academic over IHT Article,” *The Straits Times*, October 18, 1994.

separately, and had to pay \$71,000, plus costs, to the senior prime minister. Meanwhile the matter of Bowring's piece, with its implication of nepotism, remained unresolved until July 1995. The government did decide to pursue damages, and that summer the three men who signed the August 1994 apology testified in public court hearings that they had not written it "in good faith."<sup>51</sup> The court ordered them to pay \$678,000 and the IHT decided not to contest either ruling.

To some Western media-watchers, the IHT seemed too easily cowed, especially for a paper owned by the *Washington Post* and the *New York Times*, both widely considered standard-bearers of journalistic integrity and press freedoms. The Committee to Protect Journalists blamed the IHT for the rulings, saying the paper had put itself on a "slippery slope" by apologizing for its articles.<sup>52</sup> But a statement from IHT President Richard D. Simmons said that his paper "was found to have libeled people, a situation that happens with unfortunate frequency... and we will pay the price for that." A joint statement from publishers Katherine Graham of the *Washington Post* and the *Times's* Arthur Sulzberger said that free speech had not suffered in this case, and the conflict arose simply because "we publish in countries that have different laws and different standards."<sup>53</sup>

*Respite.* For several years after the *Tribune* case, Singapore's government brought no further cases against foreign news organizations. In the decade since the Newspaper and Printing Presses Act had gone into effect, the foreign press had learned to walk a fine line. Stories about Singapore were carefully considered prior to publication, according to Professor Plott. "You scrutinize the stories you do about politics in Singapore very carefully, not to distort what you are saying, but to close every avenue for legal action," he says. "You are just simply much more careful about it because you realize they are likely to sue." If an article upset local authorities, foreign publications were quick to remedy the situation by granting the Singapore government right of reply.

*Bloomberg News.* In 2002, however, the government lodged charges against Bloomberg News. On August 4, the news service posted a column by Patrick Smith that touched on the controversial appointment of Ho Ching, the deputy prime minister's wife (and Lee Kuan Yew's daughter-in-law), as the head of the powerful government investment company, Temasek Holdings.<sup>54</sup> The government charged that the column insinuated that Ho was hired because of her relationship to the Lee family, and threatened legal action.

Bloomberg moved quickly to smooth things over. On August 25, it removed the offending column from its subscription-based news service and website. In an apology issued through the service, Bloomberg said it regretted "the distress and embarrassment" its column caused in leading readers to believe that Ho was appointed "not on merit but for some corrupt motive to promote the interests of the Lee family." Further, in a phrase, echoing earlier Western apologies, Bloomberg conceded that "these allegations are false and completely without foundation."<sup>55</sup>

Three days later, meeting a deadline imposed by the Lees' lawyers, Bloomberg agreed to pay damages totaling \$340,000. The government accepted the sum, saying that, though it would not seek them, they were

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<sup>51</sup> Department of State, Singapore Country Report on Human Rights Practices for 1996, February 1997.

<sup>52</sup> William Glaberson, "Newspaper Decides Not to Fight Libel Award," *New York Times*, August 6, 1995.

<sup>53</sup> *Ibid.*

<sup>54</sup> Wayne Arnold, "Bloomberg News Apologizes to Top Singapore Officials," *New York Times*, August 27, 2002.

<sup>55</sup> *The Associated Press State & Local Wire*, August 26, 2002.

nonetheless “entitled to higher damages.”<sup>56</sup> For several years after that, no high profile press case surfaced in Singapore—until 2006.

### The FEER Article

In its July/August 2006 issue, FEER ran an article by Editor-in-chief Restall. Titled “Interview: Singapore’s ‘Martyr,’ Chee Soon Juan,” the piece explored the testy relationship between Chee, a sidelined and oft-imprisoned opposition politician relegated to “selling his self-published books on the street... to feed his family,” and Minister Mentor Lee Kuan Yew, who often lashed out at Chee in public.<sup>57</sup> Restall traveled to Singapore to interview Chee, who spoke about both his run-ins with the government and his hopes for change in Singapore.

In the piece, Restall wrote that, despite the Lees’ protests to the contrary, Lee Kuan Yew was “the man who many believe still runs Singapore.” Unlike Lee Kuan Yew, Restall wrote, his son lacked leadership abilities and media savvy, and “even supporters privately admit that the new prime minister doesn’t inspire confidence.” Restall touched, too, on the ever-prickly topic of race relations in Singapore, and quoted Chee as saying that “the harder they [the government] press now”—that is, suspend debate about “the persistence of discrimination”—“the stronger will be the reaction when [Lee Kuan Yew is] no longer around.” Restall also discussed the former prime minister’s ability to effectively stifle dissent, and thereby hide what Chee termed the accumulated “skeletons in his closet” from the public eye. “Why,” Restall wondered, “is all this oppression necessary in a peaceful and prosperous country like Singapore where citizens otherwise enjoy so many freedoms?” That in turn, he wrote, “raised the question of whether Singapore deserves its reputation for squeaky-clean government.”

Restall then described a scandal involving Singapore’s largest charity, the National Kidney Foundation (NKF), whose patron was former Prime Minister Goh’s wife. In 2004, the Foundation’s chief executive was found to be drawing a nearly \$400,000 salary, and was using the charity to bankroll the maintenance on his Mercedes, his first-class flights, and the gold-plated fixtures in his private office bathroom. Ironically, these details had come to light only because of a bitter lawsuit between NKF and Singapore Press Holdings, whose lawyers learned of the abuses.<sup>58</sup> Restall argued that this was not necessarily an isolated case of corruption, but could be only the tip of an iceberg. “The government,” he wrote, “controls huge pools of public money” that financed numerous projects from government investments to public housing. Though he did not accuse the government of corruption, Restall noted that a lack of transparency in its operations raised questions. “Singaporeans,” he mused, “have no way of knowing whether officials are abusing their trust as [the chairman of the Kidney Foundation] did.”

Finally, Restall observed that “Singaporean officials have a remarkable record of success in winning libel suits against their critics. The question then is, how many other libel suits have Singapore’s great and good wrongly won, resulting in the cover-up of real misdeeds? And are libel suits deliberately used as a tool to suppress questioning voices?”

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<sup>56</sup> “Singapore Leaders Accept 340,000 Dollars in Defamation Case,” *Agence France Presse*, August 30, 2002.

<sup>57</sup> Hugo Restall, “Singapore’s ‘Martyr,’ Chee Soon Juan,” *Far Eastern Economic Review*, July/August 2006.

<sup>58</sup> The foundation’s chairman had sued Singapore Press Holdings for an article which described some of his perks. The chairman in 1998 had won a similar lawsuit against the *Straits Times*.

## Singapore Responds

Lee Kuan Yew and his son responded forcefully to Restall's article. On July 13, 2006, their lawyer sent Restall and FEER two letters, one on behalf of each. Five of the article's paragraphs, wrote Attorney Davinder Singh, implied "that Minister Mentor Lee Kuan Yew is unfit for office because he is corrupt and has set out to sue and suppress those who would question as he fears such questions would expose his corruption." Furthermore, because Prime Minister Lee Hsien Loong appointed his father to a cabinet post, and as chairman of a government investment corporation, the article implied that the prime minister was unfit for office because he condoned his father's corrupt behavior. Restall's article, Singh complained, further implied that Prime Minister Lee (like his father) "has set out to sue and suppress those who would question because he fears such questions would expose the truth of such corruption and/or condonation." Such allegations, Singh wrote, were "false and baseless," and were clearly published "maliciously and recklessly."

The article, said Singh, constituted a "grave libel" against the current and former prime ministers. As remedy, he demanded that FEER remove the article from its website, and that the *Review* publish an apology—the terms of which he enclosed—both online and in its next print issue. The web version of the apology would have to be "prominent" and remain on the website for the same number of days as the offending article. Singh also demanded the *Review* pay Prime Minister Lee damages and any legal costs. He set a deadline for a response of July 18.

## FEER Conciliatory

The letters, while addressed to Restall and FEER, did not long remain in the magazine's Hong Kong headquarters. As editor-in-chief, Restall was responsible for all the editorial content in the magazine. On legal matters, however, FEER reported to Dow Jones and its in-house counsel, Stuart Karle. Karle was an experienced lawyer who had been with Dow Jones since 1992, representing each of its publications.

Within days, the letters from Singh on behalf of the Lees were on Karle's desk. As at most major US newspapers, the general counsel's office typically reviewed in advance of publication any article thought to be sensitive, especially those which could be libelous. Whether this article went through pre-publication vetting was unclear.

On July 18, five days after Singh sent his first letters, Karle replied on behalf of FEER. In an effort to anticipate the usual government demand—an unedited right of reply—Karle suggested that, while he investigated the matter, FEER post both of Singh's original, unedited letters on the FEER website. This would "get your position in front of readers as soon as possible," Karle wrote, since the next print issue of the *Review* would not come out until September. Posting the letters would not preclude "any future publication in the magazine... of a letter to the editor or any other item, if any, the *Review* believes is appropriate," he added.

Singh responded the next day. Rejecting Karle's suggestion as a cynical "attempt to republish the offending words (which appear in our letters)," he explained that the matter could not be settled with a simple letter to the editor. Singh gave the *Review* an additional five days—until July 24—to meet his original demands: removal of the article, an apology, and payment of damages.

Karle tried again to smooth things over. He answered the same day, July 19, and said that FEER would happily omit the offending paragraphs quoted in Singh's letter, and simply refer to them as "the 9<sup>th</sup> through the

13<sup>th</sup> paragraphs of the item.” His offer to post Singh’s letter and to link it to Restall’s article were an attempt, Karle said, at “mitigation,” and not “aggravation.”

On July 23—a day before the deadline—Karle submitted a full response to Singh, who had not yet responded to Karle’s previous letter. FEER disputed Singh’s interpretation of Restall’s article. Karle wrote that FEER did not believe that “any reasonable reader of the *Far Eastern Economic Review* would have understood those words to bear such a meaning.” In pointing out the example of corruption at the National Kidney Foundation, Restall mentioned neither the minister mentor nor his son. It could be said that, in asking what lay behind the veil of official opacity, the answer could just as well have been “nothing.” There was no need, therefore, to assess and pay damages. Though the *Review* “did not intend... to convey the meaning to which your clients object,” FEER was still willing, Karle said, to publish a clarification on its website and in the magazine’s September issue. He proposed text for the clarification that used language found in Singh’s initial complaint. It read:

We have been informed that the item published in our July/August issue under the headline, “Interview: Singapore’s ‘Martyr,’ Chee Soon Juan,” has been read by some as an allegation that Minister Mentor Lee Kuan Yew is corrupt, that Prime Minister Lee Hsien Loong is unfit for office for retaining and condoning the Minister Mentor’s corruption, and that the Prime Minister has himself set out to sue and suppress those who would make such allegations because he fears such questions would expose the truth of corruption or his condonation of it.

The *Review* did not intend to make any of these allegations in the article. To the extent any reader saw such allegations in the article, that is regretted.

Publishing the clarification would not, Karle wrote, preclude the possibility of an additional letter from either the prime minister or the minister mentor, or both. The *Review* “also remains interested in interviewing the Minister Mentor, which also could serve as a means by which he could express his views to the readers,” Karle added. He called for “patience and calm,” and tried again to reach a compromise with the Lees. He reminded them, as he had in his previous letter, of the *Review*’s decade-long history of publishing responses to its articles from government officials. The *Review* would gladly have published this clarification, as well as any additional letter, “without the intervention of any legal counsel,” Karle wrote.

The following day, on July 24, Singh sent back a terse, bulleted reply in which he rebuffed all Karle’s suggestions, including an interview with the minister mentor (“another avenue to profit from their libel”). He interpreted Karle’s response as one of disingenuous arrogance. “Your suggestion,” he wrote, “that our clients exercise ‘patience and calm’ implies that our clients have acted irrationally.” The clarification that Karle proposed was, in Singh’s words, “designed to be condescending, and... to convey the impression to the reader that the *Review* and Mr. Restall have decided to humour our clients.” He charged that the *Review* was not taking the Lees’ claims seriously. The *Review*, he alleged, was trying to dismiss as a mere matter of perception the Lees’ conviction that their credibility and character had been impugned. Singh signed off with the news that the Lees would begin legal proceedings, and requested the name of a Singapore lawyer on whom to serve papers.

Karle replied the same day with assurances that the clarification was written in good faith. He asked that the Lees reconsider their decision to bring suit. But he also requested that, should they choose to serve papers, they do so in either New York or Hong Kong. The *Review* could not name a solicitor in Singapore

because the magazine had no legal presence in Singapore, and thus no need for a lawyer. This time, the *Review* did not hear from the Lees' counsel.

### **Letter from the Ministry**

Instead, barely 10 days later, Restall and Dow Jones CEO Richard Zannino received a letter from Singapore's Ministry of Information and Communications. The Ministry, the letter said, had decided to standardize its legal approach to foreign publications; it was therefore imposing a new set of conditions on FEER in order for it "to operate on consistent principles with other offshore newspapers."

The *Review* had been circulating as a foreign newspaper since it was gazetted in 1987. When the law changed in 1990, FEER, like many other foreign publications, was categorized as an "offshore publication." Several news publications, including FEER, had been granted exemptions from the requirements to retain local counsel and post a S\$200,000 security deposit. Meanwhile, FEER in 2004 had moved into a separate category when it revamped its editorial structure, transforming itself from a weekly to a monthly publication. The 1990 amendments to the Newspaper and Printing Presses Act applied only to dailies and weeklies.

In a press release which accompanied its August 3 letter, however, the Ministry wrote that the government now felt "it is an anomaly for FEER, which is a declared foreign newspaper, not to be subjected to the conditions that apply to the other declared foreign newspaper [sic]." The Ministry decided simultaneously to revoke the exemptions from the 1990 provisions of several other offshore publications. From now on, the *International Herald Tribune*, the *Financial Times*, *Newsweek*, and *Time* would also have to name a local solicitor and post a S\$200,000 deposit with the Ministry of Information.

### **Pursue or settle?**

Karle and Dow Jones now faced a difficult choice: apologize and pay the fine, or fight the Singapore government in the courts. The intervention—clearly not coincidental—of the Ministry of Information in what had been, until this point, a private matter between FEER and the Lees was ominous, and raised the stakes. What should FEER make of this move, and should it influence Karle's response?

*Keep the peace?* On the one hand, there were good arguments for simply acceding to the Lees' demands. Given the track record of foreign press organizations which chose to fight the Singapore government, legal action was arguably futile. The government had not lost a single libel case against the media. The time, effort and money it would take to fight a case Dow Jones would surely lose could amount to nothing more than a waste of resources. Such reasoning had figured in some of the earlier press settlements, notes Professor Chan, and it was understandable: "You don't have the energy to fight, you don't have the means to fight. [Or] your boss doesn't want you to fight, right? I mean, what a hassle."

This seemed a reasonable calculus in this instance for several reasons. First, the Lees apparently wanted to make an example of FEER. A successful suit would remind the foreign media that they were still merely tolerated guests in Singapore. Second, the fact that the Ministry of Information had revoked the exemptions of several publications, and reinterpreted its own law to

include the monthly FEER among offshore publications, indicated that the government was prepared to go to considerable lengths to reassert its primacy. As former FEER editor Plott puts it:

The problem is that nobody has ever won against [the government] in Singaporean courts, and having operated in that environment myself, it does have an effect on you. You make a calculation: Is it worth it to trigger this legal action?

But there was more to consider than FEER itself. The magazine, which relied on revenues from subscriptions rather than ads and had few readers in Singapore, had relatively little to lose should the government cap its circulation or even ban it outright. But the *Review* was part of a larger publishing group. Its parent company Dow Jones had significant interests in Singapore. It was not inconceivable that the government would retaliate against FEER by going after Dow Jones domestically, with the potential to do much harm. As Plott points out, “in Singapore, as long as you were operating reasonably globally and you are not writing offensive things about Singapore, the perception is that they wouldn’t attack [other] assets.” But FEER had written about Singapore, and the leadership deemed it offensive.

Singapore and Hong Kong together comprised the bulk of Dow Jones’s Asian readership. The *Wall Street Journal Asia* had a bureau in Singapore and Dow Jones Newswires Asian operations were based in Singapore. Losing that base would be a high price to pay for an article in a journal with a circulation of only 15,000. Keeping a low profile could be the best course of action. Bloomberg’s achievement—settling its 2002 dispute in less than three weeks—could not have been far from Karle’s mind.

*Or fight back?* On the other hand, Dow Jones enjoyed a well-deserved reputation for defending its various publications and, by extension, freedom of the press. A central tenet of press freedom was an editorial writer’s right to express an opinion. Another was refusal to self-censor. Many observers, including members of the press, felt that Western journalists in recent years had responded to Singapore’s heavy-handed legal tactics by censoring their own stories. Former FEER editor Plott, for one, had heard colleagues resort to the argument that it was not worth covering Singaporean domestic politics because Singapore’s citizens themselves were not demanding such coverage. “In my personal view, that’s a rationalization,” observes Plott.

You are not writing about it, because you know it’s delicate territory. So there’s this whole calculus that you work through when you are facing stories in certain countries where you know the legal environment is hostile.

Perhaps the time had come to reassert the media’s right to write about Singapore’s political process in the same way it would cover other democracies. As Professor Chan puts it:

What the international media do has implications. [Earlier settlements] emboldened Lee Kuan Yew, it emboldened the Singaporean model. It also has implications because China looks up to Lee Kuan Yew, looks up to the Singaporean model, an authoritarian model with a developed economy.

Over the years, Dow Jones had turned to the courts in a number of cases when governments tried to censor or restrain its correspondents. In August 2006, it was on track to win a particularly

difficult legal case in London. Mohammed Jameel, a Saudi businessman named in a February 2002 *Wall Street Journal Europe* article as having a financial connection to Al Qaeda, sued the *European Journal* in the UK for libel.

Dow Jones had pursued the case as far as the House of Lords, and a ruling was pending. Signs were favorable for a landmark decision. Were the court to rule in Dow Jones' favor, it might well strengthen dramatically existing Commonwealth guidelines for responsible reporting. The Common Law decisions of the House of Lords should be controlling in Singapore, as a member of the Commonwealth. "No other media in the UK had fought this up to the House of Lords. They kind of gave up," says Weisenhaus of Hong Kong University. "It took an outside company like Dow Jones."

Karle must have considered the London case as he deliberated what to do in Singapore. If a US company could fight for its interests and for the ideal of press freedom in one British Common Law country, why not in another? If Dow Jones believed in freedom of the press, then it should be willing to fight for it wherever and whenever the need arose. The prospect of financial damage or a nasty court battle should not be the determining factors. Finally, he had to consider the effect of Dow Jones' strategy on future staff recruitment. Would top journalists want to work for Dow Jones publications if they doubted the company's willingness to defend them should they find themselves in legal jeopardy? Karle knew he had to respond soon — and with conviction.