

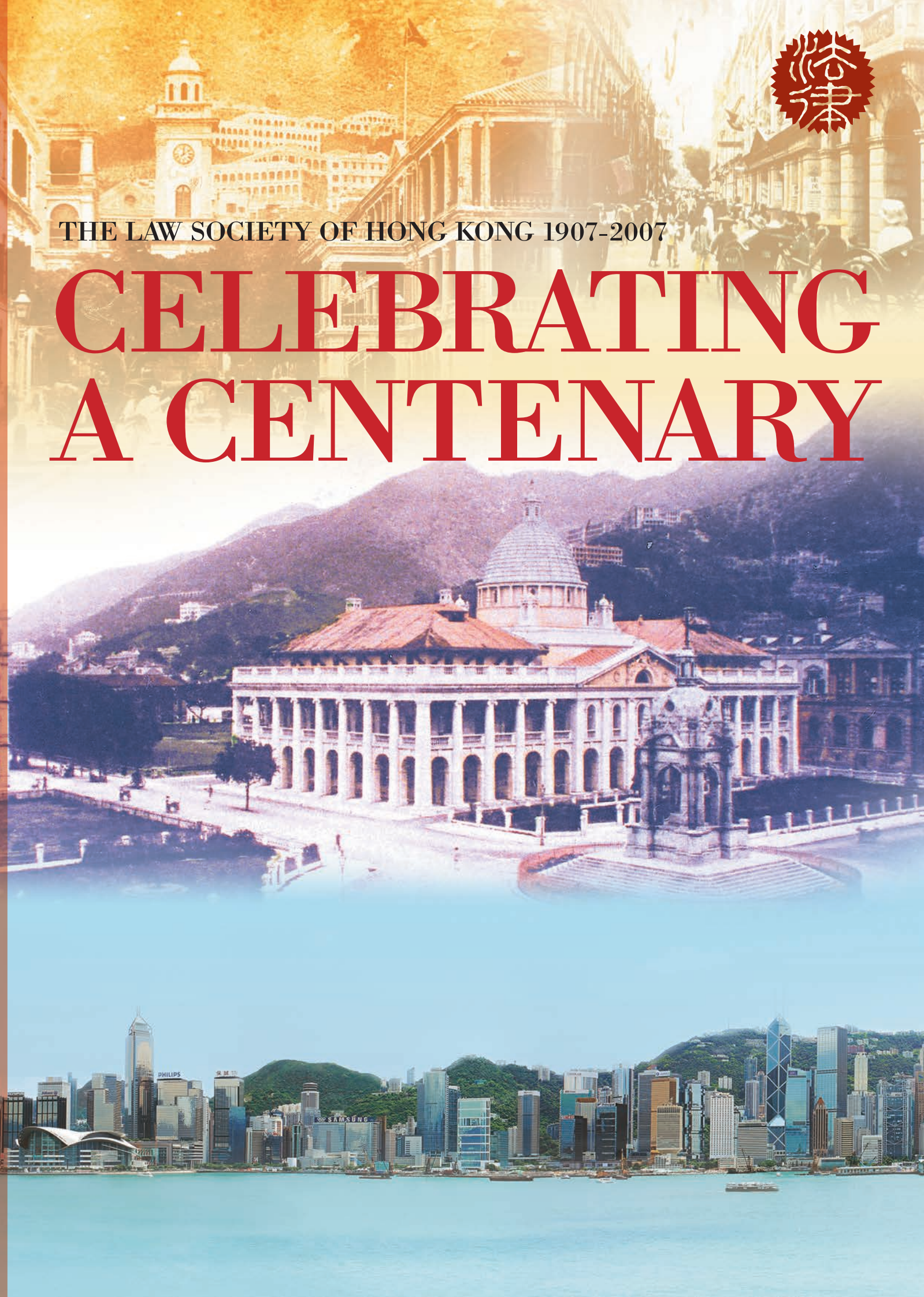


THE LAW SOCIETY OF HONG KONG 1907-2007

# CELEBRATING A CENTENARY

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HONG KONG 1907-2007

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# CELEBRATING A CENTENARY





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THE LAW SOCIETY OF HONG KONG 1907-2007

# CELEBRATING A CENTENARY



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*Foreword*

Lester G. Huang

Law  
Society

I am privileged to have been invited to write this foreword as the Law Society of Hong Kong marks its first hundred years with the publication of this centenary book. Its title *Celebrating a Centenary* aptly reflects the mood of the Society, for it is indeed an occasion for celebration.

The seven founders of the Society and their colleagues could hardly have imagined the great strides solicitors have taken over the past century in serving the legal needs of the community as we do today. For one thing, the very way we communicate today would have been fantasy in 1907. Who could have envisaged the electronic age would so profoundly change the way we practise by giving us tools that make instantaneous communications possible?

The practice of the law has evolved with time, and I boldly say the legal system has stood us in good stead. Yet the values that meant so much to our founders are not only relevant today but remain of seminal importance.

Then, as now, we cherish the rule of law, the independence of the judiciary, and the autonomy and honour of the solicitors' profession. In the individual

we continue to demand personal integrity. And as officers of the Court, we must be vigilant at all times against any threat to the rule of law, and never shy away from a robust and fearless defence of the legal system.

The Hong Kong of our founders was also different in identity to the Hong Kong of today in that since the handover in 1997 we have taken on a new constitutional order with the Basic Law, and we thrive under the concept of "one country two systems".

There have been controversies over the years, before and after the handover, but the community's faith in the independence and competence of the judiciary has been strong and enduring. I believe we can remain optimistic that the legal system in which we solicitors serve will continue to enable us to meet all challenges.

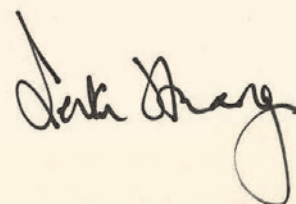
My faith in the future of our profession is vividly brought out in the pages of this centenary volume. The anecdotes and pictures convey the evolving scene much better than what I can begin to describe. Readers will find our episodes of strengths and weaknesses. But what I say is borne

out thanks to the hard work, persistence and sheer expertise of the working party ably chaired by past president Roderick Woo.

The task of the working party was most daunting, given the relative lack of materials and the absence of any archive whatsoever. Yet nothing was either too big or too small to merit attention. Nothing was too daunting to research. It is no wonder we now have such a comprehensive and marvellous volume to commemorate our first century. To all members of the working party I express sincere thanks.

There is no area of human activity in society which is beyond the realm of law. There are laws or regulations that set parameters for our behaviour in everything, even crossing the road, not to mention other far more sophisticated domains of our being.

Solicitors will continue to play a role, and indeed we must attract newcomers from among the best of the younger generation. They will not be disappointed following in the footsteps of those we can read about in this book, for we solicitors will look forward to continuing to contribute to the overall growth and development of Hong Kong as the Law Society steps into its second century.



Lester G. Huang  
President  
The Law Society of Hong Kong





Roderick B. Woo

Law  
Society

## Introduction

Last year the Law Society set up a committee to organise various merry-makings, such as the Centenary dinner in June 2007 to celebrate its 100th birthday. As a member of that committee, I proffered the idea of producing a book to celebrate the occasion. The idea was well received, but the consensus was to present a colourful 20-page booklet to guests attending the Centenary dinner. I somehow persuaded members that such a condensed version would not do justice to the Law Society's long history and achievements. A decision was then made to go ahead for the production of a more substantial volume.

The instructions I received were "Go and produce a book about the Law Society but don't break the bank". However, to be part of the celebration, the book must come out before the end of 2007. I was to set up a working party which would determine what the book should cover. As events turned out, it was a harder task deciding what to exclude from it! In bringing together a working party which would oversee the production of the book, I was fortunate to recruit representatives from small, medium and large firms in Hong Kong. They brought with them a wealth of experience, access to their firms' private archives, knowledge of members of the profession spanning many years and, more importantly, an enthusiasm for the project. That enthusiasm has sustained the team spirit through marathon meetings, discussions, reading of drafts, attention to details and eventual successful publication.

For me, the story of the Law Society is not just about an institution but more importantly about its members, its leaders and what they have achieved and contributed to the profession and the community of Hong Kong over the last 100 years. It is also about how the profession has evolved and changed. The profile of its membership and the way they practised law have changed and developed dramatically since 1907.

These changes and developments are intertwined with those Hong Kong and its people have undergone. And what changes there have been! Two World Wars –including a period of three years and eight months under Japanese occupation, the many social, political, economic and financial ups and downs, and the reversion of sovereignty just before the end of the millennium. Then there were changes brought about by the Basic Law, localisation and the bilingual law reforms, the establishment of Hong Kong's own Court of Final Appeal. There is so much to cover but the budget that we had to work with determined the size of the book and we could not afford to be over-ambitious.

The book is the means by which we congratulate the Law Society on turning 100. It is an over-sized birthday card, a souvenir and a memento. It is not a history book, nor a work of reference. We did not set out to compile a comprehensive record of all that

happened during the last 100 years though we strived for factual accuracy. In a modest manner, the book offers a snapshot of the changing legal scene in Hong Kong and the role played by the Law Society and its members.

It was only during the last 20 years that the Law Society has consciously retained any archival materials although records of some individual solicitors go back longer. Files and papers were undoubtedly lost during the Japanese occupation of Hong Kong, although luckily some were preserved or recovered by individual law firms. For many years after World War II, the Society only had the services of a part-time secretary. There is the tale, perhaps apocryphal, of a former secretary leaving the archives or some of them in a suitcase on the Star Ferry. Those papers have never re-surfaced.

During the preparation of this book, we appealed to all members of the Law Society several times seeking any information that they might have or could assist us in our quest for materials. We made our own enquiries, carried out research ourselves and generally left no stone unturned in our hunt for information that might prove to be of interest. One of the hardest jobs was to find photographs of the post-war presidents of the Law Society. By dint of hard work and good luck, we eventually succeeded in getting hold of the photographs of all but one of them.



The production of a book like this clearly was not a task which the members of the working party could handle on their own. An early decision was made to enlist the professional services of researchers and writers to bear the brunt of the work. We interviewed several teams of professional writers who responded to our call for assistance. At the end of the day we appointed a team led by Michael Chugani as the managing editor under the auspices of the Standard Newspapers Publishing Limited. It was this group of professional writers and editors who helped us perform what some regarded as a "Mission Impossible" within the set time frame. They were told that ideally the book should interest not only solicitors but also the general public. The style to be adopted should be easy to read. The language used is English and we may do a Chinese version later.

Michael Chugani and his team have done us proud. After the working party decided on the contents of the book and the way in which the "story" would unfold, they set about their task with determination and efficiency. We coached them assiduously and, though we did not turn them into lawyers, at least they have written convincingly like seasoned insiders. I was glad that they were able to search their own journalistic archives and come up with a large amount of material. This included

historical photographs and quite a few of them appear in different parts of this book. Notable figures in the profession were interviewed and the edited notes of such interviews were blended into a text in a way which is easy to read. Many draft versions were produced, read laboriously and assessed critically by the working party. Many changes had been suggested and discussed, amended and eventually incorporated into further drafts which were again scrutinised, re-amended, revised and finally approved.

Even the cover design of this book took some time to take shape. Several versions and different colours and shades were devised and tried until the final picture which reflects the architectural changes in Hong Kong witnessing the period covered by this book. The top picture is a street scene at the turn of the 20th century. The middle picture was taken some 30 years later of the new Supreme Court which embodied the rule of law. And finally the impressive looking skyline of Hong Kong as it is today. Thus the cover design resembles a time tunnel stretching over a century.

This book names a number of individuals who have served and led the profession as well as the community of Hong Kong. Faced with the limited space in the book, the working party had to decide that specific reference would be made only to solicitors who were heads of government departments



and notable organisations, who had received public awards as well as those who had been recognised at the national level. The exceptions to this were solicitors who had been members of the Legislative and the Executive Councils, and also those who had been appointed as judges in the District Court level and above. The working party would have liked to have included all solicitors who have achieved success professionally or otherwise and the countless unsung heroes who perform *pro bono* services. Regrettably there are more names worth mentioning than space allows and we apologise for the omissions.

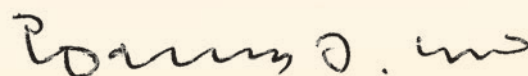
I gratefully acknowledge the work done and time freely given by members of the working party. It may be invidious to single out particular individuals but I should record my thanks to Elsie Leung who provided valuable insights into the post handover workings of the Government of the Hong Kong SAR as well as her recollections based upon her years in private practice before and after her appointment as the first Secretary for Justice.

Patrick Moss as the Law Society's longest serving Secretary General was able to come up with a mine of information on the profession and its members. In particular, I wish to thank Raymond Ho, the Deputy Secretary General, who was tireless in helping me in so many ways. He was the liaison between the working party and Michael Chugani's team and generally kept us all focused on our goal.

I also wish to express my appreciation to the fine work done by the team of graphic designers who have put together a volume which, from cover to cover, is pleasing to the eye.

In conclusion, I wish to thank the very many solicitors and contributors who have helped in different ways to make this book possible. The Law Society is merely the sum of all its parts – the solicitors who have provided their services to the people of Hong Kong over the last 100 years –and it is to them that this book is dedicated.

Having seen this book to fruition, I hope I can be forgiven for being sentimental, if only just for a moment. A hundred years and many generations of solicitors have passed away. The Law Society has seen enormous changes. Today, the majority of its members are young persons, born, bred and trained locally. They are going to set new frontiers and mould the profession in the next 100 years. The torch has indeed been passed. I wish them even more wisdom, courage and power than those who have gone on before them. To my mind, they are well equipped to be the future guardians of the rule of law in Hong Kong.



Roderick B. Woo  
Chairman, Centenary Book Working Party  
November 2007





# *Law Society Centenary Book Working Party*

Roderick B. WOO (Chairman)  
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Franki W.C. CHEUNG  
Phillip McDONALD  
Maggie K.K. CHEUNG  
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Elsie O.S. LEUNG  
Vincent W.S. LIANG  
Patrick R. MOSS (Secretary General)  
Melissa K. PANG  
Thomas S.T. SO  
Andrew W.H. WANG

Secretary: Raymond C.K. HO (Deputy Secretary General)





# 1907-1914

The Central District waterfront in the 1920s.







Pedder Street as seen from Des Voeux Road Central in the 1880s. The clock tower was built in 1861 and demolished in 1901.

## A Humble Beginning...

*It was a cool 20 degrees and heavily overcast when seven of the Colony's most distinguished solicitors met with Governor Matthew Nathan to incorporate the Law Society of Hong Kong.*

If one casts significance in omens such as the weather, April 8, 1907 was not a particularly auspicious day in Hong Kong. It was a cool 20 degrees and heavily overcast when seven of the Colony's most distinguished solicitors met Governor Matthew Nathan to incorporate the Law Society of Hong Kong. They included three – John Hastings, Godfrey Cornwall Chester Master and Charles Wilkinson – whose surnames still grace Hong Kong law firms (Hastings; Johnson Stokes & Master; and Wilkinson & Grist) 100 years later. In addition to being a lauded and colourful solicitor, Master, who in 1908 resigned his interest in the firm and retired to England, was also an enthusiastic sportsman and a significant, if occasionally controversial, force as a rider, owner and steward in the formative years of the Hong Kong Jockey Club.

Other signatories included Crown

Solicitor Francis Bulmer Lyon Bowley, who was the nephew of Alfred Bulmer Johnson, the "Johnson" in Johnson Stokes & Master. Bowley's legacy to Hong Kong is arguably the most significant of all assembled that day as it was his influence and concern that led to the creation of the Colony's first significant child labour and protection provisions.

Also present on that dark and dreary day was Herbert William Looker of Deacon, Looker, Deacon & Harston, now known simply as Deacons. Looker practised in Hong Kong until 1921 when he returned to England and became a member of Parliament. His Hong Kong legacy included donating the Colony's first women's golf clubhouse in Fanling in memory of his golf-loving first wife.

Another name from what would become Deacons, John Scott Harston, also graced the incorporation document. Harston

Law  
Society

100th  
Anniversary

Law  
Society

was described by contemporaries as a "very likable" man whose interests were said to be cricket and, as a native of Yorkshire, the Yorkshire Society. The final Deacons connection on the pact was John Hastings, who had joined Victor Hobart Deacon in 1886 when the firm became Deacon & Hastings. Walter J. Daniel was the seventh signatory.

Though formally incorporated in 1907, the budding Law Society had slim roots stretching back to October 28, 1854 when solicitor William Gaskell addressed the Supreme Court and asked for "the countenance and sanction of the acting Chief Justice [Paul Sterling] for the formation of a law society." As noted in James William Norton-Kyshe's *The History of the Laws and Courts of Hongkong*: "Mr. Sterling [praised] law societies, and hoped that the one about to be established would be found of benefit to the profession and graciously permitted a notice of it to be entered on the records of the Court."

Mention of that law society fell from the record for four years, however, until June 1858 when it sprang to the surface in the form of fervent memoranda and petitions to Hong Kong Chief Justice John Walter Hulme and Governor John Bowring opposing a formal proposal to meld the traditional split system of solicitors and barristers. Hulme, who was trained as a solicitor and whose son was also a solicitor, reassured the law society of the time that he was in favour of separate systems. Meanwhile, no one on either side seemed to note that another British colony, the Straits Settlements, as well as Shanghai law firms, had been operating under a single lawyer system with no discernible problems or complaints and that until the arrival in April 1851 of barrister William Bridges (who became the original founder of Deacons) there was no division in Hong Kong because there were no barristers.

"[The law society] does not appear to have done much more," Norton-Kyshe wrote of its opposition to the single lawyer system. "And the records after that period show nothing more in reference to it."

As sophisticated, smooth running and internationally respected as Hong Kong's legal scene is today, its beginnings were, to say the least, less than sterling. The paucity of barristers in the Colony's early years forced the Supreme Court to cut corners by admitting attorneys with minimal, even questionable, experience and qualifications.

Second and third-tier characters doomed to obscurity (or worse) in a more populated, sophisticated, regulated and urbane environment found new lives in many colonies, particularly ones such as rough and tumble Hong Kong where a climate replete with plague, malaria, dysentery, rat infestations, piracy and other crimes, both savage and petty, gave

other, more conventional British subjects pause when it came to relocating to a foreign shore.

The Colony's negative reputation continued to grow as the Colony grew amid internal and infernal struggles that even in 1859, *The Times* in London opined: "The sound of the name (Hong Kong) in our Parliamentary proceedings ... is always connected with some fatal pestilence ... or some discreditable internal squabble; so much so that in popular language this name of this noisy, bustling, quarrelsome, discontented, insalubrious little island may not inaptly be used as an euphemous synonym for a place not mentionable to ears polite."

#### CERTIFICATE OF INCORPORATION

OF

#### THE INCORPORATED LAW SOCIETY OF HONG KONG

I hereby certify that "THE INCORPORATED LAW SOCIETY OF HONG KONG," is duly incorporated as a Company limited by guarantee. That the said INCORPORATED LAW SOCIETY OF HONG KONG is to consist of Fifty members and that it is intended that the Registered Office of the said Company shall be situate at Victoria in the Colony of Hong Kong and that the said Company is duly registered in accordance with "Companies Ordinances, 1865 to 1899".

Witness my hand and Seal of Office this Eighth day of April in the Year of our Lord, One Thousand Nine Hundred and Seven.



J. H. KEMP,  
Registrar of Companies.



Wei Wah-on, son of the compradore for the Chartered Mercantile Bank, was a man of firsts, being the first Chinese graduate of Oxford, the owner of one of the first two automobiles in the Colony, and the first Hong Kong-born solicitor for Johnson Stokes & Master. He died of appendicitis in 1907, the same year the Law Society was formed. It was not until 1929 that Johnson Stokes & Master took on another Chinese, Frank Kwok Hing-sum.

Eight years earlier, the June 15, 1851 *London Weekly Dispatch* had taken a similar tone regarding professional employment in the Colony: "What barrister would leave a decent practice, to endure, even as a Judge, the climate and society of Hong Kong?"

What sort of individual would, indeed? Hong Kong's first Chief Justice would. Though according to historian Christopher Munn in his book *Anglo-China: Chinese People and British Rule in Hong Kong 1841-1880*, John Walter Hulme was at least the Colonial Office's eighth pick for the position despite the generous salary of £3,000. Munn notes: "Hulme appears to have had no judicial experience before arriving in Hong Kong. It is a matter of speculation how far his inexperience, his family and financial misfortunes, his lengthy illnesses, and his refusal to retire affected the quality of justice, though comments were frequently passed on his frailty and lack of attentiveness during trials."

Many of Hulme's peers and associates were perhaps more technically qualified, but the unsavoury dealings of individuals such as Calcutta Bar member Charles Molloy Campbell (acting Chief Justice in 1848 when Hulme was suspended on questionable charges of drunkenness) only served to cast an initial pall over Hong Kong's young and reckless legal community. Campbell was described by the *China Mail* newspaper in August 3, 1848 as "an abortion of justice, both for honesty and capacity" for unethical stunts such as judging civil cases in which he had once been employed as counsel.

Others such as Irish solicitor Percy McSwyney, who washed up in Hong Kong in 1842 from Sydney, only added to the Colony's reputation as a haven for "vulgar pettifoggers." In the subsequent seven years before he died penniless and alone of dysentery in 1849, McSwyney was fired as Deputy Registrar of the Supreme Court for accepting money under false pretences, only to be admitted to practice as a temporary attorney in the same court where he was then castigated for bilking

Chinese clients. He was Coroner in 1846, but dismissed after his questionable meddling in an inquest he was conducting. McSwyney later served 12 months in jail for having a bar owner thrown in debtor's prison for not paying a bill that was never due.

Other early Hong Kong lawyers took liberties that would not have passed scrutiny at home such as advertising for business and accepting percentages of settlements as fees. By 1849, however, the Colony had no barristers and out of the six original solicitors who had come to Hong Kong, only two remained. However, the quality of justice began to slowly rise in the 1850s, along with the quantity of both solicitors and barristers (although as late as 1885 there were only 15 solicitors).

Still, the scallywag attorney image refused to fade away, so much so that in 1862 the Chief Justice felt compelled to defend the reputation of Hong Kong's legal community against the stereotype of "the impossibility for a man, however well-trained and well-conducted, to come to Hong Kong as an attorney without becoming, soon after his arrival, a scamp or a drunkard."

Against a backdrop of a commercial colony with a largely transient population that boasted few with legal qualifications, it was common practice for solicitors to double as counsel in court or for Colonial Secretaries to keep their private practice while carrying out their civic duty. As such, it raised questions about loyalty as well as increased friction and conflict within the Colony's tiny intertwined legal and governing communities.

For instance, Hong Kong's first Crown Solicitor was also simultaneously serving as Deputy Sheriff, Coroner and Queen's Proctor. Later in the 1850s, barrister William T. Bridges drew fire from Governor John Bowring and the local press for maintaining his £3,000 private practice while also acting on several occasions as Attorney General and Colonial Secretary.

The statutory basis for the operation of the legal profession in 19th century Hong Kong was provided



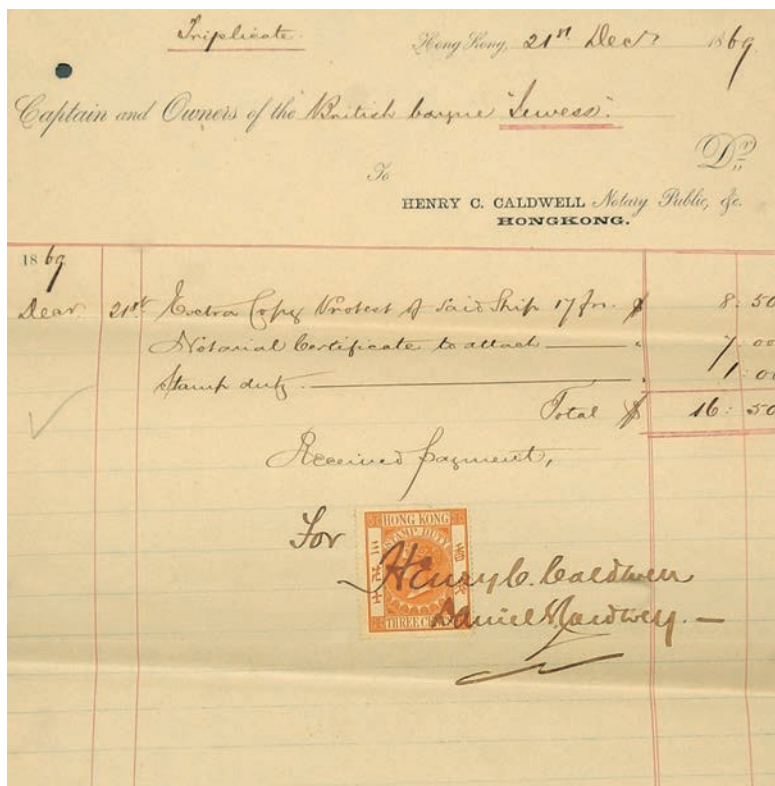
WE, the several persons whose names and addresses are subscribed, are desirous of being formed into an Association, in pursuance of this Memorandum of Association.

Names, Addresses and Description of Subscribers	
F. B. L. BOWLEY,	Solicitor, Hong Kong.
JOHN HASTINGS,	Solicitor, Hong Kong.
HERBERT W. LOOKER,	Solicitor, Hong Kong.
GODFREY C. C. MASTER,	8 Des Voeux Road Central, Hong Kong, Solicitor.
C. D. WILKINSON,	Solicitor, Hong Kong.
J. SCOTT HARSTON,	Solicitor, Hong Kong.
WALTER J. DANIEL,	Solicitor, Hong Kong.

WITNESS to the above signatures:  
H. G. C. BAILEY,  
Solicitor,  
HONG KONG.

Dated the 19th March, 1907.

The original seven solicitors who sought to establish the Law Society of Hong Kong in 1907.



Original receipt, dated 1869, for a notarial certificate. The Notary Public, Henry C. Caldwell, started a law practice in 1865 which later merged with another firm that eventually became today's Deacons. His nephew, Daniel Caldwell, was co-founder of the firm known today as Wilkinson & Grist.

On June 24, 1858 the press was allowed for the first time to attend a session of the Legislative Council. It was during a debate on the Ordinance for Practitioners in Law which dealt with the amalgamation of the two branches of the legal profession.

mainly by Ordinance No. 6 of 1845 ("an Ordinance for the establishment of a Supreme Court of Judicature at Hong Kong"), Ordinance No. 13 of 1856 ("an Ordinance for the admission of candidates to the rolls of practitioners in the Supreme Court and for the taxation of costs"), and Ordinance No. 3 of 1871 ("an Ordinance to consolidate and amend the laws of the Colony relating to the admission and enrolment by the Supreme Court of barristers, attorneys, solicitors and proctors, and to the examination of articulated clerks and to provide for the registration of public notaries").

Some of the provisions in the English Solicitor's Act of 1843 were also extended to Hong Kong by Ordinance No. 13 of 1856.

All these Ordinances also served as the basis for what would become the Law Society of Hong Kong.

As the British authorities gradually built up the machinery for the administration of law and justice, these Ordinances regulated the profession to help bring the rule of common law in a

colony overwhelmingly populated by people of different heritage.

Articled clerks were subject to scrutiny in the form of examinations probing their ability and capacity to perform their duties before they could qualify as solicitors.

The Ordinances also regulated solicitors' costs and fees, and made them taxable by the Registrar or Taxing Master of the Supreme Court, partially in an attempt to reduce the inflated charges levied on unsuspecting and naïve Chinese clients. These issues were a flash point in the Colony, as in two meetings with the Legislative Council in June and July 1858 involving several solicitors and Governor John Bowring.

Bowring was told of instances where European solicitors had solicited cases from Chinese clients, apparently with an eye towards greater financial gains, but subsequently had their bills taxed to the point, that, in one case, the charge shrank from HK\$250 to HK\$70. In another case, an attorney for a client identified only as Chin-koo, informed Chin-koo that his charge was HK\$25 a

day and HK\$15 for days in which nothing was done.

Bowring curtly stated that he empathised with the Chinese who had to pay so exorbitantly, and made clear he favoured making legal assistance as cheap as possible.

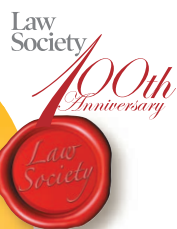
At the same meeting, Attorney General Thomas Chisholm Anstey expressed a desire for a wholesale system of taxation in which if a lawyer's bill exceeded a certain (one-sixth) scale, he should forfeit his fees and pay all costs.

Many of the issues, views and news facing Hong Kong's early legal community are as familiar in 2007 as when the Law Society was incorporated. Looking through papers from April 8, 1907 one finds the *China Mail* and *Hongkong Daily Press* reporting on food safety ("Incautious Fruit Eating,") ("Proposals for Frozen Fresh Beef and Mutton") and changes on the mainland ("Reform in China," "Peking Changes Causing Consternation"). And internationally, some things never seem to change: "Official Scandals at Washington" was on page 4 of the *China Mail*.

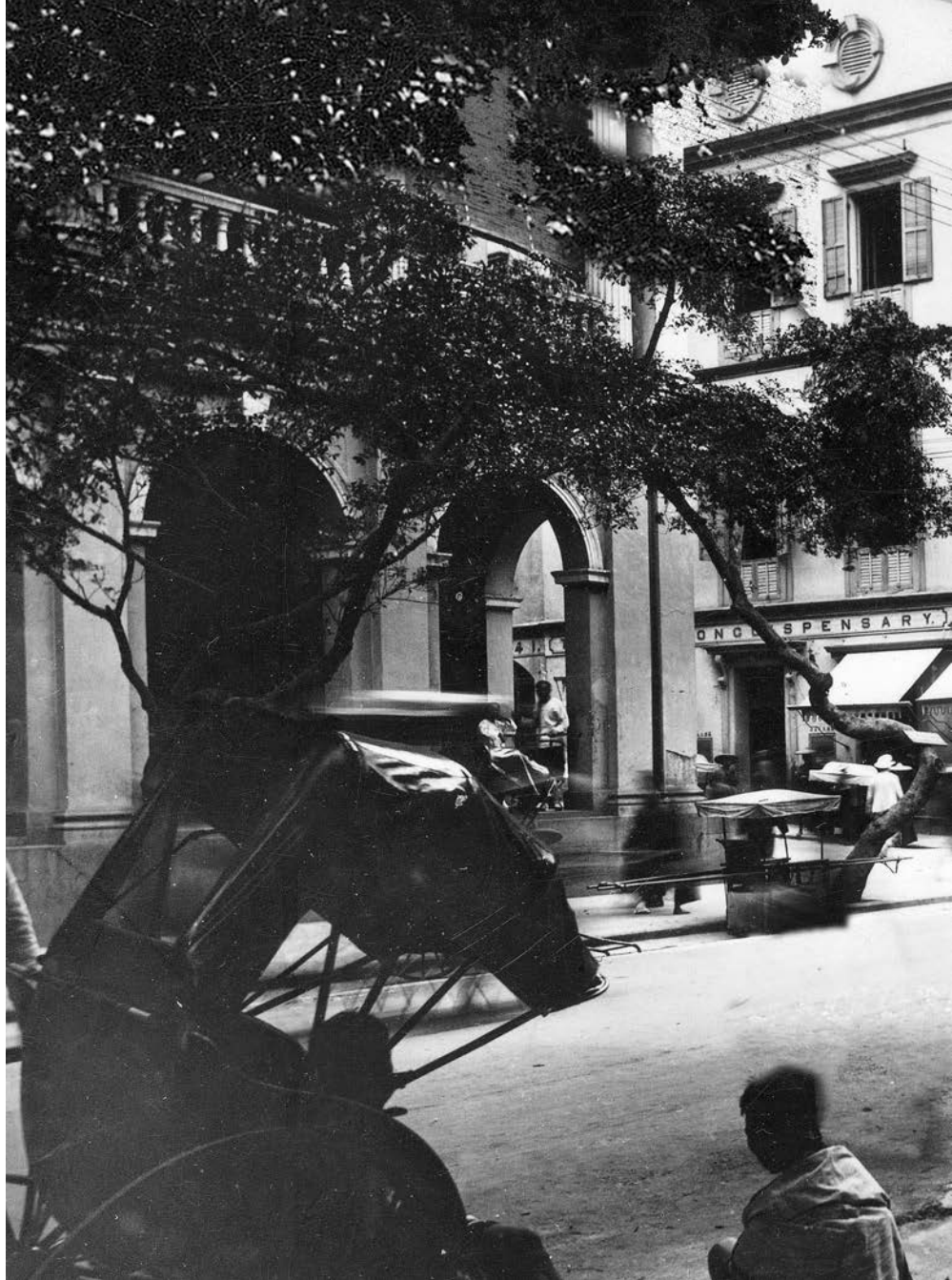


■ Hong Kong's first Chinese libel case went to court in October 1868 when Chinese doctor Ng Tin-chee accused Tseang Yuk-cheung and **The Daily Star** newspaper of libel by portraying him as a swindler and a knave.

William Wilkinson Toller, of the law firm now known as Johnson Stokes & Master, represented Tseang. The case was discharged when the two sides reached a settlement.



Queen's Road looking west with the original Hong Kong Club (left) and pillars of the old Supreme Court building (right) in 1890.



Other hot topics of the time included court fees, corruption, litigation costs, shipping company conflicts, fusing the two levels of the legal profession, racial inequality between the colonials and Chinese, mainland immigrants, urban development, prostitution, and piracy – though the seafaring variety was more pressing, wrangles over trademark infringement were not uncommon, including a 12-day trial in 1902 regarding Chinese-made counterfeit Swiss watches. "The [trade] marks had been registered in 1870 in Switzerland and subsequently in London and Paris: the trade in Chinese watches bearing these marks had been in existence for many years," read the case summary in *Hong Kong Law Reports*.

When Great Britain declared its sovereignty over Hong Kong on January

26, 1841 equality under the law was not a reality for the native Chinese. Severed queues on display outside the Magistracy and frequent public floggings were among the most dramatic and savage displays of colonial authority and justice.

Most 19th-century Hong Kong Chinese came from the lowest levels of society with no notion of Western legal standards, customs or procedures. When the British flag was raised on Possession Point, Hong Kong had a population of about 5,000 Chinese, most of whom were Hakka charcoal burners, subsistence farmers or fishermen. The populace also contained a variety of transient pirates, thieves, smugglers and other criminals drifting between Hong Kong and mainland China.

The concept of a solicitor and barrister was not part of any of their worlds,

much less the financial means to hire one if the need arose. The legal caseload was not easy for the short-handed colonial masters, either. Even by the mid-1890s, there were only two barristers handling a crushing caseload.

And as noted in Steve Tsang's *A Modern History of Hong Kong*, the fact that early magistrates had "no legal qualifications and little formal education" meant that the Chinese defendants suffered prejudicial and poor justice. Complicating matters were the language barriers that separated all concerned. Interpretation standards were generally low and Cantonese was not always the common Chinese linguistic currency as Chinese from different provinces often spoke mutually incomprehensible dialects. Translating the English legal vocabulary was another, daunting challenge.





The Chinese were not represented by their countrymen for at least the first 50 years of the Colony's existence. But 100 years later, according to Law Society statistics in 2007, 83 percent of solicitors practising in Hong Kong are ethnic Chinese. Historian Carl Smith told the *Hong Kong Lawyer* in 1997: "There was opposition to the training of Chinese solicitors. The solicitors were all English-speaking and wanted to keep the business to themselves. They wanted to exclude Chinese solicitors because they would have been competitors since the Chinese-speaking clients would, of course, go to Chinese-speaking solicitors."

Smith noted in another publication, *Hong Kong: A Reader in Social History*, edited by David Faure, that as of the late 1890s, the "Roll of Proctors, Attorneys, and Solicitors admitted to practise before

the Supreme Court of Hong Kong" contained 67 names, three of which were Chinese: August 23, 1887 Ho Wyson; July 3, 1897 Tso Seen-wan; and July 26, 1897 Wei Wah-on. Wei was an Oxford-educated son of a Chartered Mercantile Bank compradore who was taken on by Johnson Stokes & Master as the firm's first Hong Kong-born solicitor.

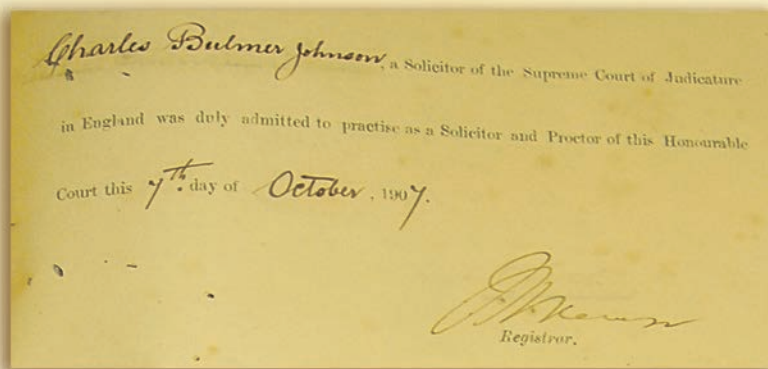
According to *Edge of the Empires: Chinese Elites and British Colonials in Hong Kong* by John M. Carroll, Tso Seen-wan was the Colony's first, and for some years only, Chinese solicitor. Like Ho Kai, a prominent barrister, physician, financier and unofficial member of the Legislative Council, Tso was well known in the Chinese and Anglo communities both as a lawyer and an adviser on foreign affairs.

Victor Deacon, whose name lives on as the Deacons law firm, was admitted to practise in Hong Kong in 1880. His Saturday night poker games at his Arbuthnot Road home became legendary, lasting into the small hours of the night, often attended by the governor, Sir William Robinson.





Ng Choy, also known as Wu Ting-fang, was Hong Kong's first ethnic Chinese lawyer. He was also the first Chinese member of the Legislative Council in 1880.



Excerpts from the original Roll of Solicitors kept at the High Court Registry. Solicitors must sign an oath of allegiance and an oath of office. The three here are Charles Bulmer Johnson, Leonardo D'Almada e Castro and Ho Yan Sik.

Other notable Chinese on the roll of solicitors prior to World War I include Hung Hing-kam who was admitted February 2, 1909 and Sik Ho-yan who was admitted October 10 the following year.

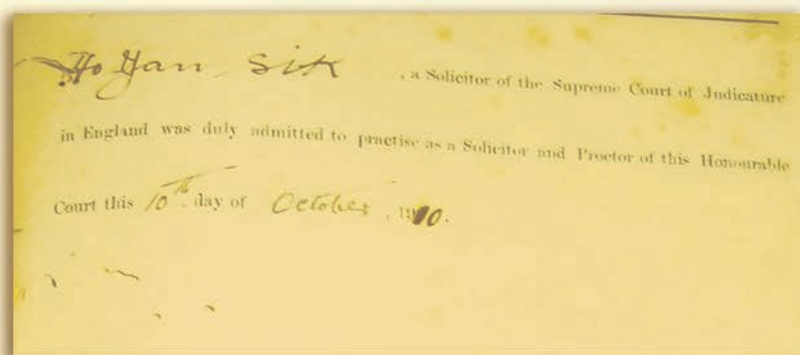
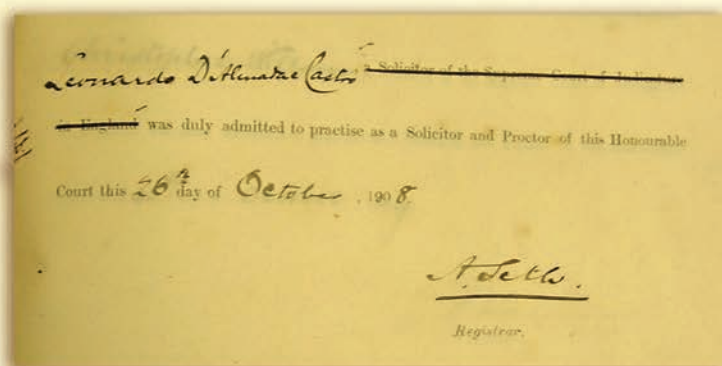
In the first decade of colonial rule, a man named Daniel Richard Francis Caldwell was reputedly the Hong Kong justice system's only dependable interpreter, and while he was employed as such at the Supreme Court and magistracy, he was also a police detective. Thus it was not uncommon for Caldwell to interpret for a defendant and testify for the Crown in the same case. Spending his

childhood years in cosmopolitan Singapore, Caldwell learned Portuguese, Bengali, Malay and Chinese which would be instrumental in his future career.

Following the cessation of hostilities from the First Opium War, he was later hired by the Hong Kong Government. His importance was borne out of the fact that Caldwell was intimately knowledgeable with Chinese customs and usages through close contacts within the local community. Married to a Chinese, he had 12 children evenly divided into sons and daughters. Daniel Edmund Caldwell, who would go on to



Queen's Road Central in 1907. The displayed flags were probably in honour of the Duke of Connaught's visit in February.



co-found the firm known as Wilkinson & Grist, was the eldest child.

The language situation improved slightly in the 1860s with the practice of filling one of Hong Kong's two magistrate positions with a person trained in Cantonese and with a general knowledge of law.

One such individual was Ng Choy, also known as Wu Ting-fang, who served as an interpreter in the Magistrate's Court from 1861 to 1874 when he was admitted to Lincoln's Inn to study law and became the first Chinese to qualify as a barrister in 1877. He was admitted to practise as a barrister at the Hong Kong Supreme Court in May the same year. Ng became the first Chinese unofficial member of the Legislative Council in 1880, thanks both to his acumen and intellect as well as to the efforts of Governor John Hennessy.

Following the model used in British India, English law was generally applied as a matter of constitutional principle in Hong Kong, but where English law was deemed unsuitable, Chinese laws and customs were generally retained. Hong Kong's first Governor Henry Pottinger declared that no English law "shall be in force which may be inapplicable to the local circumstances of the Colony or of its inhabitants".

The official bottom line was that the Chinese community would handle its own affairs according to its own traditions as long as it did not have a negative or controversial effect on the colonial population or violate British standards.

Cultural differences reflected by Chinese customary laws that would result

in injustice or oppression according to British standards were occasionally grounds to modify some English laws. For example, the English prohibition against concubines was held to be oppressive to Chinese, and the Legislature also recognised the validity of Chinese customary law in marriages and divorces. There was also implied recognition by the legislature of adoption, wills and ancestral worship under Chinese customary law. However, only very few cases involving points of Chinese customary law were brought before the courts.

E.S. Haydon's *The Choice of Chinese Customary Law in Hong Kong* cites two, including *Ho Tsz Tsun v. Ho Au Shim and Others*, a 1915 case in the Full Court of Appeals involving the distribution of property following the death of an intestate Chinese man. In his judgement, Justice of Appeal C.J. Rees-Davies held that Chinese customary law applied. "It is perfectly clear that the (British) Statute of Distribution would not apply to a Chinese family, and therefore it could not have been made the law of the Colony, unless its operation was confined to non-Chinese."

Rees-Davies quoted Captain Charles Elliot, the man who declared British sovereignty over Hong Kong in January 1841, that all natives of the island would be governed according to Chinese laws and customs by Elders of Villages while subject to the control of a British magistrate.

Under Elliot's governance, all non-Chinese were to be tried according to English Law. The magistrate's jurisdiction over Chinese was to be in accordance

As many historical documents were destroyed during the Japanese occupation, the names of some law firms have been lost. The following is a list of some of the law firms and solicitors during Hong Kong's early years.

#### *Law Firms: 1907-1914*

*Deacon, Looker & Deacon  
Johnson Stokes & Master  
Wilkinson & Grist  
Hastings & Hastings  
Brutton & Hett  
Dennys & Bowley  
F.X. D'Almada e Castro  
Goldring, Barlow and Morrell  
Ewans and Harston*

#### *Solicitors: (Until 1914)*

*E.B.L. Bowley  
Edward James Grist  
Charles Edward Hartnell Beavis  
Montgomery Reader Harris  
P. Sydenham Dixon  
Paul Mary Hodgson  
M.W. Slade  
Eldon Potter  
H.E. Pollock  
H.G. Calthrop  
G.K.H. Brutton  
Francisco Xavier D'Almada e Castro  
O.D. Thomson  
Otto Kong Sing  
R.A. Harding  
Frank Barrington Deacon  
Victor Hobart Deacon  
H.G.C. Bailey  
Walter J. Daniel  
Herbert W. Looker  
J. Scott Harston  
George Andrew Hastings  
F.C. Jenkins  
Charles David Wilkinson  
John Hastings  
Godfrey C.C. Master  
W.E.L. Shenton*



In 1857, Deacons founder, William Thomas Bridges, had the dubious honour of representing Cheong Ah-lum, comprador of a bakery, in one of the earliest high-profile criminal cases in the Colony.

Cheong and nine others were accused of mixing 10 pounds of arsenic into bread destined for foreign residents. Many fell ill, including the governor's wife, Lady Bowring, but no one died. The jury failed to reach a verdict from the evidence before them, and Bridges was able to win the release of the accused.

with Chinese customary law, and the power to punish Chinese was limited to a maximum HK\$400 fine, three months' imprisonment or a flogging of 100 lashes. Any greater punishment would be handed over to Elliot. Though Elliot was recalled and his policy was disavowed after Pottinger arrived, the home government's policy continued to be that Elliot's arrangements should remain in force until Her Majesty's pleasure regarding Hong Kong should state otherwise.

In another case, *E.R. Belilios v. Ng Li Shi*, which was reported in the *Hong Kong Daily Press* on January 26, 1893 the plaintiff filed an injunction against the defendant to prevent her from obscuring his business window lights. He held that the Prescription Act of 1832 gave a long-time owner of a building with windows a right to maintain a level of illumination and that the windows should not be blocked by any structures built without permission.

The defendant, Ng Li-shi, moved to dismiss the suit on the ground that the Prescription Act was never enforced in Hong Kong, hence its provision was in-

applicable. Chief Justice Fielding Clarke found Ng's argument "quite untenable" and stated that English Law would be in force within the Colony except when the laws were inapplicable to the local circumstances or of its inhabitants.

Labour issues were another concern and it was largely due to the crusading efforts of Law Society co-founder Francis Bowley that the Colony eventually enacted three key provisions to bring Hong Kong more into line with Great Britain when it came to child protection. Bowley's *Suggested Reforms for Women and Children in Hong Kong* and other essays and speeches eventually bore fruit in the form of a provision against abusing or abandoning children under 16, having a separate justice system for juvenile offenders and, later, Hong Kong's first child labour law.

As late as 1918 the only provision regarding child employment was a prohibition against children under 10 years of age working as rag pickers and cleaning feathers or hair. There were no regulated working hours and some women and children worked 12 hours a day,

## Solicitors Enrolled : 1907-1914

19/04/1907	Paul Mary Hodgson	27/02/1911	Stanley Spencer Moore
19/08/1907	Crowther Smith	20/03/1911	Daniel John Lewis
29/08/1907	Edgar Davidson	15/05/1911	Miles Rainforth Walker
29/08/1907	Reginald William Fitzgerald Sargent	22/11/1911	Archibald Hibbard Crew
07/10/1907	Charles Bulmer Johnson	28/03/1912	Charles Andrew Sutherton Russ
19/12/1907	Peter Sydenham Dixon	21/10/1912	Charles Farebrother Mason
10/02/1908	Henry Lardener Dennys	03/12/1912	Richard Chamberlain Faithfull
15/10/1908	William Edward Leonard Shenton	18/01/1913	Guy Robson Haywood
26/10/1908	Leonardo D'Almada e Castro	29/01/1913	Woo Han-kam Kwingtong
06/01/1909	Montgomery Reader Harris	26/08/1913	George Norrington
22/02/1909	Hung Hing-kam	04/02/1914	Edward Lewis Aggassiz
19/07/1909	William Blakestone Hind	09/03/1914	Reginald Alexander Stokes
23/10/1909	Christopher Wilson	20/03/1914	Francis Horace Baker
10/10/1910	Ho Yan Sik	20/06/1914	Charles Alexander Hooper
05/12/1910	Leonard Ronald Needham	05/08/1914	Arthur Montagu Preston





The Supreme Court Building (foreground) under construction in 1908.

seven days a week, an 84-hour work week in contrast to the labour rights agitation for a 40-hour work week in Great Britain at the time. Vigorous debate in Hong Kong focused on children who hauled backbreaking loads to the top of the Peak for 10 cents a day. Views such as one by an opponent of Bowley's reform efforts that "carrying loads up to the Peak is about the healthiest exercise which a child could be put to in Hong Kong" were not uncommon.

In addition to the Law Society's magnificent seven, other stars in the Hong Kong solicitors community between 1907 and 1914 included noted sportsman, solicitor (and later barrister) Herbert Johnson Gedge who single-handedly ran Johnson Stokes & Master from 1908-1914; Henry Lardner Dennys who served as Law Society president; J. Scott Harston of Ewens & Harston; Charles David Wilkinson of Wilkinson & Grist; and W.E.L. Shenton of Deacons who practised in the Colony from 1908 to 1936 when he returned to London. Shenton was a member of both the Executive and

Legislative Councils, and was later knighted.

All were on hand for the formal opening of the new Supreme Court building in January 1912. The courthouse was a welcome change from the old, creaking, poorly ventilated and crowded Exchange Building on Queen's Road. Its foundation stone was laid in 1903 on reclaimed land then known as Praya Central.

However, one unique member of the Hong Kong legal fraternity was sadly absent – Wei Wah-on, who died suddenly of appendicitis in 1907, the same year the current Law Society of Hong Kong was founded. Aside from being the first Chinese solicitor in Johnson Stokes & Master, Wei was also the owner of one of two first automobiles in Hong Kong, according to Katherine Mattock's *Partners in Law*, a history of Johnson Stokes & Master. In paying tribute to Wei at the opening ceremony of the Supreme Court, the Chief Justice said: "I think I am right in saying that everybody knew that the high traditions of his profession were safe in his hands."

In 1842 Captain William Caine of the 26th Cameronian Regiment of Foot founded the Hong Kong Police. He was often so short of staff that he had to patrol the streets himself. He later became Lieutenant-Governor.

When that scurrilous newspaper *The Friend of China* accused him of corruption he sued the editor William Tarrant for libel. Caine won the case because he hired all the lawyers in the colony, leaving Tarrant with no one to defend him.

From Arthur Hacker's *British Hong Kong: Fact and Fable*.

The law firm Wilkinson & Grist has its roots in the Caldwell family. Solicitor Daniel Edmund Caldwell's father was Daniel Richard Francis Caldwell who left Singapore in 1835 at the age of 19 for China where he operated an opium smuggling vessel for an English merchant.

He was said by some to have been the illegitimate son of Napoleon during the emperor's exile in St Helena. He himself married a Chinese woman who bore him 12 children, the eldest being his solicitor son Daniel Edmund whose father-in-law refused to attend his wedding because he was a half-breed.





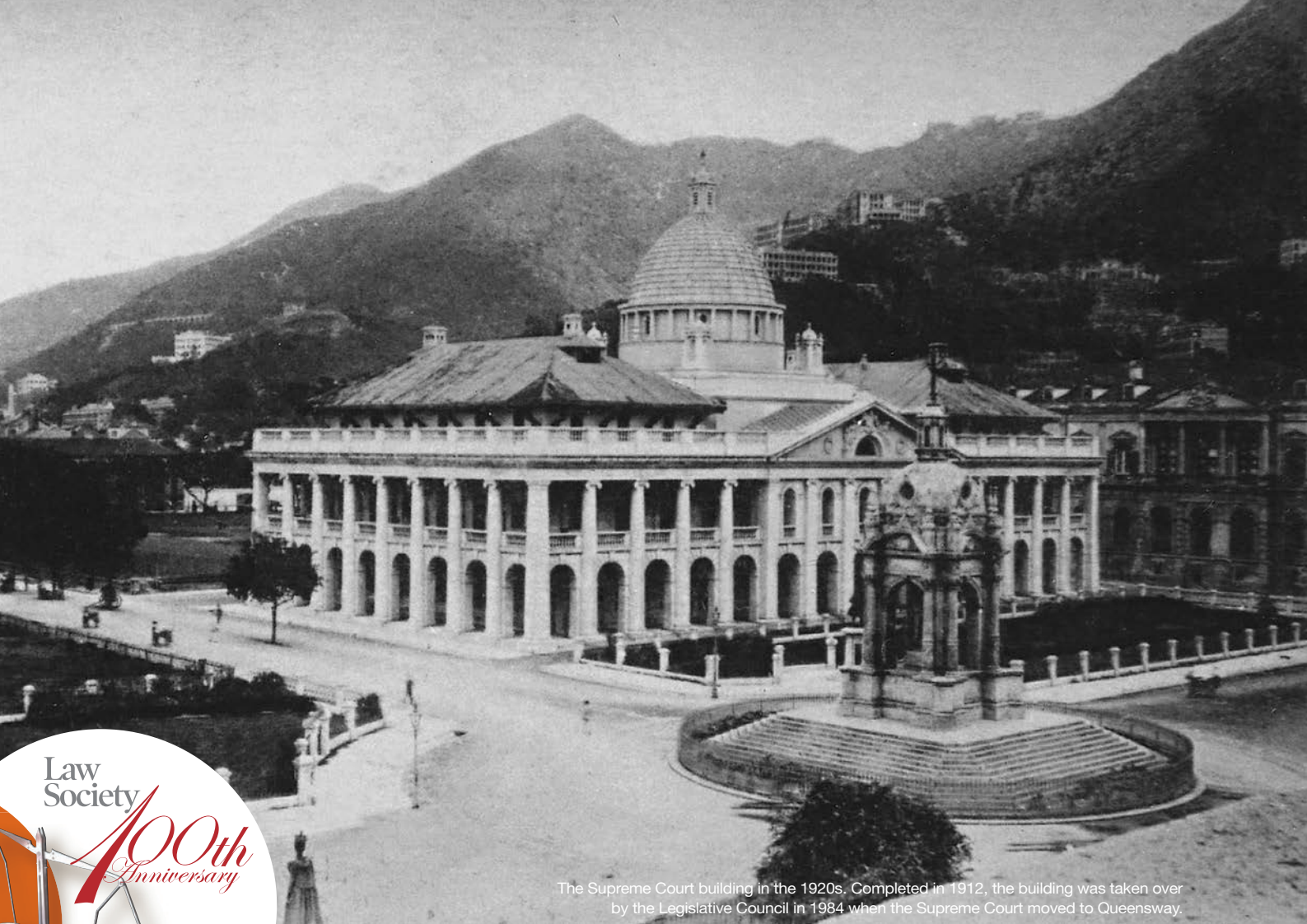




1914-1919

Peace celebration at Statue Square in 1919 after World War I. Queen Victoria's Statue and the Law Courts are on the right. At left is the old Hong Kong Club.





The Supreme Court building in the 1920s. Completed in 1912, the building was taken over by the Legislative Council in 1984 when the Supreme Court moved to Queensway.

Law  
Society

100th  
Anniversary

FINDING OUR FEET

30

## Finding Our Feet

*The legal climate  
up to this time  
had been one  
touching largely  
on commerce,  
whether on sea  
or land, with  
occasional nods  
to Hong Kong's  
largest group of  
dwellers: the  
native Chinese.*

World War I had little impact on Hong Kong, though the Colony gave the British Government HK\$5 million to aid the huge costs of the war. But a number of Hong Kong's younger lawyers also signed up for the "War to End All Wars."

Three of them were P. Sydenham Dixon, Reader Harris and Daniel J. Lewis. Dixon – who was killed three months before the 1918 Armistice – and Harris were from Wilkinson & Grist. Harris became the first Hong Kong Volunteer honoured for military valour when he was awarded the Military Cross. Lewis, a solicitor at Johnson Stokes & Master, was wounded by shrapnel in France. After being discharged from service he rejoined the firm in 1918. Other World War I veterans were Frederick Edmund Nash who returned to civilian life and passed his final solicitor's examinations with first class honours in October

1919 and Cecil Hynes Lyson who served with distinction with the Army Ordnance Corps before returning to the Colony and becoming a principal in Lyson & Hall.

While the western world was mourning the more than 10 million military and civilian lives lost in "The Great War", Hong Kong found itself having to deal with a tragedy of its own – the February 26, 1918 fire at Happy Valley Racecourse which left 600 dead.

Anti-foreign feelings and demands by Chinese labourers in Hong Kong provoked several large strikes beginning in 1920 by 8,000 Chinese members of the Engineers Union. That was followed by a Seaman's Union strike in 1922, and a general strike and boycott of British goods and ships from 1925-26. This display of defiance was orchestrated from Guangdong in a rare show of unity between the Kuomintang and the budding

Communist Party of China. Labour tensions eased and Hong Kong – where the rickshaw was still the vehicle of choice for solicitors making even the short jaunt between Prince's Building and the Supreme Court – acquired a small airstrip on reclaimed land at Kai Tak where the Far East Aviation Company was incorporated in 1930.

Meanwhile, the Great Depression which had begun in 1929 in the United States and Europe was beginning to take hold in Hong Kong by 1933. In a reply to an English woman seeking employment in Hong Kong, the senior partner in one law firm wrote: "In view of the acute depression which Hong Kong is at present suffering, we doubt very much whether there is any opening for you here as firms are more inclined at the present moment to reduce their staffs rather than increase them."

The shadow of Japan's ambitious military expansion along the China coast was also being felt in Hong Kong by 1937 with the Japanese bombing of Shanghai in August of that year. By 1939 Japan occupied significant areas of China, including Canton, and thousands of Chinese were fleeing to Hong Kong, whose population grew to 1.5 million by 1940. Still, despite abortive attempts to get the Colony prepared for the Japanese threat, business and litigation continued as usual, and the Hong Kong social calendar ticked merrily on with races at Happy Valley and other events.

On December 8, 1941, hours after Pearl Harbour in Hawaii was attacked by planes and midget submarines of the Imperial Japanese Navy, Japanese aircraft began bombing Kai Tak and the city while troops overran the New Territories and Kowloon, with Hong Kong Island their ultimate target.

The legal climate up to this time had been one touching largely on commerce, whether on sea or land, with occasional nods to Hong Kong's largest group of dwellers: the native Chinese.

According to historian Carl Smith and others, through 1919 the opium trade fed more than 40 percent of the Hong Kong government's revenue. In

fact, opium netted more than HK\$25 million for Hong Kong between 1914-1919, as noted in *Whither Hong Kong: China's Shadow or Visionary Gleam?* edited by Albert H. Yee. This revenue dependence on opium continued until the fall of Hong Kong under Japanese Occupation on Christmas Day 1941.

Cases dealing with opium trade disputes, therefore, were frequent and in fact, Charles David Wilkinson's first recorded court appearance was to represent several Chinese opium retailers in 1889. Another famous dispute was "The Million Dollar Opium Case" in 1914. It involved the Yue Hing Company, an opium trading firm, for which Lee Hysan was a principal shareholder and managing partner. The firm was incorporated in 1912, but in 1914 – amid international pressure to reduce the opium trade and fluctuating prices – disgruntled small shareholders representing 860

At the start of the 20th century, Hong Kong was a city which had little patience with immorality, at least in the eyes of the law. Take, for instance, the 1910 case of a client who was being sued for non-payment of sharks fin.

The client owned a brothel and the supplier knew this, but still regularly delivered sharks fin to his and other similar establishments.

The brothel owner won the case before the Full Court on the grounds that a plaintiff cannot recover the price of goods sold and delivered to an immoral institution if at the time the goods were supplied, he knew the illegal nature of the institution.



Central District in the 1920s was a bustling lively place.



In the 1930s, Hong Kong lawyers had nothing like the luxurious offices they have now. In Katherine Mattock's book, **Partners in Law**, solicitor Ferdinand Nigel recalled that he worked out of a converted toilet. "You could see where the partitions had once been for the cubicles. The plumbing pipes were still along the wall."

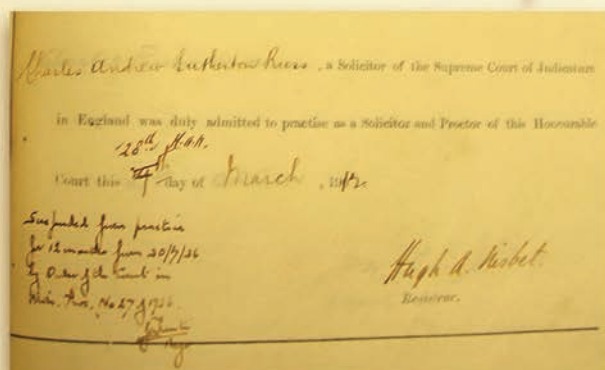
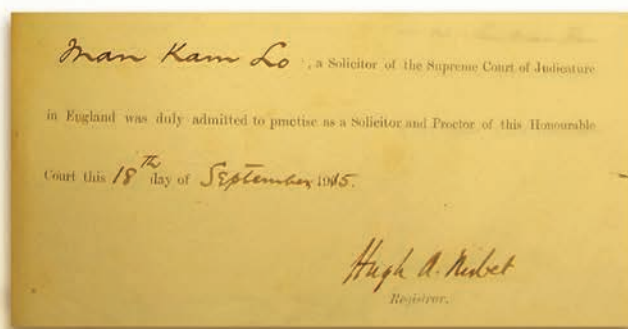
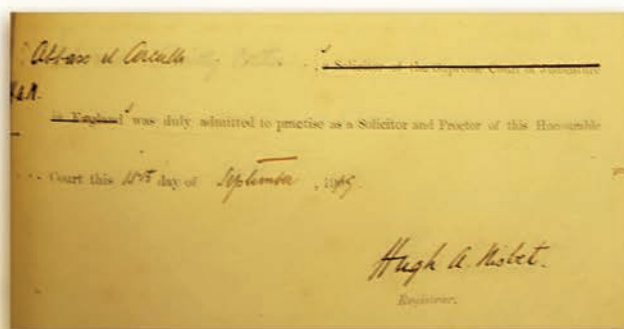
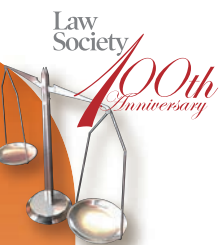
shares asked that the company be dissolved and a receiver appointed. They alleged fraud in the disposal of 100 chests of opium worth an estimated HK\$1.25 million, that the Yue Hing company had held no shareholders meeting, issued no business reports and that the company's office had been moved illegally. An Official Receiver was appointed to liquidate the firm, a decision opposed by Lee.

That was just the beginning of a case that would drag on until 1918. The liquidation order was unsuccessfully appealed to the Full Court. The Official Liquidator then filed a suit against Lee and other shareholders for the ownership of the million-dollar opium chests. Wilkinson & Grist continued to represent the interests of Lee and other shareholders and eventually won the case, despite the reservations of the Chief Justice who stated: "We have a company whose affairs were potentially and practically in the hands of one managing director (Lee), whose control during the crucial period of the company's affairs

was unfettered, for of the two managers given him by directors, one was often absent from Hong Kong and other was his henchman, and that these two controlled a majority of the votes of the stockholders."

In balancing Lee's reputation, historian Smith added that Lee was also a highly respected community benefactor who had mediated settlements during the Seamen's Strike and arranged much needed rice shipments to Macau at a time when the supply was virtually nil. Lee, however, met an ignoble end when he was shot to death in 1928 on his way from a Chinese club on Wellington Street. His killer was never caught.

During World War I, the normal run of civil procedures at courts were halted and cases of much larger implications took place instead. In 1915, Deacons acted before the Prize Court for the owners of an American ship which had been seized by the Royal Navy. Prize Court is a court authorised to determine whether a ship has been lawfully seized in the time of war. It may



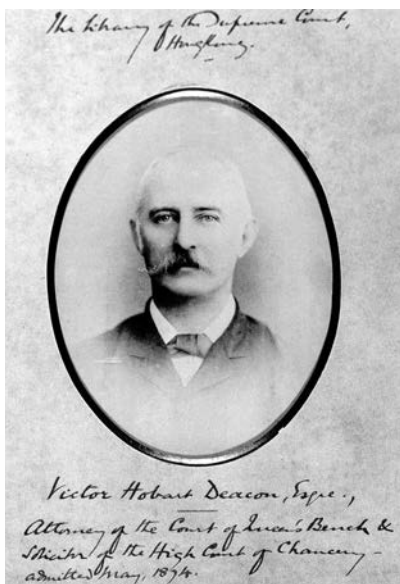
Excerpts from the original Roll of Solicitors. The three here are; Abbas El Arculli, Lo Man-Kam and Charles Andrew Sutherland Russ.



Racing was a popular pastime among many solicitors in the early years of Hong Kong's colonial history. Solicitors often owned horses and sometimes even rode the horses themselves in races. This 1913 picture shows Iris Johnston, daughter of Governor Sir Henry May, with a winning horse.







Victor Deacon came to Hong Kong in 1880 at the age of 33 and joined Brereton and Wotton.

He was admitted as partner two years later and added his name to the firm which is now known simply as Deacons.

order the return of the seized ship if the seizure was proven unlawful, for instance that the ship came from a country which had proclaimed neutrality in the time of war.

At the time, America had remained neutral and the ship was seized as it was evacuating non-combatants out of the German-controlled port of Tsingtao. However, in the Crown's view, withdrawing civilians from the strategic home base of the Imperial German Navy in the Pacific Ocean aided the Imperial German Empire. The Crown contended the behaviour of the ship as suspicious and even suggested it might be spying on the movements of the Royal Navy fleets because the Battle of Tsingtao was fought by then allies Imperial Japan and the United Kingdom between October and November 1914. The ship's owners won the case on the grounds that no sufficient evidence

could lead to such an accusation and the ship was then released.

However, the owners of a German ship were unsuccessful in retrieving their vessel, which was also seized while evacuating civilians from Tsingtao. The *Paklat*, flying a German flag, pleaded that it was a philanthropic mission but it had failed to ask for safe-conduct. The Crown stated the "neutralisation" of an enemy ship was markedly different from the "neutrality" of a non-belligerent ship, as mentioned in the previous case.

Another case involved the Royal Navy's requisition of a ship during the war, illustrating the problems ship owners might run into after performing their patriotic duties. Cheong Yu Steamship Co. Ltd launched a lawsuit in 1923 against Dharsi Nani & Co. for breaking a contract. A ship belonging to the plaintiff was requisitioned by the British



Royal Navy in 1917, after it was chartered for 10 months in October 1916 by Dharsi Nani. Dharsi Nani said it would wait for the ship's release. However, when it was released in February 1919, the defendant said the contract had expired. The Full Court in Hong Kong upheld the steamship company's claim.


Dharsi Nani's lawyers then took the case to the Judicial Committee of the Privy Council and eventually the defendant won the case in February 1926. The Privy Council ruled that since the contract had been frustrated before the commencement of its performance, there was no dispute under the contract and the contract was not broken by the defendant, hence the Steamship Company's arbitrator had no jurisdiction in collecting the amount awarded by arbitration.

Reginald Frederick Mattingly, the solicitor representing the defendant, was

said to have returned home on leave before the Appeal to the Privy Council. He met Sir John Simon, a prominent barrister in England who had been briefed for the defendant. Mattingly talked for half an hour on the legal position in the case, when Sir John leaned across to the spirited instructing solicitor and said, "Mr Mattingly speaks very good English for a Chinese."

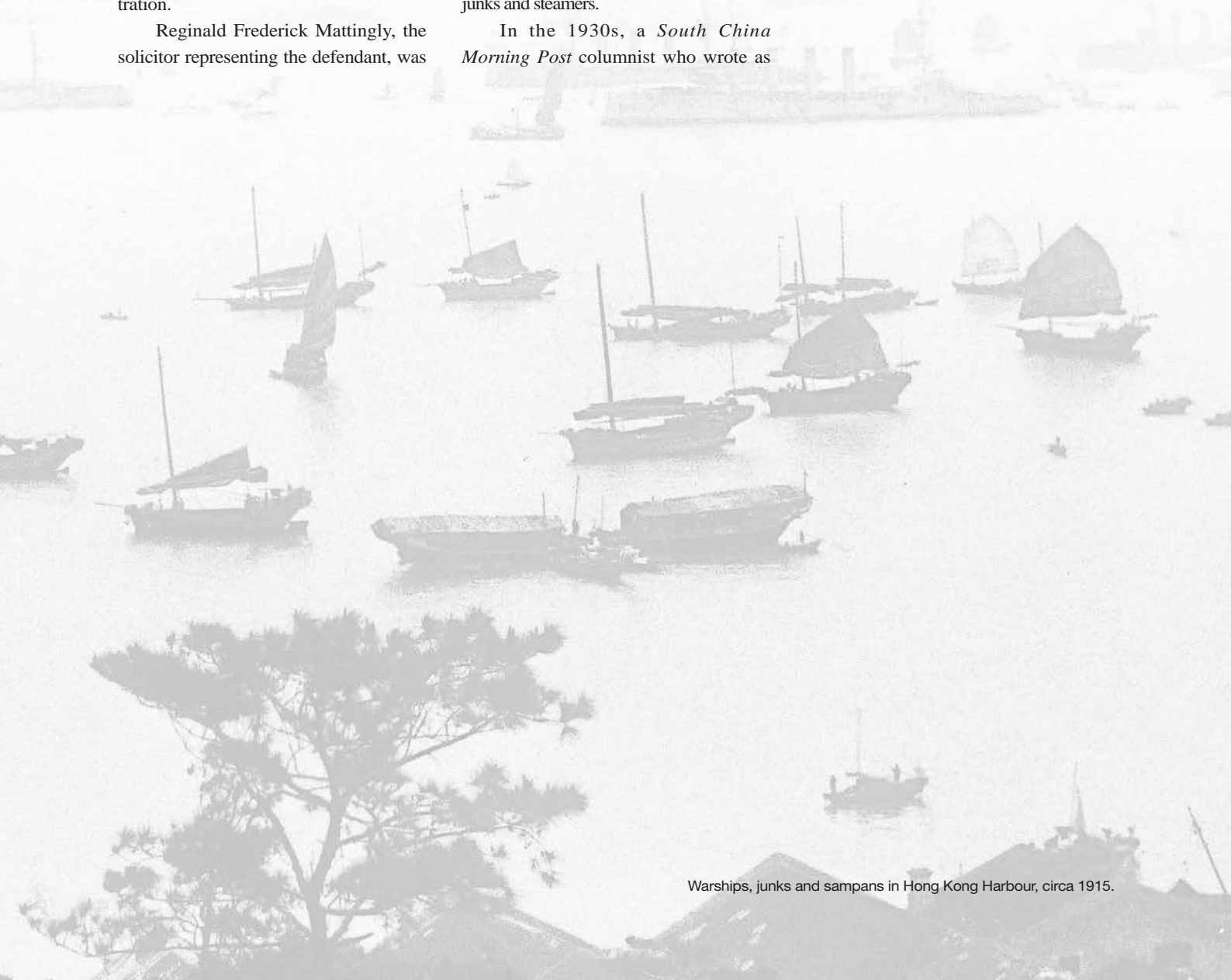
Flipping through newspapers published in early 20th century Hong Kong, shipping lists and maritime news dominated the most-read pages of this busy seaport. Solicitors practising in this hustling South China port, where vessels from all over the world loaded and unloaded cargoes, were bound to frequently handle maritime cases. Fog often shrouded the area and many cases involved collisions between Chinese junks and steamers.

In the 1930s, a *South China Morning Post* columnist who wrote as

 Hung Hing-kam, born in Hong Kong in 1885, became the first Chinese partner of Deacons on January 1, 1922.

*His connection with Deacons began when he was only three years old. In 1888, Victor Hobart Deacon was a trustee for a house which a Hong Kong merchant gave to Kan Shun-tsoi, and after her death, to her three sons and daughter, including Hung Hing-kam. Hung studied in the United Kingdom, returning in 1912 when he was admitted to practise.*

*He joined Deacon Looker and Deacon as assistant solicitor and became a partner 10 years later.*



Warships, junks and sampans in Hong Kong Harbour, circa 1915.





Tragedy struck on February 26, 1918 when a huge fire tore through the grandstand at Happy Valley Racecourse, killing 600 people.

When Reginald Frederick Mattingly was in court one day in 1914, the Chief Justice asked if he would like to have a hearing date set for a day during the annual race meet at Happy Valley. Mattingly said he would rather not. The Chief Justice replied that was just as well since he himself did not expect to be present but needed to find out if Mattingly also shared his sporting interest. He told Mattingly he himself could now be absent without a guilty conscience since both of them preferred the track to courtroom.

"Old Mortality" in the column "Old Hong Kong" wrote about the machinations regarding maritime law and the local legal scene. He recalled that Charles David Wilkinson (Wilkie) usually represented the junk owners, while Johnson Stokes & Master founder Edmund Sharp often represented the steamship companies.

He wrote: "'Wilkie', I seem to have seen these witnesses of yours in previous collision cases. They always give evidence to the same effect, showing that 'the junk's masthead light was burning brightly and a good look-out being kept, when suddenly out of the blackness of the night without any warning the ship emerged and a collision became inevitable.' Are they part of your office staff? Whereon 'Wilkie' would smile deprecatingly as he (indignantly!) denied the soft impeachment."

Marine lots were a special feature of land ownership at Hong Kong's sea front, which allowed the immediate off and on loading of ship cargoes. An early case involved the Government's decision to build a typhoon shelter at Yau Ma Tei and a reclaimed road called Reclamation Street in front of existing marine lots. Lot holders then launched a challenge against the meagre compensation from the Government for their loss of sea access. Three law firms represented their interests in the lawsuit: Wilkinson & Grist, Deacon, Looker & Deacon, as well as Ewens & Harston.

The lot holders anticipated the loss of higher rent from tenants who wanted direct access to the seashore. Projected rental income after reclamation was a factor in an effort to determine compensation. But unsurprisingly, there was a substantial gap between the Government's



Dated 25<sup>th</sup> August 1886

Wm Wotton & V. H  
Deacon

— and —  
J Hastings Esqre

Agreement

Agreement made the 25<sup>th</sup> day of August  
One thousand eight hundred and eighty six Between  
William Wotton and Victor Hobart Deacon  
both of Victoria in the Island of Hong Kong Solicitors  
and Charles Public of the one part and John  
Hastings of 10 Bellier Square London of the  
other part.

First We the said William Wotton and Victor Hobart  
Deacon jointly and severally agree to employ the  
said John Hastings as Assistant in our business  
as Solicitors at Hong Kong for the period of Four  
years to commence from the date of the departure  
of the said John Hastings from England the said  
John Hastings undertaking to leave England for  
Hong Kong by the Mail leaving London on the  
25<sup>th</sup> day of September One thousand eight hundred  
and eighty six and to proceed with all dispatch  
for the port of Hong Kong.

Secondly I the said John Hastings agree to serve the  
said William Wotton and Victor Hobart Deacon  
in the capacity of Assistant and Clerk for the period  
of Four years and to perform all lawful Orders relating  
to the said business at their Office and to conduct  
himself with propriety and to be diligent and  
faithful in the discharge of the duties thereof and  
I accordingly agree to proceed from London to Hong  
Kong in one of the Steamers hereinafter mentioned  
within ~~four~~ <sup>three</sup> weeks from the date hereof.

Thirdly I the said John Hastings shall not take any  
other employment whatsoever in Hong Kong or its  
dependencies without the consent in writing of the  
said William Wotton and Victor Hobart Deacon  
during the ~~first~~ <sup>first</sup> four years.

Fourthly We the said William Wotton and Victor Hobart

Deacon jointly and severally agree to pay to the said  
John Hastings a salary of One hundred and seventy  
five dollars per calendar month for the first year  
One hundred and seventy five dollars per month for  
the second year Two hundred dollars per month for  
the third year and Two hundred dollars per month for  
the fourth year commencing from the departure  
from England of the said John Hastings aforesaid  
And we the said William Wotton and Victor  
Hobart Deacon jointly and severally agree at the  
expiration of the said four years if the said John  
Hastings be unwilling to accept any fresh terms  
we or either of us may offer him a desire to  
return to England to provide him and bear the  
expenses of a First Class Passage by a Steamer of  
the P and O S Company or of the

Fourthly I the said John Hastings agree that in the event  
at the expiration of the four years if my not  
accepting any fresh terms not to practice or accept  
any other employment whatsoever in the said  
Island of Hong Kong for a period of Twenty years  
(to be calculated from the expiration of the said period  
which will be twenty four years from the date  
of the ~~departure~~ <sup>departure</sup> of the said John Hastings from Hong  
Kong aforesaid) as a Solicitor or Solicitors Assistant  
or Clerk ~~or in the legal profession or in any capacity~~  
appertaining thereto without the consent in writing  
of the said William Wotton and the said Victor  
Hobart Deacon.

Provided always And it is hereby expressly  
agreed that in case of the death or retirement  
of either of the said William Wotton or the said  
Victor Hobart Deacon before the expiration of the

First term of four years this contract shall  
continue to exist between the surviving partner  
and the said John Hastings in the like manner  
as if it had been originally made by the said  
John Hastings with such surviving partner alone  
The said John Hastings undertakes to sail for  
Hong Kong within ~~three~~ <sup>three</sup> weeks of the date of this  
Agreement the said William Wotton and Victor Hobart  
Deacon agreeing to find him a First Class Passage  
by a Steamer of either of the aforesaid Companies  
In witness whereof the parties to these presents  
have hereunto set their hands the day and year  
first above written.

Signed by the above named  
John Hastings in the  
presence of  
J. B. Hastings  
Richard Lervell  
William  
Co. Attorney  
Deacon

An employment contract in 1886 between Wotton & Deacon and John Hastings.



**Hong Kong Public Works**  
Department site architects  
and Chinese builders made an  
awful mess of the Supreme Court  
building during construction.  
Everything that could go wrong  
did go wrong.

The foundations took three years.  
After construction had begun, it  
was discovered that the building  
was back to front, so that the main  
entrance of the court was facing  
the cricket ground instead of  
Statue Square. This was fixed,  
but then the builder ran out  
of granite!

From Arthur Hacker's **British**  
**Hong Kong: Fact and Fable**

estimations and those of valuers engaged by the lot holders.

The judgment given was "in compensation you do not look at actual but at potential value."

Of course, the majority population in Hong Kong was (and continues to be) local Chinese, hence customary laws and Chinese family traditions had to be taken into account in Hong Kong Courts.

A private history of an early law firm highlights the chasm between practices of East and West in a convoluted 1915 case about a deceased Chinese man's 11-year-old posthumously adopted son, his concubine and the right to property.

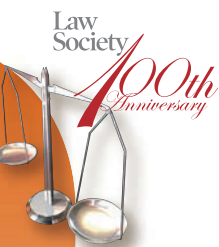
In Chinese custom it was important that a dead married man had a son to offer proper rites for the dead man's spirit. If there was none, a son would be adopted before or after death and the adoptee was usually the son of a brother or a close cousin. If one was not available, the adoption pool widened to include more distant family

or clan members, as long as the surname was the same as the adoptive father.

In 1915, Wilkinson & Grist represented a Chinese client who had sued his dead brother's concubine. The dead brother had posthumously adopted a son five years after he died. After the adoption, the dead man's wife also died. After she died, the 11-year-old adopted son chose the dead brother's concubine as his "next of friend."

According to Chinese law, the dead brother's personal property would have passed to his wife, subject to the control of a family council. The property was also subject to the rights of the posthumously adopted son. But the adoption document did not refer to any specific or general property interests.

The concubine applied for letters of administration to the estate, but the dead man's brother sued and asked the Court to appoint him as administrator. Wilkinson & Grist lost the case when the court upheld the adopted son's choice of the concubine as "next of friend."



Fun fair at the Murray Parade Ground, now the Cheung Kong Centre, to raise money for World War I.

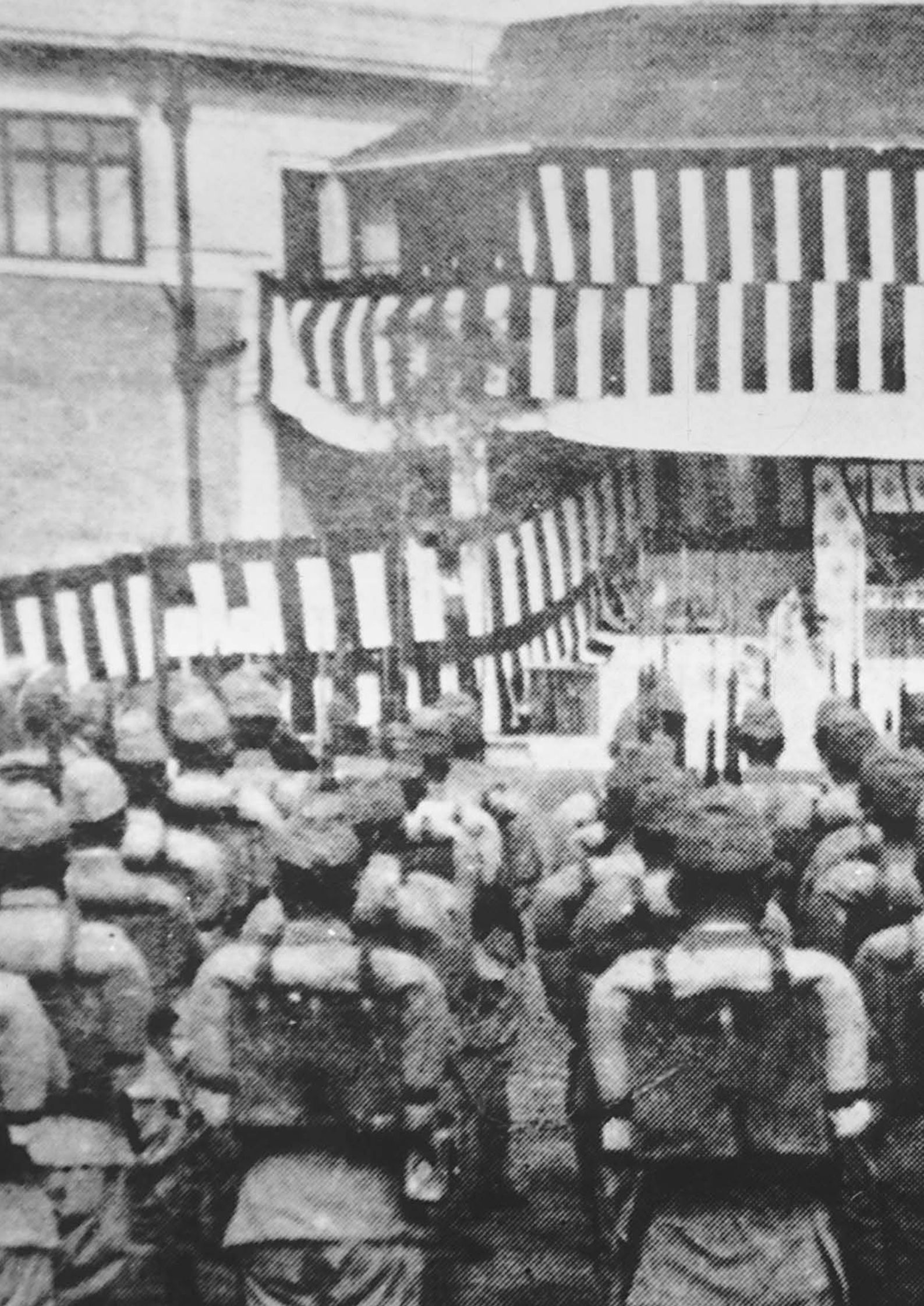


## SOLICITORS (1914-1940)

*Solicitors and their admission dates as listed in Hong Kong Law Reports 1914-1940. Records and names are incomplete, but the list has been reconstructed based on surviving historical records. There were no new admissions from 1941-1945.*

Edward Lewis Agassiz	1914	Duncan McCallum	1922	Cho Yui Kwan	1931
Francis Horace Baker	1914	Felix Herbert Layman	1923	Henry Swinton Valentine Mossop	1931
Charles Alexander Hooper	1914	Frank William Nalder	1923	Peter Henry Sin	1931
Arthur Montagu Preston	1914	James Templer Prior	1923	George Stephen Ford	1932
Reginald Alexander Stokes	1914	Harold John Armstrong	1924	Theodore Patrick Kenneth Kemble	1932
Lo Man-kam	1915	Eric Sydney Clifford Brooks	1924	Peter Kwok Hing-kai	1932
Alfred Edward Hall, aka Sin Man-pan	1916	Benjamin Springbett Corke	1924	William Andrew Mackinlay	1932
James Malcolm Hall	1916	Geoffrey Bruce Hett	1924	Ferdinand Gerald Nigel	1932
Lo Man-wai	1916	Graeme Sisson Hugh-Jones	1924	John Bernard Prentis	1932
Reginald Frederick Mattingly	1916	James Allan Gordon Leask	1924	Henrique Alberto de Barros Botelho	1933
Abbas el Arculli	1919	Jose Maria D'Almada Remedios	1924	William Mauliverer Brown	1933
Denis Henry Blake	1919	Ralph Archibald Wadeson	1924	Ralph Henry Cole	1933
Cecil Hynes Lyson	1919	Lancelot Ruggles Andrewes	1925	Christopher D'Almada e Castro	1933
Edward Bentley Potter	1919	William Dudley Owen	1925	Charles Edwin Lowe	1933
George Gwinnett Noble Tinson	1919	David Lewis Strellett	1925	Chau Hung-nin	1934
George Charles Henry Culley	1920	Lewis Durrant Turner	1925	William Keith Robinson	1934
Lee Hon-chee	1920	Frederick William Whitehouse	1925	Cyril Edward Russell Sanderson	1934
Leo Longinotto	1920	Francis Henry Loseby	1926	D'Arcy Stewart Curtis	1935
Henry Charles MacNamara	1920	Lo Man-bo, aka Horace Lo	1926	Sydney Ng Quinn	1935
Frederick Edmund Nash	1920	Albert O'Donoghue	1926	Frederick Zimmern	1935
Thomas Rowan	1920	Francis Xavier D'Almada e Castro	1928	Fan Wong-kin	1936
Michael Howard Turner	1920	Charles Edward Laurence Grist	1928	Bertram Carmichael Hobbs	1936
Thomas Gerald Bennett	1921	Hung Wai-chiu	1928	Ralph Malcolm MacDonald King	1936
William Bertram Kennett	1921	Oliver Egerton Christopher Marton	1928	Kwan Hok-lam	1937
Charles A. Sutherland Russ	1921	Arthur Covey	1929	Alfred Lau Sui-kay	1937
George Francis Vaux	1921	Frank Kwok Hing-sum	1929	Patrick Wynter Blyth	1939
Maurice Murray Watson	1921	Francis Cuthbert Eugene Rendall	1929	Alfred Hon Yun-sun	1939
Reginald Everard Adolphus Webski	1921	Marcus Alberto da Silva	1930	Kam Yuet-keung	1940
Edgar William Corbett	1922	Donald Brittan Evans	1931	Woo Pak-chuen	1940







1942-1945

Japanese soldiers stand to attention in the Hong Kong Cricket Club, celebrating the first anniversary of their occupation of Hong Kong in 1942.







A wartime identity card issued by the Japanese shows Fung Kang-yu as residing in Western District and employed in insurance.

## The War Years

*When war clouds began to gather over the Colony at the start of the 1940s, parts of China were already under occupation.*

*The Hong Kong population, though nervous, tried to shrug off the threat, not fully convinced that Japan would attack.*

If the first 100 years of British Hong Kong were marked by the often harsh face of colonial rule, then many would argue the second 100 years began even more harshly - brutal occupation under the Imperial Japanese Army. Who could have guessed that a century after Britain took possession of Hong Kong, on January 26, 1841 the Colony would fall within weeks to an invading Japanese army that rolled across from the mainland. From the time the first Japanese bombs fell on Kai Tak on the morning of December 8, 1941 - eight hours after Japan attacked Pearl Harbour - it took just 10 days for the invaders to conquer the New Territories and Kowloon. Another week, and Hong Kong Island itself fell, leading to a British surrender on Christmas Day 1941.

The Battle for Hong Kong lasted just 17 days, but was followed by a long and savage

occupation that has come to be known as "Three Years and Eight Months."

Although 19th century Hong Kong was a time of colonial excesses, a period rife with racism, inequalities, and the uneven application of British rule of law, the city was also going through the early growing pains of becoming the metropolis it is today. At the turn of the century, although the class structure remained, the people came to see the rule of law - despite its early flaws - as a foundation for progress at a time when the city was starting to earn its credentials as a thriving seaport.

When war clouds began to gather over the Colony at the start of the 1940s, parts of China were already under occupation. The Hong Kong population, though nervous, tried to shrug off the threat, not fully convinced that Japan would attack, even as invading troops massed on the border. There was an almost

bizarre attempt at normality as the community forced itself to believe the risk of an attack had been exaggerated. Just six days before the invasion, the cream of Hong Kong's society attended the diamond wedding anniversary party of Sir Robert and Lady Ho Tung at the Hong Kong Hotel.

Fun and laughter filled the Peninsula Hotel four days later where the new Governor, Sir Mark Young, attended a charity ball. On December 7, 1941, the eve of the invasion, the Jockey Club held its regular race meeting. Among the winners was George Tinson, the senior partner at Johnson Stokes & Master.

Hopelessly outnumbered and outgunned, Allied troops resisted as best as they could the next day as the well-prepared Japanese bore down on them. A little over two weeks later, just before 3.30 pm on Christmas Day 1941, Young sent word to Lieutenant-General Sakai Takashi at the Peninsula Hotel, where the Japanese had set up their headquarters, that he was surrendering. He was taken to the hotel, locked up and abused, and later held captive outside Hong Kong.

Tinson, who had just days earlier celebrated a win by one of his horses at Happy Valley, was among the first war casualties from the legal profession. On December 19, 1941, just one day after the advancing Japanese crossed from Kowloon to Hong Kong Island, a sniper's bullet took his life on the verandah of his Repulse Bay home, Post-bridge, where Allied forces were making a desperate stand under heavy attack by the Japanese. That his death could only be formally recorded a year and a half later was an indicator of just how much normal life had changed under Japanese occupation.

Lieutenant Commander John Grenham, writing from his prisoner-of-war camp on June 1, 1943 described how he witnessed Tinson's death in a note to Denis Henry Blake, a solicitor, who had been appointed as administrator by inmates at the Stanley internment camp which held mostly British, Canadian and, before their repatriation six months after the war started, American civilians, in-

cluding women and children. "I could detect no pulse or breathing. He was cold to the touch and I'm sure he was dead," Grenham wrote to Blake.

On June 18, Franklin Gimson – who had arrived in Hong Kong just one day before the Japanese invasion to become Colonial Secretary – relied on Grenham's eye-witness account to formally certify Tinson's death in a hand-written note while in Stanley Camp. "This certificate is given in lieu of an entry in the Registrar of Deaths, which could not be made owing to the occupation of Hong Kong by the Japanese Forces," Gimson wrote. His hand-written certificate was then given to Blake to be passed on to Tinson's widow.

Tinson and another of the firm's partners, Maurice Murray Watson, had been assigned non-combat duties with the Air Raid Precautions Department as both were considered too old for active duty, having already fought in World War I. Watson, who joined the firm in 1921, ended up in Stanley Camp as the only surviving partner after Tinson's death.

Following Hong Kong's surrender, the nearly 3,000 British and other expatriate civilians were at first left alone while the Japanese herded the defeated Allied forces into Sham Shui Po and other POW camps. "We were taken

across the harbour and then we had to march all the way up Nathan Road, right through to Sham Shui Po – four miles – carrying all our worldly goods, even mattresses," recalled solicitor Ferdinand Gerald Nigel – a lieutenant with the Hong Kong Volunteers – in Katherine Mattock's *Partners in Law*. Nigel survived the war and went on to become Law Society president from 1951-1952.

Also taken to Sham Shui Po Camp were solicitors Arthur Tate, and R.M.M. King, who had signed up with the 1st Middlesex Regiment to fight the Japanese. Both were later taken to Japan as prisoner-of-war labour. Another solicitor, Michael Howard Turner, became so weak in the harsh conditions of Sham Shui Po Camp that when the war ended he had to rush back to England to recover.

Less than two weeks into the occupation, on January 4, 1942, a notice appeared in the Japanese-run *Hong Kong News*, the only English-language paper during the occupation, instructing all civilians from enemy countries to assemble at the Murray Parade Ground (later the site of the Hilton Hotel and now the Cheung Kong Centre). But many did not see the notice and the 1,000 who turned up were marched through Central to filthy waterfront



British soldiers are marched to prisoner-of-war camps after the surrender of Hong Kong on Christmas Day 1941.



Lo Man-kam was said to have registered his displeasure at sitting on the Japanese-run Cooperative Council by making no contribution to the Council's proceedings. Asked on one occasion by the Japanese military chiefs what the Army could do to improve its relations with the Chinese community, he broke his silence for long enough to comment that it would help, for a start, if the troops would desist from urinating in public places.

Japanese troops were stationed at the Peninsula Hotel during World War II.



During the war, the Supreme Court (now the Legislative Council building) was used as a torture chamber. The Japanese divided the west verandah into cubicles where prisoners were taken to be interrogated and tortured. More than 100 prisoners were packed into the building's basement without any amenities.

brothel hotels to be confined for more than two weeks before being taken to Stanley where they were interned on the prison grounds and St Stephen's College. Among the 3,000 or so internees who ended up in Stanley Camp was solicitor John Scott Harston, one of the original seven who incorporated the Law Society of Hong Kong in 1907.

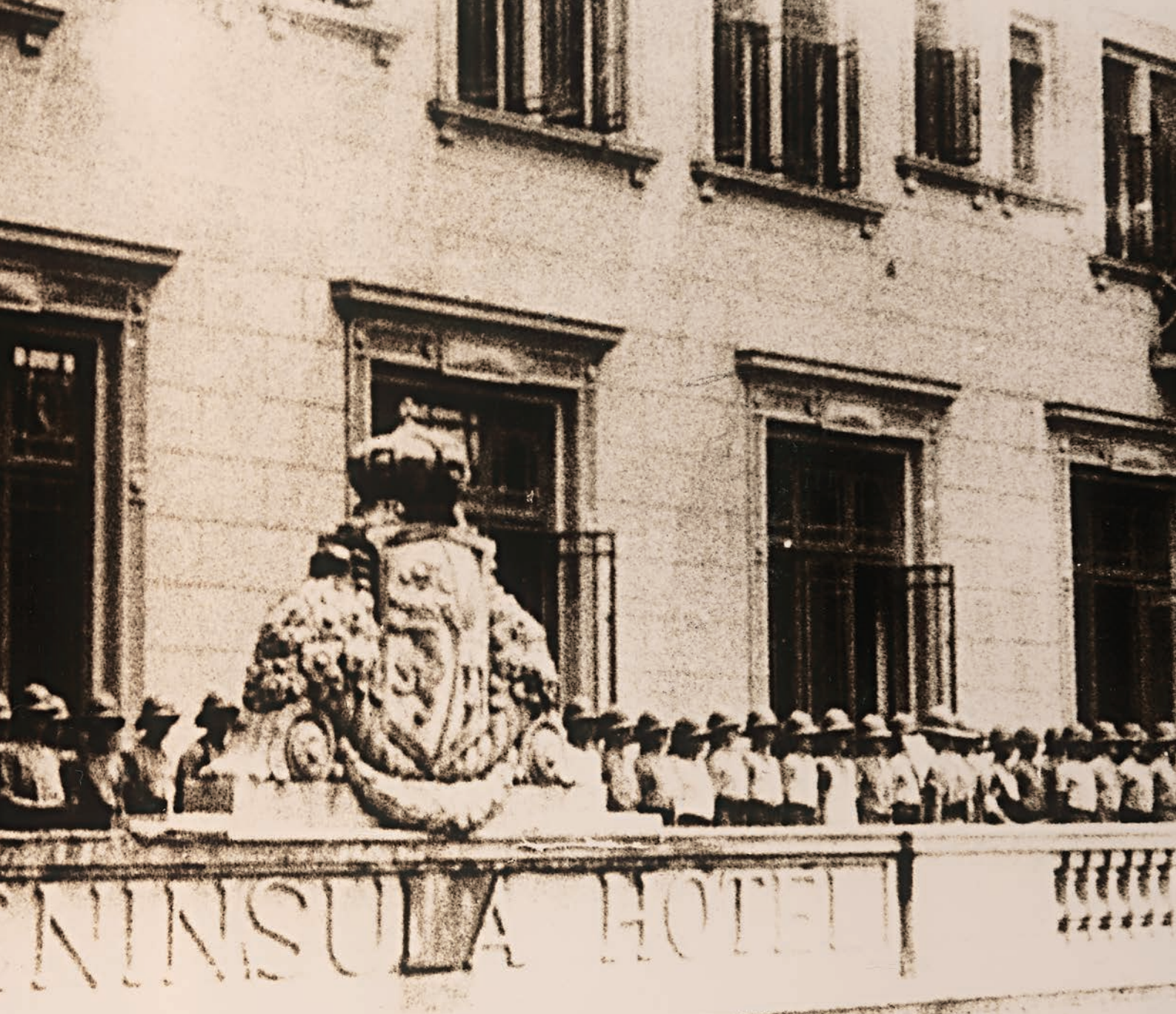
Hong Kong's pre-war expatriate community was a privileged class but small in number which meant many Stanley internees knew each other. John Fleming, who took over as head of Lowe, Bingham and Matthews (now PricewaterhouseCoopers) after the death of A.R. Lowe in 1924, knew both Harston and Watson, who was best man at his wedding in 1927. Other lawyers in the camp included the Solicitor General,

Sir Chaloner Grenville Alabaster, and Francis Loseby whose daughter Patricia Loseby became Hong Kong's first woman solicitor.

But if colonial life had been comfortable and cosy for the European population, that changed overnight under Japanese occupation.

For the internees at Stanley and the POWs at Sham Shui Po, hunger at times seemed a greater enemy than the occupiers. Empty stomachs, poor hygiene, disease, boredom and frequent brutality by their jailers became part of daily life. But terrible as conditions were for the civilians at Stanley, they were far worse at Sham Shui Po where the POWs who had fought against the Japanese often faced barbaric treatment. While Nigel, Tate, King and Turner, along with an-





other solicitor James Templer Prior, endured the harshness of the POW camps, those from the profession who were non-combatants, along with other civilians, struggled to make the best of it at the Stanley civilian camp where, after the repatriation of Canadians and Americans, the remaining 2,500 British inmates organised themselves into committees to run the camp.

Semi-starved but with plenty of time on their hands, the internees – who were largely allowed by the Japanese to run their own affairs – tried to make life as normal as possible, setting up the Tweed Bay Hospital (named after a bay in Stanley) in one of the camp buildings, creating a "camp court" presided over by the interned Chief Justice Sir Atholl MacGregor to settle disputes, handle di-

vorces (the legality of which were questioned after the war) and even drawing up rules on how to dispose of the property of those who died in camp. One notice, dated January 2, 1945, and authorised by Franklin Gimson, the interned Colonial Secretary, stated: "Internees who have no executor or adult representative in Camp should be advised to appoint a 'Camp Executor' whose powers would be limited to the disposal in accordance with the expressed wishes of the deceased, or in the absence thereof at his own discretion, of all the deceased's property in the camp other than articles of intrinsic or sentimental value." But MacGregor opposed a suggestion that the inmates pool their personal food supplies and cash, arguing that this would create "endless litigation."

As in most prisons, cigarettes quickly became cash. A Crown Solicitor at Stanley was said to have traded a gold tooth for two packs of cigarettes. Charles G. Roland's *Long Night's Journey into Day* describes the lengths to which POWs went to obtain cigarettes while imprisoned at the fly-ridden North Point Camp. The Japanese, worried about disease, offered a pack of cigarettes for every 100 flies caught. The POWs realised they were on to a good thing and began breeding flies. When the Japanese later decided to weigh the flies instead of wasting time counting them, the POWs fixed tiny weights to the legs of the insects. The scam was discovered and the cigarette offer stopped.

Gimson continued using his title of Colonial Secretary and took charge



In the days after the war ended, Chief Justice Sir Atholl MacGregor held a Full Court where he mourned the loss of those in the profession. To spare the profession the expense of having to replace lost or destroyed gowns and wigs during the war, he ruled that the administration of justice was more important than the wearing of customary garb. Dispensing with gowns and wigs, he expressed confidence lawyers "would not forget themselves and dress in any way not in keeping with the dignity of the profession."

of running things at Stanley Camp where a long-running dispute between him and some of the other internees, including barrister Eldon Potter and solicitor Maurice Murray Watson over the issue of repatriation sometimes turned bitter. Gimson was against repatriation, believing it would weaken Britain's case to keep Hong Kong after the war, and fought against a repatriation petition by some of the internees. This and other issues caused such friction in the camp that it was not unusual for internees to bring along interned lawyers for meetings with Gimson. In a letter to Gimson dated March 18, 1944 internee I.E. Jackson made clear he would bring along his legal representative, solicitor Eric Brooks, for a contentious meeting.

There were several attempts at escape from Stanley Camp but Gwen Priestwood, a secretary at a law firm, was among just a handful who succeeded, after which the Japanese tightened camp security. Her book *Through Japanese Barbed Wire* describes how she plotted her escape soon after being interned, and how she shared her daring plan with Anthony Bathurst, a Cantonese-speaking police superintendent who had a gun, a map and a compass. The pair pretended to be sick the day before their escape so they could be at the camp hospital from where they crawled through barbed wire on the night of March 19, 1942. After making their way to "Free China," Bathurst decided to stay and help the Chinese resistance while Priestwood travelled a further 1,000 miles to Chungking, where she presented to the British Ambassador a roll of toilet paper that contained the names of all the Stanley internees on strips of paper concealed in the cardboard core.

Many on Priestwood's list did not survive the more than three years of internment. Among the 120 who died were Puisne Judge Paul Ewart Francis Cressall, Hong Kong and Shanghai Bank head Sir Vandeleur Grayburn, and barrister Henry Charles MacNamara who practised in Hong Kong as a solicitor

in the 1920s, left in 1932 to qualify as a barrister, then returned only to be later interned in Stanley where he wrote his will following premonitions of his own death.

Outside the POW and internment camps, the local Chinese population fared little better. Malnourished and jobless, they did whatever they could to survive in an occupied city governed by the harshness of martial law. Most found it impossible to cope and fled to the mainland, shrinking Hong Kong's population from 1.6 million before the war to just 600,000 at the end of it.

Among those who initially stayed was solicitor Chau Hung-nin, who had joined Johnson Stokes & Master as an articled clerk to Tinson. Watson, the firm's sole surviving partner, managed to contact Chau while in Stanley Camp and asked him to arrange the December pay for the local staff, but when Chau went to the firm's offices at the Hong Kong and Shanghai Bank building – which had been taken over by the Japanese – he was chased out. The Japanese had also tossed out the firm's documents, a fact that became clear when food parcels sent to Stanley camp came wrapped in the firm's time sheets.

In trying to win over the Chinese population, the Japanese first set up a Rehabilitation Advisory Committee which the governor of occupied Hong Kong, Lieutenant-General Isogai Rensuke, later replaced with the Chinese Representative Council, chaired by the Eurasian Sir Robert Kotewall, and the Chinese Cooperative Council, chaired by Sir Shouson Chow.

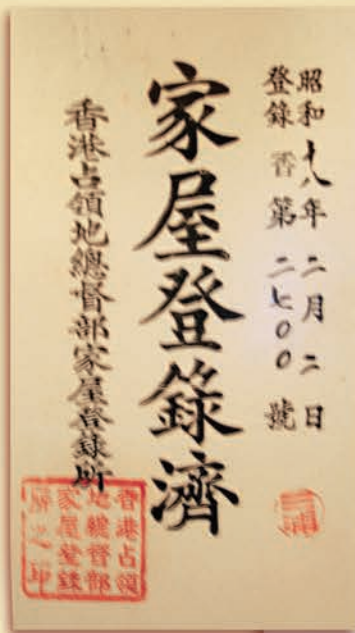
Lo Man-kam, a well-known solicitor from a leading Chinese family and father of solicitor Lo Tak-shing, was a member of the Rehabilitation Advisory Committee and the Chinese Cooperative Council. But unlike Kotewall and Chow, who emerged from the war with their reputations tainted on suspicion of collaborating with the Japanese, evidence showed Lo only cooperated reluctantly, never hiding his dislike for the Japanese.

As a Legislative Councillor before the war, Lo was a frequent critic of racist

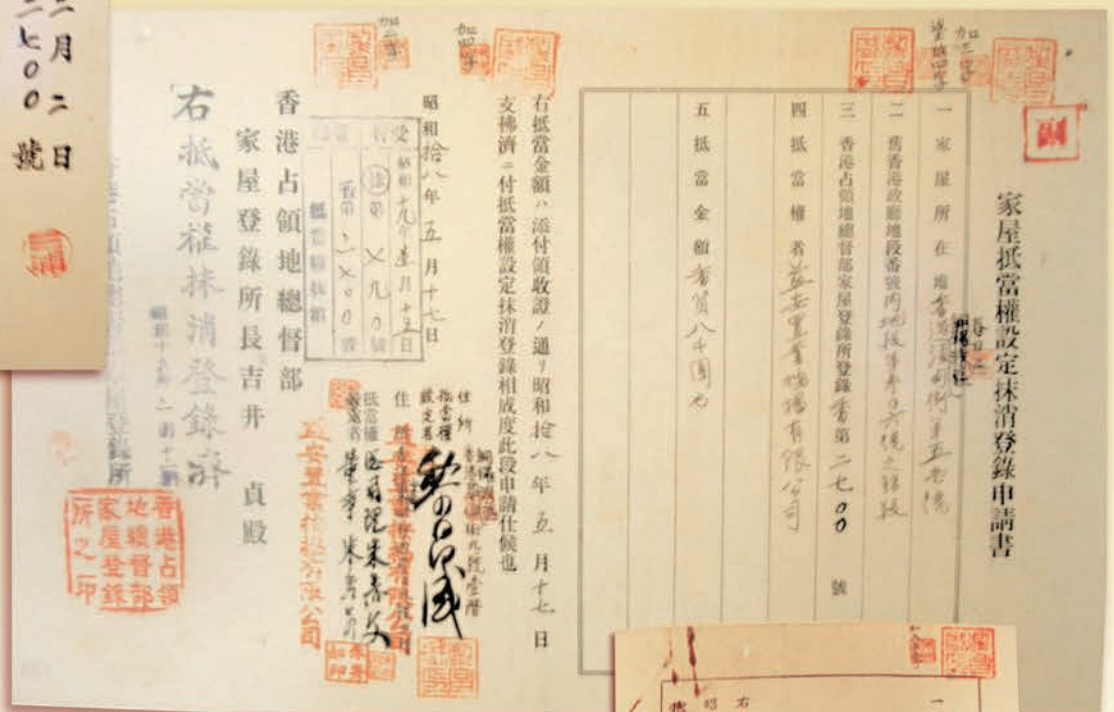


Lt. General Isogai Rensuke arrived two months after the Colony's surrender to become the Japanese governor of Hong Kong.

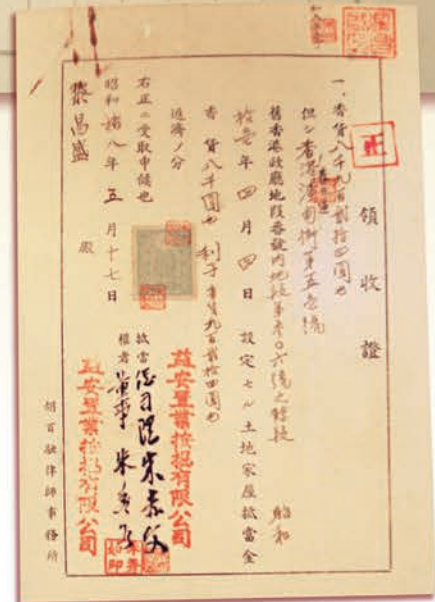
Some conveyancing and property deals continued during the Japanese occupation, as shown in these wartime documents.



Land deed/certificate for 51 Jardine Street issued by the Japanese Lands Department.



Mortgage document issued by the Japanese Lands Department showing a bank foreclosure on the property.



Document showing the transfer of ownership to a financing company to cover the sum of HK\$8,924. Hong Kong solicitor Wu Pak-Yung acted as notary.

colonial policies and angrily denounced the British for evacuating only "pure" Europeans and not Eurasian women and children to Australia ahead of the Japanese invasion. Still, as author Philip Snow notes in *The Fall of Hong Kong*, the British singled him out at war's end as the best representative of the Chinese and made him Rice Controller to organise food supply.

A year later, in 1946, as the British Military Administration readied Hong Kong for a return to civilian rule, the postwar Colonial Secretary, David MacDougall, shortlisted Lo to become a member of both the Executive and


Legislative Councils. He was knighted two years later for his role in helping Hong Kong recover from the war.

When the Japanese Military Government Office, or *Gunseicho*, asked local leaders to help solve the food shortage in occupied Hong Kong, solicitor Peter H. Sin reluctantly agreed, and his plan to register every household for a rice rationing scheme so impressed the occupiers that they put him in charge, earning him the unofficial title of "Mayor of Hong Kong". He later declared that somebody who "knew the ropes of this town had to do it, or the people would have starved". Sin was

seen by some as having aided the enemy and had trouble renewing his lawyer's licence after the war but nonetheless won the right in 1945 as an Authorised Advocate in the war crimes trials. Sin's son, Charles, today rejects the accusation of aiding the enemy as manifestly unfair: "My father was asked to do it, and he provided a much needed public service to Hong Kong by helping to keep the population fed during a very difficult time. The rice rationing scheme during its operation saved many lives," he said.

Peter Sin was among the local solicitors and barristers who, anxious to



 Solicitor Dudley Vaughan Steavenson appeared in Summary Court in 1914 dressed in the customary gown, but wore a light grey patterned suit underneath instead of a sober black one. The Puisne Judge refused to recognise him, saying he was not suitably dressed, and a colleague from another firm offered to stand in for him.

Steavenson retired in 1933, stayed in Hong Kong, and was a patient at St Paul's Hospital when the Colony fell to the Japanese in 1941. He was not taken to Stanley Camp and died in hospital in 1943.

resume their practices after the British surrender, got together to start the Association of Chinese Lawyers of Hong Kong on March 1, 1942. But as noted in *The Fall of Hong Kong*, Governor Isogai's office sat on their petition for more than a year before allowing an inaugural ceremony with the reminder that the lawyers' function could only be to "assist in the proper administration of martial law" in civil cases.

Still, with the return of some normality despite martial law, businesses like Wing On and Sincere began to reopen. British wartime censors intercepted a letter sent during the occupation by solicitor Kan Yuet-keung (also known as Y.K. Kan) to a correspondent in California in which he wrote that Chinese businesses had recovered well in occupied Hong Kong. "Property gen-

erally in Hong Kong is rapidly improving in value (like bamboo shoots after rain). In Central District, it has risen to double the value," Kan wrote.

Wong Wai-pat, who went on to become a senior partner with Deacons, was just 19 years old when the Japanese invaded and recalls working as a clerk during the occupation with a local Chinese law firm that included Kan, W.C. Hung, Thomas Tam Ngar-tse and George She. Although the Japanese had shut down the expatriate law firms, some local ones still operated. "Hong Kong lawyers were allowed to practise Japanese law but of course we had to comply with certain conditions," recalled Wong, now 85 and still practising. "Peter Sin also started a firm under the Japanese, and so did P.C. Woo."

The lawyers did not practise criminal law, but legal services dealing with property transactions, known as conveyancing, continued. "We had to fill out a conveyancing form which was all in Japanese, so we had to get an interpreter. Then we had to register this Japanese document with the Land Registry," Wong said.

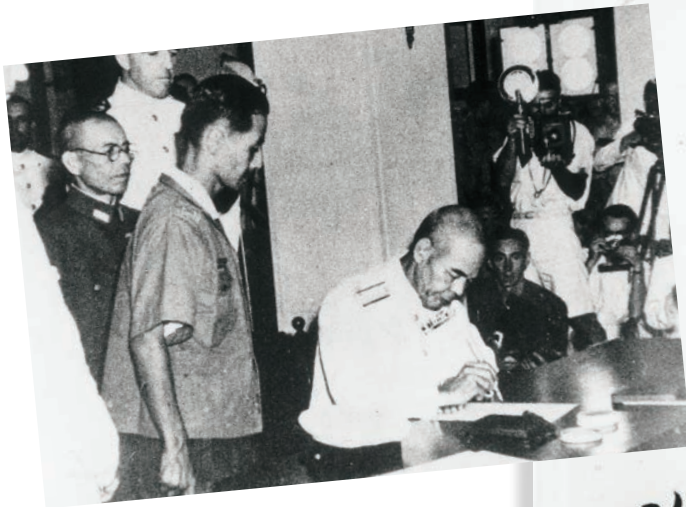
Buyers and sellers of property in occupied Hong Kong also made their own deals, as documents at the time show. One such document, in Chinese and dated May 4, 1944 stated: "Sun Yuk-wing willingly sells his land at Lot 19 DD 453 Tsuen Wan to Sun Ping-fat for the price of 80 Japanese military yen. I also acknowledge receipt of the said 80 Japanese military yen." Another dated "the 4th day of the fifth lunar month, 1944" recorded a sale by Suen Yuk-wing for Lot 299 in DD 453 to Sun Ping-fat for 80 Japanese military yen. It ended by stating that "this document is written for fear that verbal agreement cannot serve as an evidence." But recalled Wong: "After the war, many transactions were not recognised by the British and the buyers had to get new confirmation from the sellers who usually asked for more money."

The British moved quickly to re-establish their hold on the Colony they had lost on Christmas Day 1941 when, on

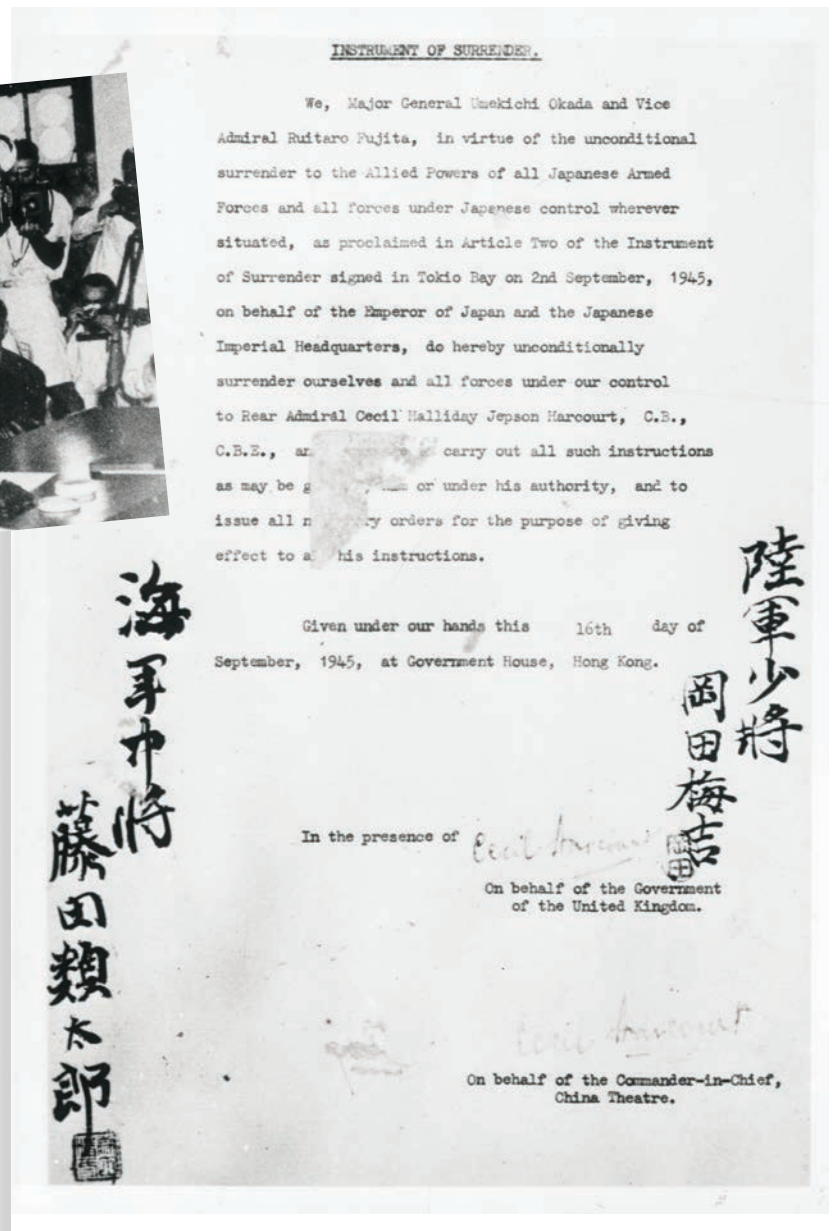
## Debt of Honour

*If it hadn't been for his father's sense of duty, Wong Wai-pat may never have ended up as a lawyer. As fate would have it, his break came during the Japanese occupation of Hong Kong when his father, Wong Sing-fai, who was chief cashier at Deacon's, sneaked back into the firm's Prince's Building offices in the dead of night to remove the account books. When Deacons re-opened after the war, it had its old set of books. "Deacons was very grateful and Michael Turner, a partner with the firm, told my father he could choose one of his sons to be an articled clerk. That's how I joined," recalled Wong who went on to become a senior partner, then retired in 1983, but was later asked to rejoin the firm.*

*Wong remembers his father bringing food parcels to another partner, Harold Armstrong, at the Stanley internment camp. "All the internees looked like sticks," recalled Wong who also remembers how the population was glad to return to common law after the Japanese surrendered. As Hong Kong quickly recovered from the war, he took up the Deacons offer and became an articled clerk in 1947, then went to law school in the United Kingdom in 1951, qualified in 1953, and returned the following year to rejoin Deacons as a solicitor.*



Vice Admiral Fujita Ruitaro signs the Instrument of Surrender at Government House on September 16, 1945.



August 15, 1945 Japanese Emperor Hirohito announced his country's surrender following the dropping of two American nuclear bombs on Hiroshima and Nagasaki.

A week after the surrender, Franklin Gimsom left Stanley Camp to set up a government in the French Mission Building – which is now the Court of Final Appeal – but the war in Hong Kong did not officially end until September 16, when Major General Okada Umekichi, the occupation commander, and Vice Admiral Fujita Ruitaro, signed the surrender documents with Rear Admiral Sir Cecil Harcourt at Government House. Harcourt, who sailed into Hong Kong harbour on August 30 with a British fleet, put David

MacDougall – who later became Colonial Secretary – in charge of a British Military Administration which governed Hong Kong for eight months until civilian rule was restored on May 1, 1946 with the return of Governor Sir Mark Young.

The legal community also wasted no time getting back to work after Hong Kong's liberation, with a frail Chief Justice Atholl MacGregor, who had been interned at Stanley, announcing the re-establishment of the law courts on September 4, 1945 at a meeting attended by the city's lawyers whose licences had been renewed soon after the Japanese surrender. Mindful that many had lost everything during the occupation, MacGregor – who died a month later

The Instrument of Surrender records the surrender of Japanese land and sea forces in Hong Kong in 1945.

During the war, the Deacons office on the first floor of Prince's Building was occupied by the Japanese Rice Controller who never opened the office safes. The large one, which held important documents, was given to the firm in settlement of unpaid legal fees.





War crimes trials started in March, 1946. Twenty one of the 129 Japanese defendants were hanged. Two of the more high-profile defendants were Colonel Isao Tokunaga, the overall commander of all Hong Kong camps, and Captain Shunkichi Saito, the camp medical officer.

Hong Kong. Lieutenant General Sakai Takashi, who led the invasion was captured, tried, and executed by a firing squad in Nanking on September 30, 1946. Lieutenant General Tanaka Hisakazu, one of two Japanese governors of occupied Hong Kong, was also captured, tried and shot by firing squad in Canton in March 1947. The other governor, Lieutenant General Isogai Rensuke, was arrested by the Americans in Tokyo, sent to mainland China and received a life sentence that was twice commuted. He ended up serving only five years.

Long-time Hong Kong solicitor W.I. Cheung worked as a reporter with the *Overseas Chinese Daily News* after the war in 1945 and remembers well covering the war crimes trials which left such a deep impression on him that he went on to become a lawyer. "The Government litigated the cases against the Japanese who had killed people by chopping their heads off. Even lawyers had been tortured, like Marcus Alberto da Silva who was a famous lawyer," he said.

After two years as a reporter, Cheung joined Wilkinson & Grist in 1947 and trained under H.C. Lee. "At that time it was rare to have a Chinese partner. It was a big thing," he said. Five years later he went on to law school in England where he was allowed to skip the intermediate exam but still passed the final exam the first time round.

Hong Kong recovered rapidly after the war but MacDougall resisted pressure to keep the legal system "British" and noted that the Colony had enough local solicitors and barristers well-trained in English law for the system to be opened up. He appointed some Chinese magistrates, and 21 of the 30 Authorised Advocates designated by the military authority's military courts were Chinese, Eurasians or Portuguese. By July 1946, the ban on non-Europeans living on the Peak ended, a clear sign the discriminatory way of life that lasted for so long before the war would no longer be tolerated.

from ill-health while returning to England – agreed to do away with the wearing of wigs and gowns until the city got back on its feet. But with Hong Kong under a military administration, a military court was ceremoniously opened in late September, attended by solicitors and barristers including Lo Man-kam, Peter Sin, P.C. Woo and Francis Loseby, to hear cases until the return of civilian rule.

Japan's wartime atrocities were such that 10,000 women ended up being raped in the first month of a long occupation during which the Japanese executed another 10,000 people. To deal with the atrocities, the British set up two military courts that tried 48 war crimes cases involving 129 Japanese between March 1946 and March 1948.

Although evidence of atrocities was overwhelming, the Japanese received fair and humane treatment under the British legal system, with the courts handing down 21 death sentences to high-ranking military officers, 28 jail terms of 10 years or more, 57 jail terms of less than 10 years, 14 acquittals, and the dropping of charges for the rest. Those hanged included Colonel Noma Kennosuke and Lieutenant-Colonel Kanazawa, who both headed the Japanese military police, or *Kempeitai*, during the occupation.

But the three most senior officers were tried on the mainland and not

**Solicitor Frederick Zimmern, who was interned at Stanley camp, came from a large family of five brothers, two of whom died defending Hong Kong during the Japanese invasion. The surviving brothers, Frederick, Archibald and Francis, went on to marry three sisters, Doris, Cicely and Helen from another well-known Hong Kong family – the Kotewalls.**

## *Solicitors Interned In Stanley, Shum Shui Po And Argyle Street Camps During Japanese Occupation*

<i>Harold John Armstrong</i>	<i>Deacons</i>
<i>Denis Henry Blake</i>	<i>Wilkinson &amp; Grist</i>
<i>Eric Sydney Clifford Brooks</i>	<i>Hastings &amp; Company</i>
<i>William Mauleverer Brown</i>	<i>Hastings &amp; Company</i>
<i>Patrick Wynter Blyth</i>	<i>Deacons</i>
<i>Edgar Davidson</i>	<i>Hastings &amp; Company</i>
<i>Evan Walter Davies</i>	<i>HK Legal Service Crown Solicitor</i>
<i>John Scott Harston</i>	<i>News Enterprises (formerly Deacons)</i>
<i>Graeme Sisson Hugh-Jones</i>	<i>Wilkinson &amp; Grist</i>
<i>Francis Henry Loseby</i>	<i>Russ &amp; Company</i>
<i>William Andrew Mackinlay</i>	<i>Deacons</i>
<i>Henry Charles Macnamara</i>	<i>Barrister - previously Deacons solicitor</i>
<i>Ferdinand Gerald Nigel</i>	<i>Johnson Stokes &amp; Master</i>
<i>Frederick Peel Eldon L Potter</i>	<i>Crown Counsel</i>
<i>James Templer Prior</i>	<i>Wilkinson &amp; Grist</i>
<i>Charles Andrew Sutherton Russ</i>	<i>Russ &amp; Company</i>
<i>Michael Howard Turner</i>	<i>Deacons</i>
<i>David Louis Strellett</i>	<i>Brutton &amp; Hett</i>
<i>Ralph Archibald Wadeson</i>	<i>Deacons</i>
<i>Maurice Murray Watson</i>	<i>Johnson Stokes &amp; Master</i>
<i>Frederick Zimmern</i>	<i>F. Zimmern &amp; Company</i>

Three of the four original partners of F. Zimmern & Co, which Frederick founded in 1935, had brothers who were prominent barristers. Frederick's brother Archibald was the first member of the local Bar elevated directly to the Bench of the Court of Appeal. Frederick's other partner, Yu Ping-tsun, was the brother of legendary Hong Kong barrister Patrick S.S. Yu. A third partner, Donald Q. Cheung, was the brother of Sir Oswald V. Cheung who also served in the Executive and Legislative Councils.



Outbuildings at Stanley Prison and dormitories at St. Stephen's College became the internment camp for Allied civilians during the war.







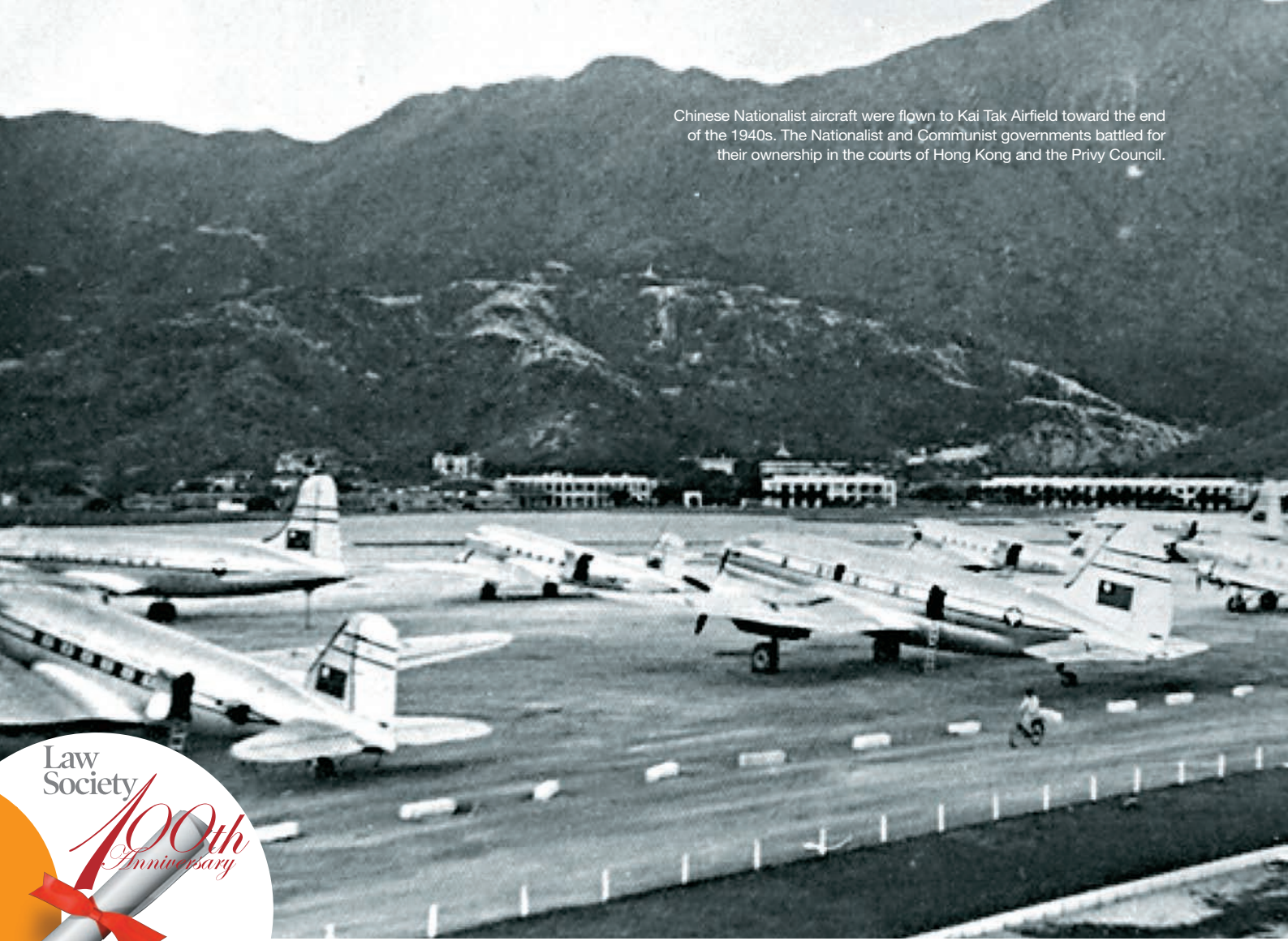
An aerial black and white photograph of Victoria Harbour. The water is filled with numerous ships of various sizes, including large cargo vessels and smaller boats. In the foreground, the city of Victoria is visible, with a dense cluster of buildings, including several tall, multi-story structures. The harbour is a busy waterway, with ships moving in and out of the port.

# 1945-1954

Victoria Harbour in the mid-1950s was a bustling place as the city rebuilt itself after the war.



Chinese Nationalist aircraft were flown to Kai Tak Airfield toward the end of the 1940s. The Nationalist and Communist governments battled for their ownership in the courts of Hong Kong and the Privy Council.



## A Time of Rebuilding

*The reconstituted Supreme Court held its first post-war session on May 14, 1946. Twenty eight members of the legal fraternity welcomed E.H. Williams as Acting Chief Justice.*

When Rear Admiral Cecil Harcourt sailed into Victoria Harbour on August 30, 1945, two weeks after the war ended, one of the first things he did was to establish a British Military Administration (BMA). He was aided by a courageous and progressive-minded civil servant named David MacDougall, who had escaped from Hong Kong shortly after the Japanese invaded. The eight months that the BMA administered Hong Kong was described by historian Steve Tsang in *A Modern History of Hong Kong* as "a period of administrative dynamism" in which Hong Kong was returned to a "level of efficiency that made it the most shining example of all the territories liberated from the Japanese."

One of the first tasks was the restoration of the legal system. The BMA announced that all laws existing immediately before the Japanese occupation would be respected. Chief Justice

Sir Atholl MacGregor, who had been interned at Stanley, presided over a full court on September 4.

One of his first decrees was to waive the need for the small remaining legal fraternity to wear their customary wigs and gowns. In a bold but practical move, MacGregor granted solicitors the same rights as barristers, as the local Bar had been reduced "to miserably inadequate numbers".

A typical plight of local law firms immediately after the war is described in Katherine Mattock's *Partners in Law*. It recounts the fate of Johnston Stokes & Master which emerged from the war with only one surviving partner, Maurice Murray Watson.

The war over, Watson was now "head of a law practice without, for the moment, either clients or cash," Mattock writes. "On September 17, the day after the surrender ceremony, the



law firm formally announced that it had resumed business, but there was as yet no business to resume and Watson sailed to Australia on recuperation leave." Ferdinand Gerald Nigel, then a clerk with the firm, had been a lieutenant in the Volunteers. Shortly after his release from Sham Shui Po prisoner-of-war camp, he went to inspect the firm's office in the Hong Kong Bank building only to find it stripped bare.

Virtually every company and government department in the colony had been ransacked of not only furniture but records and documents. But the law firm was spared one misfortune: the Japanese had removed the firm's entire law library to Hong Kong University, where it was later recovered intact.

Historian Carl Smith wrote of how one of the first actions of the BMA's interim Supreme Court was a public appeal for information on the whereabouts of the Seal of the Supreme Court and lost records, in particular documents and files of companies, probate and marriage registries, the Bankruptcy Court and the Land Office.

Although he was still a clerk, Nigel joined the BMA as a lawyer. Most liberated prisoners of war and internees had left Hong Kong to recuperate, and Nigel found himself inundated with work as the administration began the onerous task of restoring law and order.

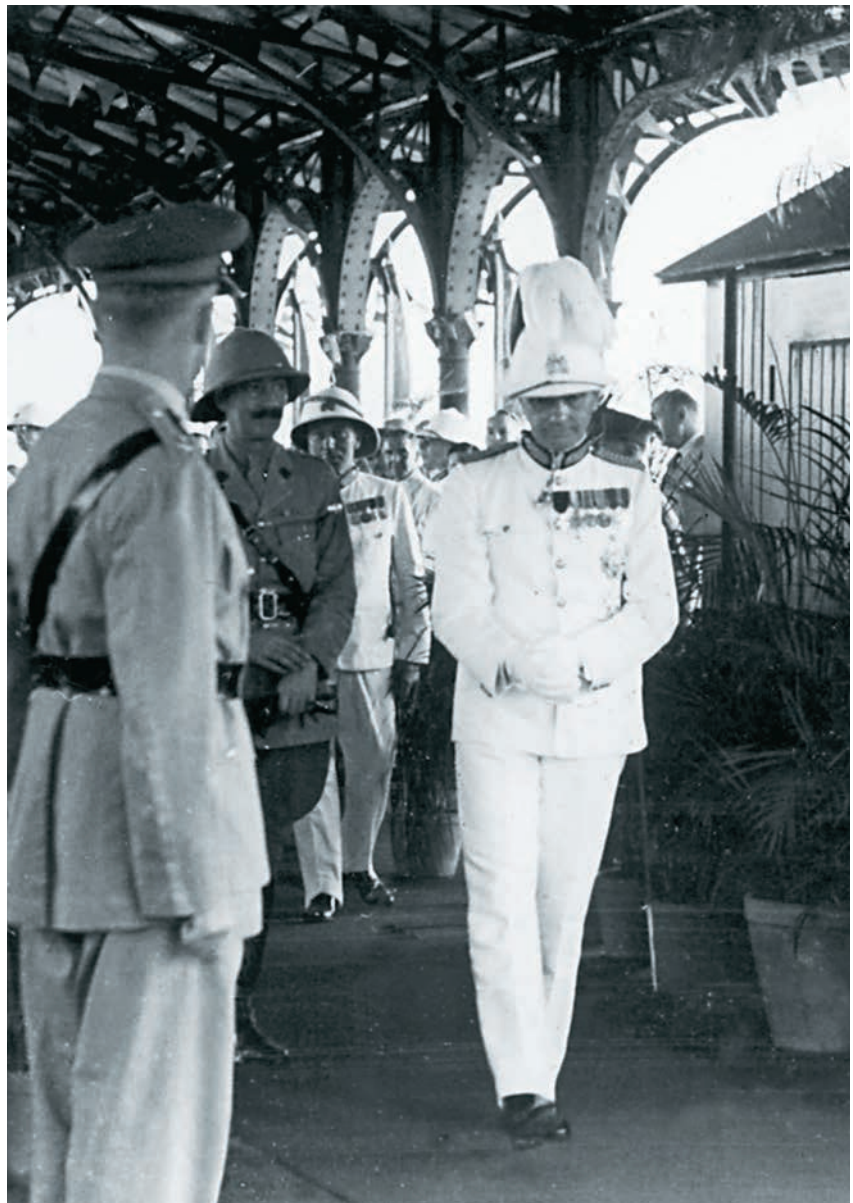
Nigel, who would serve as Law Society president in 1951-52 and later one of his firm's longest serving senior partners from 1961-71, was detailed to take part in the opening of the MBA Supreme Court, along with its new vice president, barrister Leo D'Almada. As the ordinary courts had been suspended, the new military courts dealt with criminal cases only.

The Standing Military Court was ceremonially opened by the Commander of British Forces in Hong Kong on September 24, 1945 and all members of the Bar and solicitors who had remained in Hong Kong during the occupation, or had returned since, were requested to attend. Those present were barrister Lo Hin-shing, sibling partner solicitors Lo

Man-kam (also known as M.K. Lo) and Lo Man-wai, Francis Loseby, Peter Sin, Woo Pak-chuen, Christopher D'Almada e Castro, Marcus da Silva, David Strellet, Eric Brooks, Denis Blake, George Ford and Lee Hon-chee. On October 16, the *Government Gazette* listed 22 persons authorised to act as advocates and defend persons charged before the Standing Military Courts.

The governor at the time of the Japanese invasion, Sir Mark Young, returned to Hong Kong and resumed his duties on May 1, 1946. The Legislative Council passed The Administration of

*Denis H. Blake, the solicitor chosen by Stanley inmates to be the administrator of the internment camp, was also instrumental after the war in reviving the Hong Kong Club and the Royal Hong Kong Golf Club, both favourite haunts of many lawyers. He announced in January 1946 that a lorry would be made available to take Golf Club members to its Fanling course. Blake warned, however, that the camaraderie of the long journey would more than compensate for the rough ride.*



Sir Mark Young, the pre-war governor of Hong Kong, was held as a prisoner of war by the Japanese during the occupation. He returned in 1946 to resume his duties.



Messrs. Deacons,  
Solicitors & Notaries,  
HONG KONG.

Gentlemen;

The question as to whether the decrees of the type mentioned in your letter should be validated by legislation has already been referred to the Secretary of State.

Your letter does not disclose whether before contracting marriage in Singapore, Mrs. Dalsiel took the legal advice as to the validity of the decrees made in internment. If any such advice was taken and the advice was to the effect that the decree was valid might be of assistance to Government in enacting the suggested legislation. You will no doubt appreciate that as the Chief Justice was *functus officio*, it is probably correct law that the decrees have no legal effect whatsoever.

I am, Gentlemen,

Your obedient servant,

Solicitor General.

DEACONS,  
Solicitors & Notaries.

1, Des Voeux Road Central,  
Hong Kong,  
13th March, 1947.

The Solicitor General,  
Hong Kong.

Sir,

We have been consulted by Mrs. Winifred May Dalsiel in connection with her divorce.

The Decree Nisi was granted by Sir Atholl MacGregor in Stanley Internment Camp on the 8th June 1942 and the Decree was made absolute by him on the 10th December 1942. On production of a certified copy of the Decree Mrs. Dalsiel on the 4th October last married Mr. John Odell in Singapore where she now resides. As doubts have now been cast on the validity of this Decree, we would suggest that the time has now arrived when Government might well consider passing an Ordinance validating this and one other similar Decree which were made by Sir Atholl MacGregor in Stanley Internment Camp and we shall be glad to know whether Government is prepared to do this.

We have the honour to be,

Sir,

Your obedient servants,

( Sgd. ) DEACONS.

During internment, civilian prisoners of war continued to perform the business of daily life, including daily matters. The correspondence shown here between a law firm and the Solicitor General highlights the legal uncertainties of prison camp divorces.

Justice (Transitional Provision) Ordinance, which provided for all cases pending before the former Military Courts to be tried or continued by the restored Civil Courts.

A notice appeared on May 3, 1946 that the Military Courts had been converted to the status of magistracies. The transition was marked by a brief ceremony at the Supreme Court at which Justice E.H. Williams administered oaths to Hong Kong and Kowloon magistrates.

The reconstituted Supreme Court held its first session on May 14. Twenty eight members of the legal fraternity welcomed Williams as Acting Chief Justice.

At the same ceremony, Williams was officially welcomed by the most senior member of the Bar, Lo Hin-shing, and by the most senior solicitor present, George Brutton. Williams, who arrived in Hong Kong in 1924 and had served as Secretary for Chinese Affairs, Crown Solicitor and Attorney General, and as a member of the Volunteers, had been interned in Kowloon and transferred to Japan, led a silent tribute to Hong Kong lawyers who died during the war – three in combat and five from other causes.

Any discussion of the legal profession – and indeed Hong Kong society itself – in the 1930s and 1940s would be incomplete without mention of the Law

Society's first post-war president, Lo Man-kam.

Lo was born on July 21, 1893, the eldest of four boys and five girls to Lo Cheung-shiu and Shi Sheung-hing. Not long after Lo's birth, his father joined the Comprador Department at Jardine Matheson & Co, where he was an assistant – and eventual successor – to Robert Ho Tung.

At age 12, Lo and his brother Man-wai were sent to school in England, where they later studied law. Despite receiving news that his mother was gravely ill, Man-kam topped his class at university, winning the Blue Ribbon for coming first in First Class



British soldiers and Royal Marines parade as the Union Jack is raised at Government House after the Japanese surrender in 1945.







A Civil Air Transport (CAT) C46 takes off from Kai Tak across the nullah at Hung Hom, circa 1946.



Honours in the Solicitors Final Exam. He lost his prize books a few months later when the ship carrying them was torpedoed in World War I. Returning to Hong Kong, he founded his own law firm (later known as Lo & Lo when he was joined by his brother, Man-wai) in 1915 at age 23.

The Lo and Ho Tung families were close friends, and so impressed was Sir Robert with the young Man-kam that he chose him as a husband for his eldest daughter, Victoria Jubilee. Their wedding, in April 1918, was a major social event in Hong Kong and guests included Governor Henry May.

The brothers, especially Man-wai, were known for their tennis prowess, winning the HK Open Tennis Championships Doubles in 1929, 1930 and 1931. With his sister Enid, Man-wai won the Mixed Doubles of the Hong Kong Hardcourt Championships in 1928, 1930 and 1932, making him the only Hong Kong player to have won a local major doubles title with both his brother and his sister.

Despite his materially comfortable life as part of Hong Kong's gentry, the young Man-kam saw Hong Kong through much

different eyes on his return. "M.K. became involved in Hong Kong politics because of his keen sense of justice. There were many battles to be won in the colonial Hong Kong of those days – a Hong Kong which lay under a heavy cloud of racism," his son, solicitor Lo Tak-shing, wrote in a family memoir. "When he returned from England and established Lo & Lo, the racism astounded him for he had encountered little evidence of it in England where he was accepted for what he was: a man with a first-class mind and first-class qualifications."

But colonial Hong Kong was a different story. As a lawyer, he was once not allowed to see his client in a police station.

"He was enraged and took the matter all the way through all local channels and finally to the Colonial Office in the United Kingdom. Eventually he got a very grudging apology from the then Colonial Secretary saying that he agreed that a civil servant should be civil. More importantly, M.K. was never stopped again from seeing his clients in police stations," Lo Tak-shing wrote.

"Another well-known brush with the establishment came when he objected

to a Hong Kong Jockey Club rule at that time which distinguished Europeans from Chinese. Although the Shanghai Jockey Club admitted Chinese – and welcomed Chinese jockeys – the Hong Kong Jockey Club did not. 'It would upset jockeys if they should have to ride side by side with Chinese jockeys,' was the usual explanation. M.K.'s open letter to the stewards eventually triumphed over that childishness."

As the only non-European member of the Legislative Council in 1936, Lo lobbied unsuccessfully for the abolition of the official censorship of Chinese newspapers that had been in force since the anti-British demonstrations of the mid-1920s.

Philip Snow, in *The Fall of Hong Kong*, describes how the social hierarchy of pre-war Hong Kong impeded the professional development of non-Europeans: "Wealthy Anglicised Chinese and Eurasians were embittered to find, when they returned to Hong Kong polished by the best education Britain could offer, that whatever their qualifications and whatever their talents, there was a level in the local professions

above which they would never be permitted to climb. The scales would be tilted against them: if they set up as lawyers, for example, they knew they would have a struggle to win their cases because their British opposite numbers would always be able to hobnob with the British judges in the seclusion of the Hong Kong Club."

Following the surrender of the British in 1941, Hong Kong's non-European elite found themselves courted by the Japanese administration. Most of those who remained – or could not escape – were coerced into joining various advisory bodies to help run the territory under occupation.

Lo Man-kam was among those called upon by the Japanese. Writes Snow: "Many observers had taken it for granted that Lo, the long-standing scourge of British injustice, would be more zealous than anyone in his embrace of the new regime ... he took his seat successively on the Rehabilitation Advisory Committee and the Chinese Cooperative Council, but by all accounts made little effort to disguise his reluctance to hold any public office and his aversion to everything Japanese."

Lo's strength of character did not go unnoticed by the British Army in China, which maintained a clandestine presence in Hong Kong through the British Army Aid Group (BAAG). Many of the group's agents in the territory were Chinese former students of BAAG founder, Colonel Lindsay Ride, the pre-war Dean of Medicine at Hong Kong University. Even during the darkest days of the war, the British planned their eventual return to Hong Kong from afar. They were looking for likely local candidates to help rebuild the shattered city, and it was the former gadfly legislator Lo who, according to Snow, was "the one gentry figure whom reports from Hong Kong and south China had tended to depict in a favourable light."

As early as September-October 1942, BAAG agents contacted Lo in Hong Kong and offered to help him escape. Lo appeared sincerely grateful that he "had not been forgotten" but declined

on the grounds he still had a large family in the city and that his movements were closely watched.

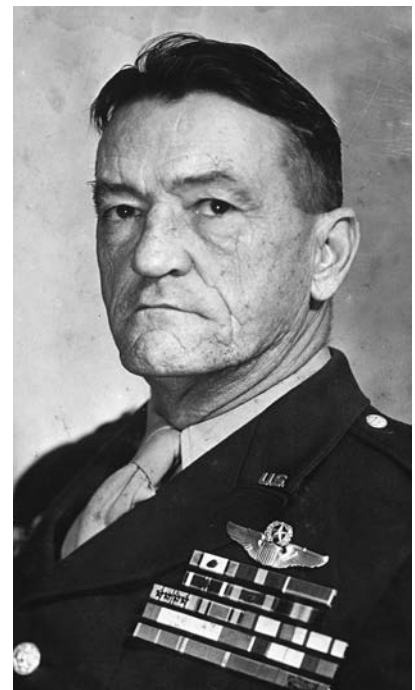
Significantly, Lo was the only local community leader approached by BAAG towards the end of the Japanese occupation. As soon as the British Military Administration was set up after the war, Lo was appointed to the newly formed Chinese Advisory Council and named Rice Controller, with the key assignment of organising the food supply. For his efforts in helping restore law and order to Hong Kong, Lo was knighted two years after the return of civilian rule. He continued to serve his community and profession in various ways until his death at age 67, the night after hosting a dinner for the visiting Duke of Edinburgh.

The relative peace that was restored to Hong Kong towards the end of the 1940s belied growing insecurity elsewhere in the region. Japan's false promise of Asian co-prosperity had nonetheless unleashed a groundswell of anti-colonialism and nationalism across Asia, most notably in India, Indonesia and French Indochina. The Korean peninsula was heading to the first cold-war showdown while China's warring factions struggled for control of the mainland.

As in the days before the war, Mao Zedong's Communists and Chiang Kai-shek's Nationalists again sought a safe haven and conduit to the outside world in Hong Kong. While the colonial Hong Kong Government maintained a pragmatic neutrality as far as possible, an intriguing confrontation between the two sides was shaping up in Hong Kong's courts.

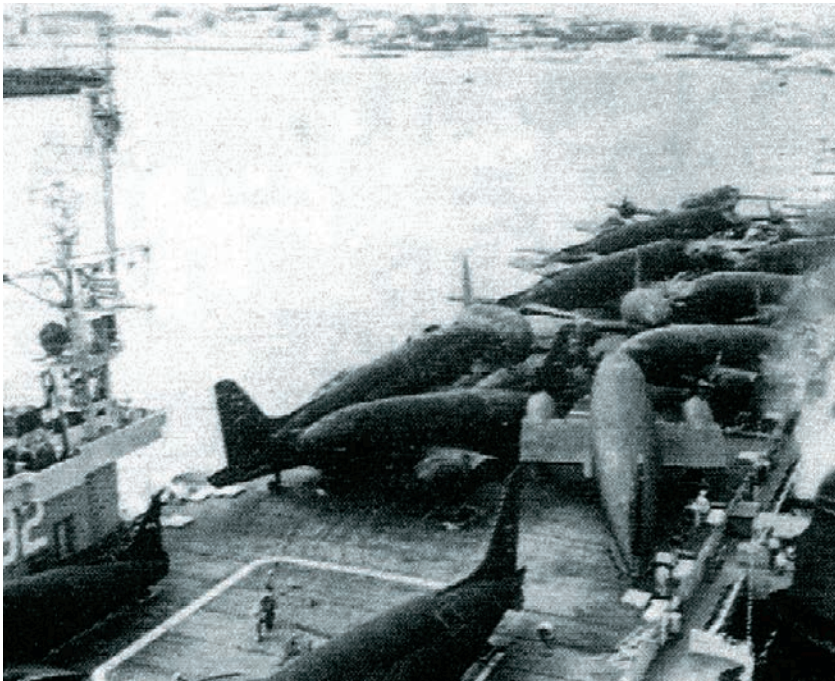
Towards the end of the decade, Kai Tak Airfield filled up with as many as 70 mainland military aircraft, mainly C-47s or similar models ideal for transporting passengers and cargo, including troops and weapons. Some 30 aircraft belonged to the Chinese National Airways Corporation (CNAC) and the remainder to Central Air Transport Corporation (CATC). Hong Kong's courts had to deal with the politically tricky question of which side rightfully owned the aircraft.

During his time in Hong Kong, Ho Chi Minh was a regular guest at the Loseby home, and was especially fond of Frank and Rosa's young daughter, Patricia. Ho never forgot Loseby's efforts in securing his freedom, and pictures of the family still hang in a museum honouring the leader in Vietnam.



The Privy Council ruled that the Nationalist Government could sell their aircraft and equipment at Kai Tak to a company headed by General Claire Chennault (above), founder of the Flying Tigers volunteer airforce in China. Civil Air Transport would later become Air America.





Civil Air Transport (CAT) aircraft, which had been dismantled on a court order to prevent them from being illegally removed from Hong Kong, were shipped to the Philippines and then to Taiwan.

The drawn-out case included two appeals, one of them to the Privy Council.

By September 1949, Kai Tak was crowded almost to capacity with CATC and CNAC aircraft. On October 1, 1949 the Communist Government proclaimed the People's Republic of China, dismissed the ministers of the Nationalist Government and appointed successors. The president of CATC and most CATC employees defected to the Communists. The aircraft remained grounded at Kai Tak as both sides claimed ownership in court.

On December 9, the Nationalist Government withdrew from the mainland to Taiwan. Five days later, they sold the 40 CATC aircraft and equipment at Kai Tak to two American partners – Claire Chennault, founder of the Flying Tigers volunteer air force in China, and Whiting Willauer, a Harvard-trained attorney. Chennault and Willauer transferred ownership of the aircraft to a new company, Civil Air Transport Inc. (CATI), which was incorporated in the US state of Delaware with funding from the newly formed Central Intelligence Agency (CIA).

CAT, as it became known, oper-

ated from Taiwan until the late 1950s as a legitimate regional scheduled and charter airline while at the same time carrying out secret anti-communist operations in Southeast Asia for the United States and its allies, including air drops to besieged French troops at Dien Bien Phu, Vietnam. CAT was the precursor of a better known CIA-owned airline, Air America, that operated mostly in Indochina until the fall of Saigon in 1975.

On January 6, 1950 the British Government ceased to recognise the Nationalist Government in favour of the Communists as the *de jure* government of China. The Supreme Court of Hong Kong rejected a move by CATI to have a receiver appointed to recover CATC's Hong Kong assets.

To help resolve the matter, the Privy Council issued an Order-in-Council on May 10 granting the Supreme Court of Hong Kong jurisdiction over the question of ownership in spite of the principle of sovereign immunity.

After more manoeuvres in Hong Kong's courts which sided with the Communist Government, ruling that the Nationalists had sold the planes to

Chennault and Willauer just to embarrass the mainland government, CATI took the matter to the Privy Council which ruled in its favour on July 28, 1952.

Nine months after the aircraft case drew to a close, Hong Kong's legal profession added another important chapter to its history by admitting its first woman solicitor, Patricia Loseby, on July 27, 1953. Patricia arrived in Hong Kong with her parents in the late 1920s. She came from a family of lawyers – her father was the solicitor Francis Loseby, while her uncle Charles Edgar Loseby was the second chairman of the Hong Kong Bar Association in 1949.

Pat was interned as a child at Stanley during the war, an experience she rarely spoke about in later years, according to friends. After the war she and her mother went abroad to recuperate while her father remained in Hong Kong to re-establish his practice. He was also one of the handful of local solicitors present when Hong Kong's Standing Military Court was ceremonially opened on September 14, 1945.

David Beaves, a maritime lawyer who knew Patricia Loseby, recalled a famous court case handled by her father not long after he arrived in Hong Kong.

At the time, the British and French colonial authorities were cracking down on dissenters, in particular communists. In 1929, Hong Kong police had arrested the union activist father of Li Peng, the future Chinese Premier, and handed him over to their counterparts in Guangdong, where he was promptly executed.

"Around 1930, Frank Loseby had a Vietnamese Chinese clerk who told him about a Vietnamese national who had been arrested by the British authorities in Hong Kong and was about to be extradited to Vietnam without trial," Beaves said. "Frank was a very old fashioned British lawyer who didn't believe anyone should be imprisoned without a trial." So at his own expense Loseby went to court and got a writ of *habeas corpus* to get the man released from prison.

"The legal proceedings lasted about



a year, and for much of that time Frank's client stayed at the Loseby house in Kowloon. Pat's mother ran up some mandarin robes for their guest, who later wore them when he slipped across the border to China. Then late one night in 1955 there was a knock at the Losebys' door. It was a Vietnamese sea captain with a message from their former house guest – who turned out to be Ho Chi Minh. The fair-minded Hong Kong solicitor had not only saved his life, but had changed world history in the process," Beaves said.

Ho invited the Loseby family to Hanoi in 1960. Frank was a national hero in Vietnam, and by extension so was Pat. There is a corner of the Ho Chi Minh Museum in Hanoi which is dedicated to Lo Zi Bai (Loseby), the Hong Kong solicitor who got the country's founding father sprung from jail. The exhibit features photos and other mementos, among them the mandarin robes sewn by Pat's mother, Rosa.

Pat's other lifelong passion was sailing, and she was known at the Royal

Hong Kong Yacht Club (RHKYC) as the Dragon Lady – not because of her demeanour, but in honour of her favourite class of sailboat.

She was elected as the first lady Vice Patron of the RHKYC in "recognition of her long association with both the Club in general and the Dragon class in particular." Another legacy is the Hoi Loong, a drink named after her Dragon sailboat. The mix of hot water with lemon squash, orange squash and rum is described as "just the ticket on a cold winter's day."



Pottinger Street in 1948. Three years after the war, Hong Kong was a relative haven of stability in a region of continuing unrest.









# 1955-1964

The 1963 drought in Hong Kong lasted the whole year, resulting in prolonged water rationing with only four hours of water every fourth day. Here, residents of Diamond Hill stock up.





Waves of mainland immigrants flooded into Hong Kong in the 1960s, swelling the city's population. This May 1962 picture shows hungry refugees who streamed across the border at the height of China's Great Leap Forward.

Law  
Society

100th  
Anniversary



# The Profession Localises

*Until the opening of the law school at Hong Kong University in 1969, locals wishing to qualify as a solicitor either went abroad for a law degree or took a correspondence course with an overseas university.*

By the 1950s, Hong Kong was moving into an era of prosperity. The post-war reconstruction was well underway, and waves of Chinese immigrants boosted the population, which had shrunk from 1.6 million to just 600,000 in 1945 as the war neared its end.

The population grew further after the Communist takeover in 1949 when thousands of refugees flooded across the border. Even more escaped the widespread famine caused by the Great Leap Forward from 1958 onwards, with as many as 100,000 people fleeing to Hong Kong every month. By the mid-1950s, Hong Kong's population had swelled to a staggering 2.2 million, while a 1961 census put the population at 3.1 million.

The influx over such a short period of time into a city which was still being rebuilt after the war led to a housing crisis and the growth of squatter camps, but it also proved a

goldmine in that it brought in skills, capital, and a vast pool of cheap labour.

Industrial centres sprang up in which workers toiled all day, churning out anything that could be produced in tiny work areas, including buttons, enamelware, umbrellas and, of course, the artificial flowers for which Hong Kong became famous.

Against this backdrop of increasing prosperity for the average Hong Kong citizen, the clamour for more and better education grew. The 1961 census revealed a young population – 40 percent were under the age of 15 – all of whom would need schools over the next 10 years.

Perhaps as a sign of how desperate the situation had become, in 1960 a 16-year-old student appeared before magistrate K.A.S. Phillips in Central Court charged with stealing an English-Chinese dictionary worth HK\$11.



While the understanding magistrate paid for the book out of his own pocket and gave it to the youth, he still scolded him and imposed a HK\$50 bond to ensure good behaviour. The youth had told the police he took the book because he wanted to study and could not afford to buy it.

A more amusing case was recorded in March 1963 in the *Hong Kong Standard* when one of two men who had pleaded guilty to a drug charge asked the magistrate not to jail him because he wished to study Latin.

According to the article: "The magistrate, anxious to encourage the spread of learning but skeptical, inquired the reason and was told knowledge of the language was essential in order to study theology." The optimistic prisoner had his audacity rewarded and both men received a one-day prison sentence.

Between 1954 and 1961, the government started an ambitious public education programme, creating more than 300,000 new primary school places. By 1966, 99.8 percent of school-age children were attending primary school, although free universal primary school was not provided until 1971.

The founding of the University of Hong Kong in 1912 and later of the Chinese University of Hong Kong in 1963, together with systematic student financing, saw more students from less affluent homes taking advantage of the greater opportunities now offered to them.

Nonetheless, without a dedicated law school, Hong Kong still relied heavily on importing overseas talent or alternatively sending young men and women overseas for education and training, with the United Kingdom being the obvious choice.

Not that it was impossible for a local to be admitted as a solicitor and there was certainly no legal barrier. As far back as 1845, an article in the *Chinese Repository* suggested: "As friends of the Chinese we would like to see this court (the Supreme Court of Hong Kong) provided with learned Chinese advocates."

An Ordinance in the Legislature in the 1850s outlining the admission of candidates to the rolls of practitioners clearly stated that Chinese could qualify. However, the legal fraternity in Hong Kong did not take kindly to this provision.

An editorial in the *China Mail* noted that the colonial lawyers opposed it because they "imagined their craft to be endangered and their gains jeopardised, by the introduction of the new element amongst them." Nonetheless, the Ordinance was adopted in 1856 only to be repealed by Ordinance No. 3 of 1871 which stated candidates had to be British subjects.

Despite this, the increase in education and the government's growing willingness to take on the burden of providing the basics of public housing, welfare and health facilities after the war made it possible for an increasing number of Hong Kong people to enter the professions.

The first Chair of the Department of Law at the University of Hong Kong,

Dafydd Evans, wrote in the *Hong Kong Lawyer* in 1999 about the evolution of law training in the city.

"For historical reasons Hong Kong, along with similar colonial territories, depended predominantly on qualification in England. There was no Hong Kong qualification as such for the practise of law, a common state of affairs at one time in all Britain's dependent territories.

"This very fact made Hong Kong dependent not only on Hong Kong citizens trained as lawyers in the United Kingdom, but also on lawyers originating from the United Kingdom and not from Hong Kong itself. True, there had been a number of outstanding lawyers who originated from Hong Kong. But the nature of the qualification and the manner in which it could be obtained naturally tended to restrict it to the more affluent and better connected."

Evans continued by pointing out that along with the rising aspirations of the local community there were more practical legal reasons why the city



The Shek Kip Mei shanty town burnt to the ground on Christmas Day, 1953 leaving 53,000 Mainland Chinese refugees homeless. The disaster was the trigger for Hong Kong's massive public housing programme.





A group portrait of the Articled Clerks Association in the early 1960s.

could not continue to rely on overseas-trained practitioners.

"A new Hong Kong practitioner, be he from Hong Kong or England, would at that time have received his formal education and training (except in so far as his articles were concerned, if he served as an articled clerk in Hong Kong) and his examinations in the English law of the time."

Even so, the cost and time required to qualify as a solicitor still deterred many locals from considering joining the profession. Writing in the *Hong Kong Lawyer* in 1996, Peter Alan Lee Vine, Law Society president from 1962 to 1964, had this to say: "Articled clerks whose parents had paid large sums of money to achieve that status for their sons (seldom daughters), often undertook menial tasks and received no remuneration whatsoever for their effort."

Until the opening of the law school at Hong Kong University in 1969, locals wishing to qualify as a solicitor either went abroad for a law degree or took a correspondence course with an overseas

university. The aspiring solicitor then had to take up articles of clerkship for three to five years.

Former Hong Kong Secretary for Justice, Elsie Leung Oi-sie (above – third from the right, second last row), who was admitted in 1967, describes her training:

"There were several ways to receive the training to become a solicitor back then – you could take a law degree overseas, which was obviously only for the wealthy families. But if you wanted to be trained in Hong Kong, another option was to take up a correspondence course which is what I did with the College of Law at Guildford.

"Those with a degree – any type of degree – only had to take a three-year articled clerkship. Those without a degree, such as myself, took five years. During the first two and a half years, you had to pass the first part of an examination before you could continue with your articles of clerkship, before sitting the final exam."

The final exam was a gruelling test of stamina lasting several days. "I did

part one in one go," Leung recalls. "But part two was made up of seven subjects which were tested continuously over three and a half days at the end of which my mind was blank. So it was a test of your physical strength as well as your knowledge."

Running down the list of the roll of solicitors during this period shows a marked increase in the number of Chinese names as more and more firms hired local solicitors to handle the growing number of Chinese clients coming through the door.

As far back as 1939, Wilkinson & Grist hired Lee Hon-chee as its first local solicitor. Lee was only 23 when he was admitted to practise in 1920. He started his own office before joining Wilkinson & Grist. He was taken into partnership just before the start of the Pacific War in 1941.

But in the 1950s and 1960s, the admittance of new solicitors was such a rarity they were celebrated with long newspaper articles. In 1967, Leung remembers she was the only person who

qualified to be admitted. "There was another solicitor and he had to wait for me before he could be admitted because he didn't want to do it alone," she said. Back in the 1960s, only one or two solicitors were admitted in a year. Now, there is a long list of solicitors being admitted every month.

Hastings & Co hired its first Chinese solicitor, Peter Li Ping-lam, in November 1967, with the second Chinese partner Tony Wong Kai-tung in April 1972.

In 1964, Johnson Stokes & Master still had only one Chinese solicitor, Frank Kwok Hing-sum, so the firm relied heavily on what turned out to be the company's last two interpreters, both of whom had been on the staff since before the war and were well past retirement age.

In the book *Partners in Law*, partner Fenwick "Fen" Hammond remembered when he joined the firm in 1948, he was specifically told to avoid learning Chinese. "A lot of it (the firm's work) came in from the two interpreters, one of them having clients who were Cantonese and the other having clients who were Chiu Chow.

"I remember being instructed not to learn Cantonese. 'Whatever you do,' they said, 'don't learn Cantonese. We keep perfectly good interpreters.' They thought we'd make a mess of it."

On September 29, 1956 Hong Kong saw its first local female solicitor admitted – Irene Ngan Kit-ling. Her admittance was important enough to be recorded in a quarter-page article in the *South China Morning Post* though family connections must have also played a part – Ngan is the daughter of China Motor Bus founder Ngan Shing-kwan who at the time was also a prominent Legislative Council member.

Irene Ngan was educated at Barnard College New York and the University of Hong Kong, as well as receiving a BA with Honours from the University of London and attending the Guildhall School of Music and Drama. She passed her final law exam in November 1955 and served her articles

of clerkship in Hong Kong with Ferdinand Gerald Nigel at Johnson Stokes & Master, and later with HCL Hanne & Co in London.

During her admission ceremony as a solicitor, Chief Justice Sir Michael Hogan made a passing reference to her father's role as a lawmaker by saying: "You may indeed derive part satisfaction in helping to administer the laws of this country from the fact that your father has helped to make them."

However, Hogan seemed to overlook the fact that Ngan was also the first local female solicitor, though he did make an effort to encourage her to play up her womanly traits. "In the practise of your profession you serve not only the interests of your client but also the interests of the whole community, and if you will bring to each human problem that presents itself that ready sympathy and understanding which on occasions perhaps comes more easily to your sex than it does to mine, then I am sure you will find in the practise of your profession success and happiness."

The second local female to be admitted was Victoria Woo Tsz-tong who was admitted in November 1958. She recalls: "It wasn't easy, clients did not ex-

pect to see a woman. I would go and act as a witness for a signing and take one of the firm's interpreters with me, usually a male. The client would think that the interpreter was the solicitor and I was the assistant. That happened many times."

In 1964, Wilkinson & Grist hired its first local female solicitor – Ella Cheong Shuk-ki – whose work was so valued that when she suggested retiring, she was persuaded to stay and could often be found in her office until 11pm. Cheong was made a senior partner in 1988, before finally leaving in 2004 to set up her own company.

In 1963, Cheong became the ninth female solicitor to be admitted to practise in Hong Kong. "I was trained and did my articles in the UK. I did the long articles – the five years training and then sat the solicitor exam.

"It wasn't easy then. First of all when I came back it was difficult to get a job and eventually when I did get one, there were instances of basically sexism, racism, call it what you like. I was being paid a lot less than the English counterparts.

"I actually had a client of our firm who came to see a senior partner to deal with an intellectual property matter



Hong Kong's first local female solicitor Irene Ngan, at her return from London after completing her studies at the Law Society School of Law in 1956 (above). After establishing the firm Ngan & Co, she went on to chair and manage her family's transport business, China Motor Bus Company. (right)





In 1964, Johnson Stokes & Master installed a photocopying machine – one of Hong Kong's first Xerox machines – and suddenly life became much easier for solicitors faced with mountains of paperwork.

Senior partner Thomas John Gregory recalls gratefully in the book **Partners in Law**: "We'd used a thing that produced wet copies and we had a room ... where they were hung up on a clothes-line. Then this marvellous machine came out, called the Xerox, which took 45 seconds to make the first copy and made a further copy every seventh second thereafter."

which was what I specialised in. He was brought to my room, he took one look at me and demanded to be taken back to see the senior partner. In front of me he said to the senior partner at the time – 'either you handle it, or I walk out'.

"To my dying day I will be grateful that the senior partner turned around and said to the client 'Ella knows more about this than I do, so feel free.' The client walked out. So it was like that."

Though the work of female solicitors was valued and recognised, it was still a male-dominated profession. By the time Elsie Leung started practising in 1968 she was only the 16th woman on the roll of 196 solicitors.

"It was difficult for me to find a principal. The one I hoped would take me on told me this: 'I never thought of taking in female articulated clerks. Female articulated clerks would disappear into the ladies' room to powder their noses, or slip away to do shopping. They are not serious

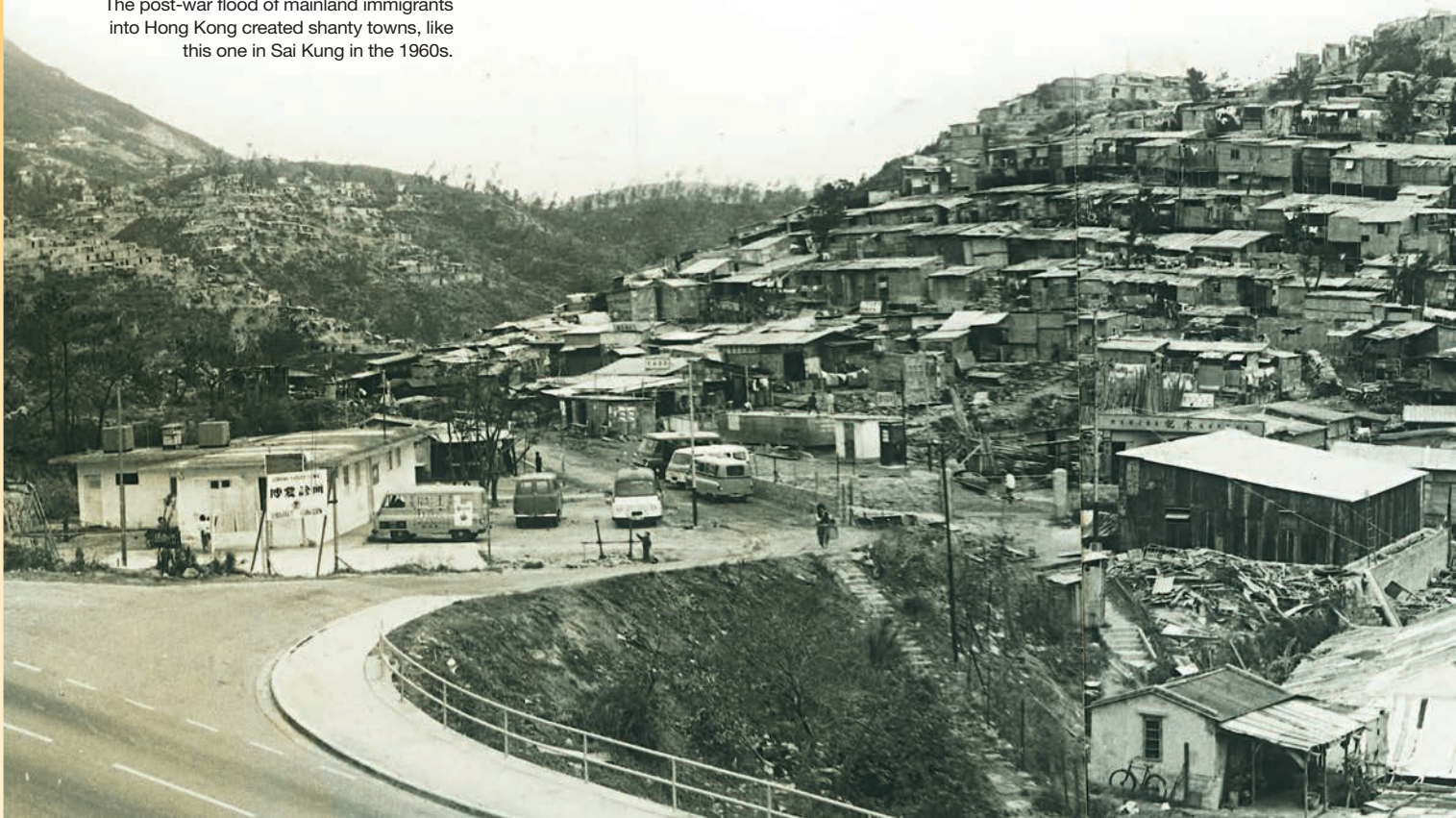
about the profession. If you do not pass your examinations, you end up being good for nothing. To make yourself useful, you had better go to learn shorthand and typing so that if you do not succeed in being a solicitor, at least you have some secretarial skills. Come back after you have done so and I will reconsider."

She went back after three months but he was still undecided. It was only after she got another offer that he agreed to take her in.

"So I joined P.H. Sin & Co which at the time was made up of Peter Sin, W.I. Cheung and Charles Sin."

The property boom and the subsequent rise in conveyancing also meant being a solicitor was an increasingly lucrative career. Property prices were already high in post-war Hong Kong due to a limited supply of land, but demand grew further with the population and industrial expansion. From the 1950s

The post-war flood of mainland immigrants into Hong Kong created shanty towns, like this one in Sai Kung in the 1960s.





onwards, the property market began its rapid growth.

A major fire on Christmas Day 1953 in the Shek Kip Mei squatter area destroyed the makeshift homes of mainland immigrants who had settled there, leaving 53,000 people homeless. After the fire, Governor Sir Alexander Grantham launched a public housing programme which involved demolishing the makeshift huts that had survived the fire, and using the freed-up land to build low-cost housing estates.

Haste, and the need to build something simple, meant that the apartments were small, only about 300 square feet per unit housing five people. Every building had a capacity of 2,500 people. The rent was HK\$14 a month for a flat, and HK\$100 for a shop on the ground floor commercial area.

The Shek Kip Mei project was a rush job, and temporary in nature, but the first purpose-built housing estate

opened in North Point in 1958. Thereafter, similar estates were developed all over the city, and by 1965 a million people were living in them.

With housing complexes being built all over Hong Kong, the population gradually became more dispersed, and that created a need for more infrastructure. In 1953, two land reclamation projects added three million square feet to Hong Kong. The first project added runway space to Kai Tak Airport, while additional land turned Kwun Tong and Tsuen Wan into industrial towns. China Light & Power laid cables, and substations were erected to supply electricity to Sai Kung, Castle Peak New Market, Yuen Long and Tai Po Market.

Construction business increased, boosted by demand for more highways, buildings, tunnels and reservoirs. In 1962, the director of public works questioned where to go after the development of Kwai Chung and Tsuen Wan,

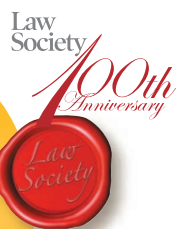
but construction expansion continued and turned westwards to Tuen Mun and north to Sha Tin.

The property boom was also pushed along by an increasingly wealthy working population which had secured enough income to buy their own flats. According to Steve Tsang in *The Modern History of Hong Kong* the per capita GDP was US\$582 in 1961 and had passed the US\$1,000 mark by the end of the decade. As individuals started to buy their own property, conveyancing became the top earner for many solicitor firms.

That is because single buyers were no longer buying up entire blocks as in the past, which meant solicitors would only have one client. In the 1960s and 1970s, blocks were divided up into units resulting in dozens of clients for each block. Many locals saw an opportunity for joining the newly lucrative legal profession.







## LAW SOCIETY PRESIDENTS 1955-1964

With the increase in the number of solicitors, the Law Society gained in prominence and during this time a number of distinguished figures served as presidents. From 1955-1956 **George Stephen Ford** took over as president from Francisco Xavier D'Almada e Castro. Ford, a Eurasian, was the son of Walter Leon Ford – also known as Leung Wing-cheung – and Mary Lock. Leung Wing-cheung had been an interpreter at a law firm since 1890 and Ford was articled to a solicitor at the firm before joining them in April 1932.

After the war, Ford set up a partnership with colleague Kwan Hok-lam. According to prominent Hong Kong barrister Patrick Yu in his autobiography *Tales from No. 9 Ice House Street*, Ford "smoked like a chimney, drank like a fish and regularly played mahjong till the early hours of the morning" but still managed to outlive his much younger partner who was a

health and jogging fanatic. Ford died January 9, 1981.

He was followed in 1956-1957 by **Jose Maria D'Almada Remedios**, a member of the famous D'Almada law family. Born in 1893, he qualified as a solicitor in 1924 and was articled to Leonardo D'Almada e Castro before setting up his own firm. Remedios spent the war years in Macau, after which he returned to Hong Kong and worked for the government in the dual capacity of legal advisor and assistant to the Custodian of Enemy Property.

He died on March 7, 1963 and his obituary in the *South China Morning Post* also highlighted his love of sport, saying that he "rode as a jockey before the war and afterwards owned a number of ponies". He also took part in interport high-diving contests.

From 1957-1958, the Law Society was led by a leading Hong Kong public figure – **Sir Kan Yuet-keung**, who is also known as **Sir Y.K. Kan**. According to the citation delivered at the University of Hong Kong in

1973 when he received an honorary Doctor of Laws degree, Kan wanted to be a doctor but "his father (Kan Tong-po, a co-founder of the Bank of East Asia) wanted him to become a lawyer while the family tradition had need of a banker, so being schooled in both the Chinese classics and the concepts of filial obedience he became both." At the time of his presidency he worked for the venerable firm of Lo & Lo.

Kan obtained his BA degree at the University of Hong Kong in 1934. He then studied at the London School of Economics and was articled to a London firm before returning to Hong Kong in 1938 to take up a career in banking and law.

Another well-known public figure at this time was **Woo Pak-chuen** who served as Law Society president from 1959-1960. Born in 1910, Woo received his undergraduate degree from the University of London in 1937 before going on to take a PhD in law which he completed in 1939. He was admitted in England in 1939





Chief Justice Sir Michael Hogan (second from the right) and other High Court judges follow the Chief Bailiff toward a military guard of honour at the Assizes outside the Supreme Court in 1964.

and returned to Hong Kong to be admitted in March 1940, just before the war broke out.

He joined his uncle's firm before setting up his own in October 1945, with a staff of seven. He received an OBE in 1963 and sat on both the Legislative and Executive Councils. Woo was an active member of the Reform Club, the forerunner of the Democrats of today.

Australian **Fenwick "Fen" Deane Hammond** led the Law Society in 1958-1959. Born in 1909 in Western Australia, he was educated at Guildford Grammar School in Perth before going on to Cambridge for an MA. He served with the Royal Artillery from 1939-1945 and managed to obtain an LLB while a prisoner of war in Germany. He set out in 1948 to join Johnson Stokes & Master where he was the youngest of the five solicitors. In time he became a partner and also served as a director at Tyler Bros (Far Eastern) and was president of the Hong Kong Automobile Association in 1953. He died in 1988.

From 1961-62 **Chan Ying-hung** served as Law Society president. He was educated in Lingnan University before qualifying as a solicitor. According to Patrick Yu in *Tales from No. 9 Ice House Street*, during the war, Chan spent a number of years on the mainland working with the British Army Aid Group (BAAG), rising to the rank of colonel and helping a large number of people escape from Hong Kong despite being closely watched by Japanese Army Intelligence. In 1951, Chan started a law firm with Alfred Lau and Ko Fook-wing.

In a citation delivered at the University of Hong Kong in 1986, Englishman **Peter Alan Lee Vine**, Law Society president from 1962-1964, was described as an "unassuming" man who shunned publicity but nonetheless his charitable activities and work towards the development of the legal profession made him a prominent figure.

Vine was articled to Sir Alexander Pengilly in England in 1939, but his

apprenticeship was interrupted by the war and in 1941, he joined the Royal Marines. In 1946 he was seconded to Hong Kong as War Crimes Prosecutor and thus came to the place that was to become his home.

He obtained a Law degree externally from the University of London and was admitted as a solicitor in Hong Kong in 1947. At the time of his presidency he worked for Deacons. He also sat on the boards of some 40 companies in Hong Kong and served in various capacities for charities, including the Investment Advisory Committee of the Sir David Trench Fund for Recreation, the Investment and Endowment Committee of the Community Chest of Hong Kong, the Aw Boon Haw Foundation and chairman of Standard Chartered Bank Hong Kong Trustee.

But it is for his role in helping set up Hong Kong's first law school that he is best remembered as it ensured the future development of the profession.



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1965-1974

Fully armed riot police stand watch outside a mainland-run department store in June 1967.







The first group of cars travel through the Cross-Harbour Tunnel at its opening in 1972.

## Home Grown Solicitors

*Hong Kong's first law school, established in 1969, broke the mould of what had previously been a wealthy upper class, well-connected world of largely expatriate British-trained lawyers.*

The so-called "youthquake" of the 1960s that rattled the Western world in the form of public protests, rebellion and calls for revolution was slower to shake Hong Kong. When it first arrived in April 1966, the fighting in the streets had nothing to do with American forces in Vietnam or the ongoing Cultural Revolution across the border, but a homegrown protest against a hike in the first-class Star Ferry fare from 20 to 25 cents. Convinced that if the Star Ferry got its way, other transport operators would also ask the government for fare hikes, Urban Councillor Elsie Elliot (later Elsie Tu) circulated a petition against the increase with 20,000 signatures.

The government approved the fare hike anyway in March 1966, setting the stage for three days of turmoil during which one person died, dozens were injured, and more than 1,800 people were arrested. Reaction initially

focused on a lone hunger strike on April 4 by a 27-year-old man named So Sau-chung who sat at the ferry pier in Central wearing a jacket with the slogans "Hail Elsie", "Fasting" and "No fare hikes" printed on it. When police arrested So the next day, youthful supporters began protesting in Tsim Sha Tsui.

Author Henry Lethbridge described the initial demonstrations as almost playful in his book *Hong Kong: Stability and Change*. He said it was "reminiscent of a children's crusade ... a procession, twisting and turning like lion dancers ... boys, laughing, grimacing and showing off."

The "children's crusade" quickly turned ugly as looting and arson spread to Nathan Road where mobs threw stones at buses and set vehicles on fire.

By April 7, a curfew had been declared after the Yau Ma Tei and Mong Kok police

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stations were attacked, shops were looted and fire stations and power stations stormed.

The violence eventually fizzled out until a year later when labour unrest in Hong Kong merged with agitation inspired by China's Cultural Revolution to create violence that was far more organised, prolonged and infinitely more lethal. In the territory, labour disputes involving dissatisfied factory workers, taxi drivers and artificial flower makers represented by the left-wing Hong Kong Federation of Trade Unions erupted into ongoing violence and bombings that lasted until October.

When the smoke cleared, 51 people, including children, 11 police officers and a firefighter were dead. More than 800 others were injured, 5,000 were arrested, and property damage ran into millions of dollars. At one point, young protesters waving copies of Mao Zedong's "Little Red Book" stormed Government House as loudspeakers from the Bank of China blared out the Chairman's slogans and Party anthems.

In his book *Hong Kong: The Final Settlement*, author David Bonavia described the scene as a showdown between "the worlds of Somerset Maugham and Mao Zedong ... Both were baffled. Long before sundown the tumult and the shouting died, and on balance, it was a draw with points in favour of Maugham. (By 5pm) the only casualty was the Governor's pet poodle, which went frantic with indignation and had to be removed from the scene."

Though active support for the rioters came from Red Guards in Guangdong Province, Beijing ultimately was more cautious.

The Chinese authorities could have easily destabilised Hong Kong, but Jack Cater, who led the security team that restored order following the riots, told Wong Cheuk-yin, a scholar of Hong Kong cultural and social studies, that Beijing was reluctant to intervene.

"I had contacted Beijing," Cater said. "And it was quite obvious that Beijing, especially Zhou Enlai, did not

like the troubles made by leftists in Hong Kong."

The effects of the Cultural Revolution were to be felt indirectly, though, on what would become Hong Kong's first law school, the University of Hong Kong Department of Law established in 1969. Its first class broke the mould of what had previously been a wealthy, upper class, well-connected world of largely expatriate British-trained lawyers. These were native students, the sons and daughters of Hong Kong's grass roots and middle class.

For Stephanie Cheung Sau-yu, one of the Department's 33 Bachelor of Laws graduates in the first class of 1972, the 1967 riots thoroughly shook her colonial-moulded views.

"For me and a generation of young people, the 1967 riots had changed our perception of what Hong Kong was about. We grew up in a colonial system without asking many questions. The riots put into high relief the difference between various social

economic classes. I discovered I was very privileged and I had been taking it for granted."

At the time the Class of '72 was admitted, Hong Kong University was still negotiating with professional bodies about the future of their law graduates and whether they could be admitted as solicitors locally or still had to be qualified in Britain. The members of the Class of '72 were like "guinea pigs". It was also the year that the government began giving loans and grants to university students, bringing about a new generation of university students from less privileged backgrounds. Most in the Class of '72 came from middle-class backgrounds, but a few lived in squatter settlements and on boats in the typhoon shelter.

Another Class of '72 graduate, Henry Cheng Wui-see, said choosing law was a "quantum leap" back then. "The law building which housed us was quite some distance from the main campus.



Police disperse a crowd with tear gas at a housing estate at the height of the 1967 riots.





Two rows of police bar defiant leftists brandishing Mao's red books from Government House in May 1967.

"We were a small body as the intake then was only 40 students per year. We were a very tightly-knit group, close to each other and the teaching staff. We didn't know whether we would get qualified as legal practitioners when we entered the course and it was a high-pressured one."

As Dafydd Evans, the University of Hong Kong's founding Dean of the Faculty of Law, wrote for the faculty's 20th anniversary in Raymond Wacks' *The Future of Legal Education and the Legal Profession in Hong Kong*: "One immediate effect of the Cultural Revolution in Hong Kong was felt in the educational sector. The University of Hong Kong and Chinese University of Hong Kong were growing and it became apparent that more students from less affluent homes were taking advantage of the greater opportunities now offered to them, a process greatly assisted by the inception of systematic student financing by the government.

"This was accompanied by a rapid

... decline in Chinese-language education in the middle schools. Many had left-wing affiliations or leanings and were forced to respond to parental preference for non-political schools in which the medium of instruction was either actually or nominally English."

The idea of a Hong Kong law school had been germinating with a number of people since at least 1948. One of them was well-known barrister Patrick Yu Shuk-siu who noted in his autobiography, *Tales from No. 9 Ice House Street*: "I had been publicly and privately advocating the need for Hong Kong to have a post-secondary law course at the university. Otherwise, people in Hong Kong desirous of reading law and qualifying as lawyers ... would have to go to the United Kingdom in order to do so."

But the person credited with pushing the idea to fruition was Peter Vine, Law Society president from 1962-1964 who, in his first address to the Society in 1962 as president said: "Perhaps one day the University of

Hong Kong will have a Faculty of Law, and now that a recognised first degree in Law gives exemption from the first part of our Qualifying Examination, I hope that the Senate and Council of the University of Hong Kong, and the Honourable Financial Secretary will take note that the absence of a degree course in Law is placing our local university students at a disadvantage by comparison with their counterparts in England."

Vine sent copies of the speech to the University Vice-Chancellor, Financial Secretary and Chief Justice as well as to the *South China Morning Post* which reprinted the speech on the editorial page. "My speech fell on fertile soil," Vine wrote in *30*, a collection of essays for the Law School's 30th anniversary edited by historian Peter Wesley-Smith. "And the proposal was immediately taken up by Chief Justice Sir Michael Hogan. It also received support in the university, and in the bodies responsible for funding. The







For the Class of 1972, there was a strong feeling of friendship and bonding. Romance was in the air as well. A few classmates later became couples: the pairing of Ronny Tong Ka-wah and Daisy Yeung Wai-lan; Lucy Yen Shang-wen and barrister Mok Yeuk-chi and Jennifer Cheung King-yu and lecturer and barrister Ronny Wong Fook-hum.

first move was to establish through the Extra-Mural Department a course of studies to lead to a London University LLB. This brought Professor Dafydd Evans to Hong Kong."

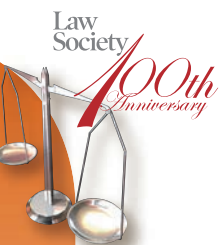
Of the credit Vine received for pushing the idea, he later said: "Someone else would no doubt have done the same if I had not raised it when I did."

Both the fledgling students and faculty members at the Department of Law were taking a leap into the unknown amid the still-active social unrest in Hong Kong at the time. John Rear, co-founder of the *Hong Kong Law Journal* and senior lecturer at the Department of Law from 1968-1973, recalled the faculty's fears when he arrived from London in 1967.

"Nowadays, of course 1967 is remembered not for the drought but for the threat to British rule which arose out of the Cultural Revolution then sweeping the mainland," Rear wrote in 30.

"To deliver the law programme, the university had acquired offices in Queen's Road opposite the Central Market, on the eighth floor of the 'China Prods' (Products) building, as 'the Communist store' was known to the expatriates. This turned out to be a dubious choice, as the Red Guards were beginning to make their presence felt in China, and Hong Kong's streets soon saw the first columns of marchers waving their 'Little Red Books' and chanting their slogans."

Rear and other lecturers speculated at length in the HKU Senior Commons Room whether the owners of the China Products building would try to make it difficult for them to hold classes. But Rear later recalled that apart from avoiding the street demonstrations and getting round the problems of streets closed while "simulated bombs" (and occasional real ones) were dealt with, the students had no trouble pursuing their studies.



Professor Dafydd Evans addresses the University of Hong Kong Law Department in 1978.



Thousands of peasants rallied in Shanghai at the height of the Cultural Revolution, which spilled over to Hong Kong in the summer of 1967.

On the surface, Class of '72 graduate Moses Cheng Mo-chi seemed an unlikely candidate for law school. The grandson of an Anglican priest in China and the son of a man whose shipping business "went bust" during Cheng's second year at University, he had been a mediocre student who yearned initially to be a social worker.

"I don't believe in rote learning and didn't necessarily do it the teacher's way. I was fortunate to get into the Law School in 1969. My grades weren't good enough for social science."

He recalled the initial interview given by Professors Dafydd Evans and John Rear as intimidating and unsettling. "They really gave me a hard time. After 15 deadly minutes I was convinced I would not get a place, and after I left I told my dad to find me a job. Then a notice arrived in the mail from Hong Kong University. It was a thick envelope, so I knew before I opened it that I had been accepted. I was so excited, so happy."

Former Solicitor General Robert Allcock was present at the birth of Hong Kong's first law school, teaching undergraduates that would go on to be the first generation of locally trained solicitors.

"It was great fun teaching, because it was a small faculty. We had to design our courses from scratch. The whole thing was an adventure. We were really getting things started."

Bonds between the early professors and students would go on to last a lifetime. "When they were 21, 22, you don't realise what they would become, but they all had the potential to be judges or anything."

Graduates also fondly remember the free-and-easy atmosphere and the unusual amount of socialising between students and professors. One professor, Barry Lovegrove, also had an interest in the Wan Chai pub, The Old China Hand, and students found themselves having such a good time there that carrying drunk classmates back to their hostel was a normal occurrence.

Class of '73 graduate Winchester Chan Wing-chuen also recalls a memorable barbecue at the home of Professor Peter Willoughby. "Professor Willoughby lived in Pokfulam near Queen Mary Hospital and I was present at one of his first barbecues when he went out to get charcoal for the grill. It must have been because he didn't know how to speak Chinese that when he went to the grocery store he mistook the salted duck eggs

**E** "Did you attend all lectures? If not, how did you spend the time instead?" A question asked of two 1972 HKU law graduates and three 1994 graduates for **30** edited by Peter Wesley-Smith.

"No," answered Jack Young Chuk-lun, ('72). "I used the time chasing after girls and doing sports."

coated with black ash (*ham-daan*) for lumps of charcoal. So as they fired up the barbecue, the 'charcoal' started to explode much to his dismay."

Inter-year competitions within the Law Faculty included cheering squads with pom-pom girls in mini-skirts. The talented individuals of the Law Department also tended to sweep the board at the university Union nights talent shows, with their skits, songs and dances.

Away from the fun and games, the graduates of the first few classes also remember the feeling of being "special" because they were the new kids on the block.

Cheung Wai Hing, Class of '73, remembers the department itself being physically separated from the rest of the campus.

It was located in two blocks of three to four stories in colonial-style buildings on the junction of Caine Road and Bonham Road.

"We had a few lecture rooms, a library, a common room and staff rooms. It just made one feel different since most of the other students were using the Loke Yew Hall and the main building, but students in this tiny new department had their own building that





The class of '72... faculty members with the first batch of graduates at the Hong Kong University Law School.

Law  
Society

100th  
Anniversary

had a unique architectural design. It was also rumoured that the building was haunted, you know how people like to associate old buildings with horrible things."

While the building itself was beautiful to look at, students also remember the library being very small and, since it was also the days before Xerox machines, it smelled increasingly of the alcohol used in the Gestetner stencil machine as more and more copies of law reports had to be made.

The first few faculty members were moving in uncharted waters developing a syllabus that would be relevant for local law students yet would gain them professional recognition in the future. For the students, tackling the wide variety of new subjects and the somewhat eccentric professors made for some interesting moments.

Class of '81 graduate, Stephen Lau Wing-keung, remembers faculty head Professor Dafydd Evans as a "typical English gentleman who wore a scarf around his neck all the time." Unfortunately for Evans, he taught the difficult subject of trust which Lau ruefully recalls as "the most abstract and difficult to understand." Lau also has fond memories of the other professors.

"Peter Wesley-Smith was a very gentle scholar who could really provoke your imagination and thinking process. He gave us an essay about a story about men trapped on a lost island who survived by eating the bodies of their friends who had literally drawn the short straw. There was an inspiring discussion in the essay about the legality and morality of such events. It really opened up new horizons for me.

"Professor Barry Lovegrove once suddenly told us just before our first year exam that he had missed out on a topic and needed to make up. This lured a lot of absentee students, but the exam didn't even touch on the topic.

"One classmate thought some lectures were so boring they should end on time and he set the alarm on his watch. It went off but Professor Andrew Hicks kept on with his speech anyway.

"Our most feared lecturer was Professor Bernard Downey who had a reputation of asking very difficult questions on hypothetical situations. So whenever he started a question with 'Supposing...', all of us would start diligently flipping through our books to avoid making any eye contact."

Despite the bond the faculty had

with students, Allcock said it counted for nothing when they met up in the Legislative Council.

"Some of my old students are in LegCo and I frequently came across them in committees and what not. This whole thing about Chinese students respecting their teachers doesn't apply to LegCo. They've given me a hard time of course. They'd give you a grilling, tell you your answer isn't good enough and all this stuff, but I expected nothing else. When we see each other outside the chamber, we're all on good terms. It's nothing personal. But when they enter the chamber that's all forgotten and they just tear you apart," said Allcock.

Daisy Tong Yeung Wai-lan remembers that when the class of 1972 was in its third year there was talk about setting up a PCLL course which would enable law graduates to gain professional qualifications in Hong Kong. However, by the time she had graduated the course had not yet started.

"I therefore enrolled at the College of Law in London to prepare for the second part of the professional examination of the Law Society of England and Wales. In order to qualify to sit part two,

a candidate either had to have passed part one or received an exemption. Graduates from other universities such as Oxford and Cambridge received an exemption and I applied to the Law Society for HKU graduates to also be exempted." This was eventually allowed and Tong sat the second part of the exam in 1973 before returning to Hong Kong.

Class of '72 graduate David Wong Pui-hon was among the first to set up offices in the New Territories which was seen back then as a backwater.

"I was the first one to set up a full service firm with a solicitor in attendance everyday in Yuen Long. It was touch-and-go from the beginning." The office was staffed by solicitors Carlos Souza and Herman Hui Chung-shing as well as "a part-time tea lady who would stay around and also serve as our *de-facto* receptionist. I thought there was a sizable, affluent population in Yuen Long with lots of conveyancing and miscellaneous work to be done."

Hui had family connections (a relative who knew the big land owners) that proved useful, Wong said. "We thought we could expect a lot of retainers, but we were also suckers. One land owner rented us property to use as an office. A 500-square foot flat cost us HK\$2,000 a month ... remember this was in 1975.

"At first I was definitely not equipped to deal with law in the New Territories. It was a place where Chinese law and customs applied in civil cases."

One area the fledgling Hong Kong University's Law Department was admittedly weak in was the study of Chinese law. Roderick O'Brien, who joined the Department from 1974-76 to teach Commercial Law and Practise recalled in 30 the difficulties of anything related to the topic when it came to the People's Republic of China.

"China was still in the later stages of the Cultural Revolution. The legal system had been badly disrupted and there were few laws. There was almost no structure, and legal publications had long disappeared. The solution was to focus on the one area of China's interaction with Hong Kong and with the outside world: trade.

"As a teacher I had nothing to offer. As such, as a good guide for Hong Kong students, I could point them in the direction of companies trading with China, in the direction of traders' magazines and other publications. The students, I recall, did some magnificent work of their own digging out contract documents and examples of arbitration [and] some found materials using their own family contacts."

The impact of Chinese culture in those days was also felt in legal cases. David Wong described a case in which he asked an elderly Chinese widow how many wives her dead husband had had.

"Two," she told me. "You are the principal one?" I asked. "Yes," she said. Then I asked her how she could accept her husband having another wife and she suddenly acted in a very righteous manner. 'It was my duty to ensure that my husband has a male child!' she told me. 'It was my duty to keep his prosperity going and when I could not give him a male child I had to find someone else to do it.'"

While Class of '72 graduate Jennifer Wong Cheung King-yu also found success with conveyancing work in the New Territories, she had to overcome at least two other obstacles that

her male classmates did not have to face. When she applied for her articleship at one of the big law firms, she was interviewed by two senior partners who were impressed with her performance, especially as there were so few, "30 to 40 at most", female solicitors in Hong Kong at the time. But before an agreement was reached she told them she would be getting married later in the year. "The firm was known as a 'slave camp' at that time and people worked very hard. Ladies were not their first choice, let alone married ones," she said. The firm eventually declined, but she found a warmer welcome at another firm.

Many of the first class of graduates began by specialising in conveyancing which was the bread and butter of solicitors in the 1970s when most of them were admitted.

Conveyancing was not the only staple for Hong Kong lawyers in the 1970s. The Colony's prominence as a major manufacturing centre at the time also made the enforcement of intellectual property a lucrative, though sometimes risky, business.

Moses Cheng Mo-chi recalled having to deliver legal notices to people suspected of manufacturing pirated



Law Society President George Stevenson (left), Governor Sir David Trench (middle) and Philip Yuen Pak-yiu (second from right) at the 60th anniversary of the Law Society held at the Hilton Hotel on November 22, 1967.



goods, a task that sometimes involved climbing up on rooftops where bogus Gucci, Fendi and other fake designer brands might be found. "On occasion, some people could become a little unreasonable," Cheng recalled. "I'm a lawyer, I would say. I'm just acting on the instruction of my client. There's no point in touch-

ing me and risking being found in contempt of court. If something happens to me, they will replace me tomorrow."

Regardless of their chosen fields of practice, HKU graduates remember with gratitude the dedication and commitment of those who championed the need for a

law school in Hong Kong. Through their efforts the study of law became more accessible to local students, some of whom only came from families with average or little financial means, and laid the foundation for building a society that respects and abides by the rule of law.

## Families at Law

*Hong Kong's legal community is peppered with examples of prominent families banding down their practices from generation to generation. Law firms have been passed from father to son, and to daughters when the practise of law was no longer a male-dominated profession. Many sons and daughters actually served their articleships in the family practice. Many of Hong Kong's legal families included uncles, aunts, nephews and nieces who either branched out to become barristers or sit on the bench. Some of these families have played roles in shaping Hong Kong's legal system.*

*When it comes to Hong Kong legal families, the D'Almada e Castro clan immediately springs to mind. This extended family traces its Hong Kong roots to two brothers who arrived with Captain Charles Elliot in 1842. The family's illustrious legal history in Hong Kong began with Francisco Xavier (FX) D'Almada e Castro who became the first Portuguese solicitor in Hong Kong when he was admitted in 1897, followed by his brother Leonardo in 1908, whose descendants include a distinguished line of solicitors and barristers. The current generation includes District Court Judge Susana D'Almada Remedios, Leo D'Almada Remedios, Corinne D'Almada Remedios and Ruy Barretto, all barristers. Francisco (Frank) D'Almada e Castro and Jose Maria D'Almada Remedios served earlier as Law Society presidents.*

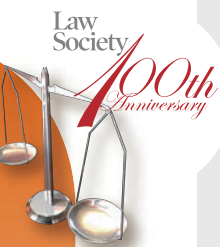
*The family firm of Lo & Lo was set up by brothers Sir Man-kam Lo and Lo Man-wai in 1915. Sir Man-kam's son Lo Tak-shing followed in his father's footsteps to become a solicitor. The two are also the only father and son to both hold the position of Law Society president. Lo Tak-shing's daughter Deidre Lo is also a qualified solicitor while his other daughter Jane Curzon Lo is a barrister.*

*Another family firm is Hon & Co which was set up by Alfred Y.S. Hon in 1945. His sister Hesta Lo Hon Shau-ching and his two sons Walter S.W. Hon and Peter S.T. Hon all eventually joined the practice.*

*Two of the founders of the law firm Woo, Kwan, Lee & Lo have also had solicitors into the second generation – Stephen Lo Chi-nang, his brother Peter Lo Chi-lik and Stephen's daughter Vicky Lo Kar-ye; and Sir Po-shing Woo and his children Jackson and Carmen Woo.*

*Lo Hin-shing led the Chinese delegation to attend the opening of the Standing Military Court after the war in 1945, and to welcome Chief Justice Sir Atholl MacGregor. His son Clement Lo Kwong-chi followed in his legal footsteps and became a solicitor while his daughter Helen A. Lo was to become Hong Kong's first female judge when she was appointed to the District Court in 1986.*

*There have also been many father-son and father-daughter solicitor pairings in Hong Kong with prominent ones being Peter H. Sin who founded P.H. Sin & Co during the Japanese occupation and his son Charles Sin Cho-chiu, P.T. Yu and his daughter Vivian Yu Yuk-ying who were both partners at Yung, Yu, Yuen & Co and Francis Loseby and his daughter Patricia who was the first female solicitor to be admitted in Hong Kong.*



## LAW SOCIETY PRESIDENTS (1964-1975)

**Arthur Lui Kwai-Wing** was president from 1964-1965 while working with Lo & Lo. During his presidency, membership of the Society increased from 159 in 1963 to 178 in 1964.

In 1964 the General Committee adopted the UK Variation of Trusts Act, 1958. In the same year Lui also debated with the Army Legal Services over its Ordinance No.43 of 1954, concerning legal representation of the Armed Services. Lui passed away in 1976.

**Donald Q. Cheung** was president of the Law Society from 1965-1967 while working with F. Zimmern & Co. He was the brother of prominent barrister Sir Oswald V. Cheung. Before he became president he served as the Society's honorary secretary in the late 1950s.

In 1965 Cheung pointed out in his president's report that the Law Society premises, which at the time consisted of a single 350 square-foot rented room, was far too small to accommodate committee meetings. The Society applied to rent an extra 300-350 square feet of space. Cheung also expressed the wish that the Society would eventually have its own premises.

Legal Aid was also a major issue during Cheung's presidency with a Legal Aid Committee being appointed by the Government to examine and report on the feasibility of introducing a legal aid scheme to replace what were then known as pauper cases. The Society recommended a director be appointed to oversee legal aid cases and that the scheme would be voluntary for members. Cheung passed away in Vancouver in 2003.

**George Egbert Sinclair Stevenson** was president of the Law Society from 1967-1969 while working for Stevenson,

Wong & Co. Stevenson noted in his 1968 report the increasing number of articles written throughout the year which had referred to the legal profession. "Most of these tend to be of a critical nature ... and, in the long run it is the public image of the profession which suffers."

The Council was so concerned that a public relations sub-committee was subsequently set up which put forward a number of recommendations for the Society to follow to help improve the public image of lawyers, with Stevenson also reminding members that the best publicity was a satisfied client.

However, he also castigated the local press for not having an understanding of the information they were trying to find out or the legal principles involved. "This impression is sometimes too convincingly confirmed when the conversation is ended with the remark – 'Oh, I see – now you are a barrister, aren't you?'" Stevenson wrote.

The Committee also met 33 times during the year, an increase of 50 percent from the year before which allowed them to follow up on urgent matters quickly but also increased the workload. Thus the Committee increased from eight to 11 members and an Advisory Committee was also set up comprising older members whose advice could be sought from time to time. A number of sub-committees were also created to help share the workload.

Stevenson passed away in 1996 and Roderick Woo Bun who was Law Society president at the time wrote in a letter to members that "To me, he was the epitome of a gentleman, kind, polite and honest. I remember him fondly."

**Lo Tak-shing** was Law Society president from 1969-1971 while

working with Lo & Lo. He resigned in 1971 due to pressures from other commitments according to that year's annual report. Membership of the Society grew during Lo's presidency from 216 in 1969 to 237 in 1970.

Lo went on to serve as both an Executive Councillor and a Legislative Council member. As a member of the Preparatory Committee of the Hong Kong SAR and vice chairman of the Basic Law Consultative Committee, he was at the forefront of the transition process for the 1997 handover. Lo passed away in 2006.

**Brian S. McElney** was Law Society president from 1971-1973 while working with Johnson Stokes & Master. During this time Hong Kong was developing as a major shipping centre, creating more work for local solicitors. McElney recalled that the major issue was the need to write 80-page agreements rather than the one-page contracts solicitors were used to. The first foreign law firm Coudert Brothers also opened in 1972.

McElney retired and left Hong Kong in 1983 and founded the Museum of East Asian Art in Bath, United Kingdom, but he returns frequently to the city he has called home for many years.

**Peter C. Wong** was Law Society president from 1973-1975 while working with Peter C. Wong & Co. He presided over the adoption of a new logo in 1974; but that year was also described in the same report as "a difficult year for the profession ...as a result of the world-wide slackening of business activities. The outlook for 1975 is still uncertain."

Wong went on to serve on both the Executive and Legislative Councils. Wong passed away in 1989.









1975-1984

Historic handshake... British Prime Minister Margaret Thatcher and Chinese Premier Zhao Ziyang shake hands as paramount leader Deng Xiaoping looks on at Beijing's Great Hall of the People after the signing of the 1984 Sino-British Declaration on the Hong Kong handover.



# COMMONWEALTH LAW CONFERENCE 1983



The 1983 Commonwealth Law Conference hosted by the Law Society of Hong Kong drew 1,730 representatives from 45 countries. The picture shows Lord Hailsham, the Lord Chancellor of Great Britain, addressing the audience.

## "Hoping for the Best"

*"Hoping for the best, preparing for the worst" is a term that has been used in many different contexts. Sir Alexander Grantham, Governor of Hong Kong from 1947-1957 was among many leaders who used the term. Hong Kong found itself exactly in the position of "hoping for the best, preparing for the worst" in the run-up to the handover.*

There's an old Chinese saying - *sam sui luk wong*, meaning the ebb and flow of fortunes - which aptly describes the boom-bust cycle of Hong Kong's stock and property market from the 1960s to 1990s. The 1960s started with such a buoyant market that towards the end of the decade all signs were pointing to a crash. William Kwan Cheuk-yin remembers it all too well. "Every Tom, Dick and Harry was in the property market and when you have a situation like that, it cries for a bust and it did with the bank runs. The property market just went down and down.

"One client back then was offering a single flat in Shau Kei Wan with another thrown in for free. People were scared. They were just dumping whatever they had and were leaving town."

The market bottomed out and only recovered some strength in the second half of 1969,

but China's Cultural Revolution remained a destabilising factor. Robin Peard, who came to Hong Kong in 1965, remembers the 1960s as a tumultuous period. The series of bank runs that followed the property market crash of 1967 was already underway when he arrived, with long queues outside the Ming Tak Bank, Canton Trust and other banks. Among others hit was the Hang Seng Bank which had to be rescued by the Hong Kong and Shanghai Bank.

"The next year (after I arrived) was the Star Ferry riots, then the property market was down in '67," Peard said. "Then came the Cultural Revolution with bombs on the streets and all that stuff. People were selling their flats for nothing."

Hong Kong-born Brian McElney, Law Society president from 1971-1973, blamed the property crash on a combination of excess

speculation and tremors from oil prices that triggered a global economic meltdown. "A lot of people lost money in the stock market crash. I remember buying shares in Wharf and Godown Company at HK\$18 a share to see it go down to HK\$12 a share in 1967. It started to recover and I remember selling the shares at HK\$28 in 1968, to only see them shoot to HK\$700 a share before the crash in 1974. Hong Kong is always first out of a crash. The stock market recovers extra quickly."

The China Gardens housing complex was an example of how jittery property developers tried to recover costs during the panicky days of the crash. Flats that had been selling for HK\$180,000 were being dumped for just HK\$80,000 fully furnished. The 1960s was a time when many small property developers had difficulty finding a law firm willing to deal with them. It was also a time when present-day tycoons like Kwok Tak-seng of Sun Hung Kai, Chen Tseng-tao of Hang Lung and Gordon Wu of Hopewell were making their fortunes. These were people who built their businesses on solid foundations, not by speculating in the market.

The clearest signs that Hong Kong was moving away from the old colonial way of doing things came not as a result of the government's efforts but of a major commercial shift. Enterprising Shanghainese, who fled their city in 1949 because of the communist takeover, re-built their wealth and became leading players in Hong Kong's rise as a financial centre, often replacing the old Chinese compradors and moguls.

In the two decades after the war, Hong Kong transformed itself into a manufacturing base from where it further evolved into a financial centre in the 1970s, a decade that saw a jump in land prices, turning real estate into a lucrative new business sector. It was also a period of major economic reforms on the mainland which convinced many in Hong Kong to re-locate their manufacturing operations across the border. Hong Kong's manufacturing industry peaked in 1989 when textile and clothing exports

composed half of domestic exports valued at US\$11 billion.

The early 1970s also saw the rise of Hong Kong as a shipping centre, widening the Colony's exposure to international business. "In the old days when Hong Kong Bank lent millions to people there was one piece of paper saying: 'we are lending you this, subject to repayment on demand and full stop.' But the shipping people went in for 80-page agreements of disaster clauses and everybody started having those for every conceivable loan," said McElney.

Among the better-known rising Chinese shipping magnates was Sir Yue-kong Pao who started with a single small vessel, but built his business into a 20 million-ton fleet within two decades, before diversifying into a range of other businesses. Another enterprising industrialist who turned into a tycoon was Chiu Chow native Li Ka-shing, who began manufacturing plastic flowers in 1950 at the age of 22.

By the start of the 1970s, the economic climate had improved and the market was again in full swing. Driven by exports, the economy grew at an average annual rate of 8.9 percent. Property prices and the stock market began shooting up again, starting a stampede of speculators.

Law firms, big and small, were kept busy helping companies go public. When William Kwan Cheuk-yin returned from a trip, he was surprised to be met at the airport by an anxious Hopewell executive who told him the company was going public and needed documents to be drawn up. Neither Kwan nor the people he approached for help had done that sort of thing before. "It was the blind leading the blind, but we hammered it out overnight."

The burgeoning property market of the early 1970s led to developers hungrily buying up old buildings to redevelop and that meant a booming business for solicitors because not only did the buyers and landlords, but also their tenants need lawyers. Foo Tak-ching remembers how lawyers kept long hours securing compensation for tenants in pre-1970s low-rise buildings slated for redevelopment. Many of the Colony's pre-war buildings were packed with tenants, all of whom needed representation for their compensation claims before being moved out. This translated into a wealth of work for solicitors, with many making the trip to the Tenancy (now Lands) Tribunal to represent either tenants or landlords. Compensation rates were set, and exclusion orders obtained,



Queues such as this outside the Hang Lung Bank on September 8, 1982 were a familiar scene as the Colony was hit with a series of bank runs.



The *Carrian* case in the 1980s not only made judicial history for being long and complex, it also set a number of court records. The case saw the longest bail period of 13 years, the highest bail amount of HK\$50 million in cash, and a prosecution cost of HK\$210 million. It also set the record for the longest extradition process – seven years. There were 450 witnesses and four million pages of exhibited documents.

to bring buildings into play for redevelopment. The granting of exclusion orders required developers not only to compensate existing tenants but also to prove their financial ability to complete the project. Developers were barred from selling the premises without court approval and ordered to complete the development within three years. The entire length of Prince Edward Road and Shanghai Street was redeveloped in this way in the 1970s.

Large sections of Western District, Mid-Levels, Shau Kei Wan and Kowloon were also bought, razed and rebuilt as the city went into a frenzy of vertical expansion. That, and the booming stock market, boosted the workload of lawyers which in turn took a toll on the once tightly-knit profession as informal gatherings, common in the 1960s, became less frequent.

Unlike the bank runs which triggered the crash of 1967, the market was the primary cause of the crash of 1973. Frenzied speculators poured so much money into stocks that the Hang Seng

Index shot past 1,800 before collapsing. In those days, in addition to the Hong Kong Stock Exchange, there were also the Far East, Kam Ngan, and Kowloon Stock Exchanges, which all merged in 1978. A headline from the *Hong Kong Standard* dated March 19, 1973 read "Stock Market Tumbles – Selling waves rocked the stock market yesterday bringing down the Hang Seng index to its steepest fall in history."

Within a single day, both the Hang Seng and Far East indices fell by 6 percent. Brokers attributed the persistent selling to the pullout of foreign funds due to a destabilisation of the world currencies. The situation was further aggravated by "subscription fever" in new shares that helped worsen the money situation. The following day's headline – "Market nose-dives again" – told of yet another record plunge of the Hang Seng index. The market fell by 27 percent over 10 days, with daily trading from a high of HK\$600 million to just HK\$270 million.

Even though the legal profession also felt the effects of the financial meltdown,



Pre-war buildings, as shown in this February 1977 picture, were demolished and replaced with high-rises in the property boom of the 1970s, creating lucrative conveyancing work for solicitors.

the Vietnam War created new business opportunities for shipping magnates like Sir Yue-kong Pao. This in turn created business for notaries and law firms dealing with shipping. Before then, international shipping had been on the decline but the demand for war supplies and medicines revitalised the industry, paving the way for industry leaders to build massive fleets at a time before containerisation. Without containers, cargoes tended to shift at sea, often resulting in damage, and captains had to testify before a notary at a law firm. That generated a lot of work for the so-called "wet lawyers" who dealt with ship captains, cargo owners and others.

It was during the boom years of the 1970s when budding local tycoons like Li Ka-shing and Pao began to challenge the power of the British taipans who operated like a "cabal" and enjoyed cosy relations with the colonial government. Li succeeded in a hostile takeover of British Hong Hutchison-Whampoa in 1979, and put a former Jardine's man, Simon Murray, in charge.

A year later, Pao, who had been acquiring shares in another British Hong, the Hong Kong and Kowloon Wharf and Godown, finally wrested control of it from Jardines after a bitter fight. The acquisition put him in charge of two colonial icons - the Star Ferry and Hongkong Tramways. In 1985, Pao took over Wheelock Marden and added to his list yet another prestigious colonial brand, the Lane Crawford department store.

The corporate battles proved to be lucrative for the legal profession. A past president of the Hong Kong Society of Notaries, Robin Bridge, was in the thick of it at the law firm he was with: "The profession capitalised on it by the sheer volume of work. I often left the office at one or two in the morning and felt terrible back at work at nine in the morning. You just ploughed through it."

The 1970s was also a boom time for conveyancing. The president of The Hong Kong Conveyancing & Property Law Association Leung Siu-hon attributed the rise in conveyancing practice to the growth of multi-storied buildings



The first passenger train goes into service on the Mass Transit Railway network on September 30, 1979.

which led to individual flat sales instead of whole buildings being sold. The sale of individual flats multiplied the need for solicitors.

Conveyancing became such a big business that many more locals were drawn to the profession.

The growth in conveyancing was part of the recovery after the riots of the 1960s, according to Peter C.L. Lo who was president of the Law Society from 2005-2007. "Basically with the economy, you had more people with more money and they all wanted houses. It was a natural phenomenon. Sheer volume was another characteristic. Conveyancing was a popular activity and everybody could do it. It was relatively easy work to take on."

Although the city's business elite at the time was becoming more Chinese, the legal profession stayed mostly expatriate, with the local law school only just starting to turn out lawyers. The explosive economic growth after the 1973 crash created a huge demand for lawyers and the larger firms began recruiting young talent from England.

Robin Peard who had arrived a decade earlier, recalled how the firms scouted for young solicitors who "gave you confidence that they could work on their own and use their initiative," and were ready to take on more responsibilities than lawyers their age back home. "Recruitment really took off in the 1970s

and the 1980s as Hong Kong began styling itself as a financial centre."

But once here, the expat lawyers faced high rents and inadequate accommodation, and although many were bachelors who shared flats with other expats, those with families often found it tough going. Hong Kong's tropical climate did not help, with many unaccustomed to hot and humid summer nights that turned into even hotter days, but most did take to the city's vibrant lifestyle.

There were not as many lawyers then as there are now, making it easier for the legal community to be more tightly knit.

But not all expat lawyers were able to withstand the culture and climate shock, with some terminating their contracts. Peard remembers clearly the case of an assistant solicitor who had a breakdown, was taken to Matilda Hospital and later sent back to the United Kingdom after repeated suicide attempts.

Among the many solicitors who answered the recruitment advertisements in those days was John Budge who arrived in 1978. So eager was he to give up his trainee solicitor's job for the good pay and fast-lane lifestyle of Hong Kong that he wasted no time boarding a flight from London so as to arrive here on the very day he formally qualified as a solicitor in England.

He still remembers taking a quick shower after arriving, followed by dinner





Back in the 1970s, local law firms, and even the government, competed to recruit lawyers from Britain by offering attractive packages. A 1978 issue of the *Law Society of England and Wales Gazette* had three ads from Hong Kong, placed by the government, Johnson Stokes & Master and Deacons.

All three offered attractive benefits such as free accommodation, passage, medical care, education subsidies and bonuses. Perhaps unsurprisingly, the government offered the best pay – up to HK\$675,000 per annum in today's dollar terms.

and a drink and then being taken to his new home – his firm's bachelor mess on Robinson Road. Preferring the hot and humid conditions of Hong Kong to the damp cold of London, he settled comfortably into his new job even though the heat did sometimes become unbearable, such as when the High Court Masters had to move to the old Fire Brigade Building in Central after MTR excavation damaged the foundations of the Supreme Court building – now the Legislative Council Building.

Budge was sent to the temporary courthouse to do the "three-minute summons" before the Master and it was there that he met many of his fellow solicitors. "The Master had air-conditioned rooms, but outside the Court rooms, it was not and it was very hot, particularly when there were lots of solicitors waiting for the cases to be heard."

Robin Bridge, who was admitted to practise in the Colony in 1967, remembered a great sense of camaraderie during his earlier years in Hong Kong. Those in the profession agree the weekly "call-overs" in the

District Courts in those days provided an informal avenue for lawyers to get together. "The call-over system worked in order of seniority. The consequence of call-over was that you knew every solicitor that worked in litigation. There would be a canteen at every court and while we were waiting for our turn, we would sit with the other solicitors and chat and a lot of litigation was disposed of before going to court through those meetings."

Peter Lo Wai-keung misses those days. "When we had call-overs at the old Fire Brigade Building we invited each other to tea after the case. We made an effort to socialise regularly with members of the legal fraternity at Beaconsfield House (now Cheung Kong Centre), and drinks at the Galley at the basement of Connaught Centre (now Jardine House) on Saturday afternoons."

Anthony Loong Pak-kit remembers how, during call-overs in his time in the early 1970s, solicitors were allowed to deputise other solicitors to appear for them in court. "In the morning the Kowloon District Court would be filled

with solicitors in their gowns. The judges would come out and case numbers would be called. By the mid-morning break the judge and clerk would disappear. After the break, you would find only two or three solicitors left, with six or seven clerks holding bundles of files, looking desperately for someone to speak on behalf of their bosses as deputies."

Going to the Magistracy was also quite different in the early 1970s, as the roads were much narrower and full of cows kept by the New Territory farmers that slowed the journey time for solicitors.

"This was accepted, since the cows ruled the road. My colleagues advised me to keep driving if you hit a cow, because the villagers were known to seek revenge if you injured or killed their animal," recalled Bridge.

Since it was customary in those days for expatriate lawyers to be offered a 30-month contract followed by a long home leave, the common expression among them was "leave happy" as they counted the days



A headline in the *Hong Kong Standard* on March 19, 1973 gives a sinking feeling.



# HONG KONG

Leading Hong Kong Solicitors require single recently qualified assistant. Candidates should be aged not over 28 and have one to two years' experience in civil litigation. Initial contract is for 48 months with 4 weeks' leave during second, third and fourth years with 4 weeks' paid leave at the end. All with return passages to UK. Starting salary HKD5,200.00 monthly plus housing allowance of HKD500.00 per month and guaranteed annual bonus of not less than HKD12,000.00.

Please send particulars with telephone number promptly to J. R. Wimbush, Durford Wood, Nr. Petersfield, Hants.

A 1978 advertisement for a position at a Hong Kong law firm that appeared in the *England and Wales Law Society Gazette*. It lists former Law Society president John Wimbush as the contact person.

# Solicitors

## Hong Kong

- 25% gratuity on salary
- Low tax area
- Free medical treatment
- Free passages

The Registrar General's Department of the Hong Kong Government requires Solicitors to handle legal work in the various branches of the Department, including the Land Office, the Official Receiver's Office, the Companies Registry, the Insurance Registry, the Trade Marks and Patents Registry and the Births, Marriages and Deaths Registries.

Applicants should preferably be aged under 35 years and must be either Solicitors with at least 2 years' but preferably 4 years' professional experience since Admission, or Barristers with at least 3 years' but preferably 5 years' professional

## Up to £11,150 p.a.

- Generous terminal leave
- Subsidised accommodation
- Education allowances
- Holiday visits for children

experience since Call.

Appointment will be for an initial period of 24 months. The salary range for the post is HK\$5,180 to HK\$8,305 per month (approximately £6,910 to £11,150 p.a.). Starting salary will depend on experience.

For further information and application form, write to the Hong Kong Government Office, 6 Grafton Street, London, W1X 3LB, quoting reference RG/SOL at the top of your letter. Closing date for return of application forms: 27th February, 1978.

\*Based on exchange rate of HK\$9.00 = £1.00. This rate is subject to fluctuation.

**Hong Kong Government**

The Hong Kong Government also advertised for solicitors in the *England and Wales Law Society Gazette* in 1978.

## HONG KONG LITIGATION SOLICITORS

Johnson, Stokes & Master (practising in association in Hong Kong with Norton, Rose, Botterell & Roche) require additional Litigation Solicitors with not less than two years post-qualification experience. Applicants should have experience in general High Court litigation preferably including one or more of the following:

- Running down claims
- Fire and other insurance claims
- Sale of goods claims particularly where a foreign element arises
- Claims involving banking documents
- Arbitration

A salary of £9,000 pa or more is offered depending on experience plus generous fringe benefits including housing allowance. Maximum salaries tax in Hong Kong is 15 per cent.

Applicants should apply in writing before 18 November giving full details of education, legal experience and other background to:-

R. H. R. Clifford  
Norton, Rose, Botterell & Roche  
Kempson House  
Camomile Street  
London EC3A 7AN (Tel: 01-283 2434).

All applications will be treated in strictest confidence.

Another recruitment notice in 1978 highlighted the Colony's growing need for litigation solicitors for international and finance practice.

towards their holiday after working without a break for two and a half years.

Brian McElney remembers the 1970s and 1980s as an adventurous yet often harrowing period for lawyers. "Half the time we didn't know what we were doing. We were all thrown in the deep end. There was one lady solicitor who, whenever the judge ruled against her, would burst into tears. It was the most extraordinary scene."

Then there were the funny moments, and the one McElney says he will never forget was when a New Territories farmer appeared before a District Court Judge. While the judgement was being handed down, the farmer kept on muttering something and pointing to the judge, who demanded to know from the clerk what he was saying. The reluctant clerk finally said: "He's asking me: Why is the silly old man up there wearing a cauliflower on his head?"

Billy Ma Wah-yan remembers the 1980s as a harmonious period for the profession. "Back then, we would try to speedily settle cases and worked with our opponents."

With the shift away from manufacturing to real estate continuing into the 1980s, Hong Kong, together with Singapore, South Korea and Taiwan, became the "Four Asian Tigers" moving from poverty to becoming economic powerhouses. Low taxation and the absence of foreign exchange controls made Hong Kong highly competitive.



The Vietnam War created new business for Hong Kong's shipping industry and law firms, but the war's end brought boatloads of refugees to the city.





was the tendency for some firms to focus almost exclusively on real estate. "You made good money out of it, but it was very unhealthy for smaller firms because if you do nothing but conveyancing and the property market goes down, you'll go down with it."

The now defunct Carrian Group was among the corporations that rode the crest of Hong Kong's remarkable economic success in the 1970s, benefiting from the territory's unique monetary system. At its peak, the group held interests throughout Southeast Asia, Japan and the United States, operating in real estate, finance, shipping, insurance, hotels, catering and running what was then the city's biggest taxi fleet. But Carrian, which in its heyday soared with easy money from the banks, soon crashed amidst allegations of accounting fraud, the murder of a bank auditor, and the suicide of its legal adviser.

There was another spectacular crash during that period – that of the Hong Kong dollar as a confidence crisis gripped the city over Sino-British talks dealing with its 1997 return to China. The dollar's value sank by the day, dropping to as low as HK\$10 to the US dollar, which caused panic buying of gold and the American currency. It reached its lowest point on September 24, 1983 – known as Black Saturday – after which the government pegged the currency at HK\$7.8 to the US dollar.

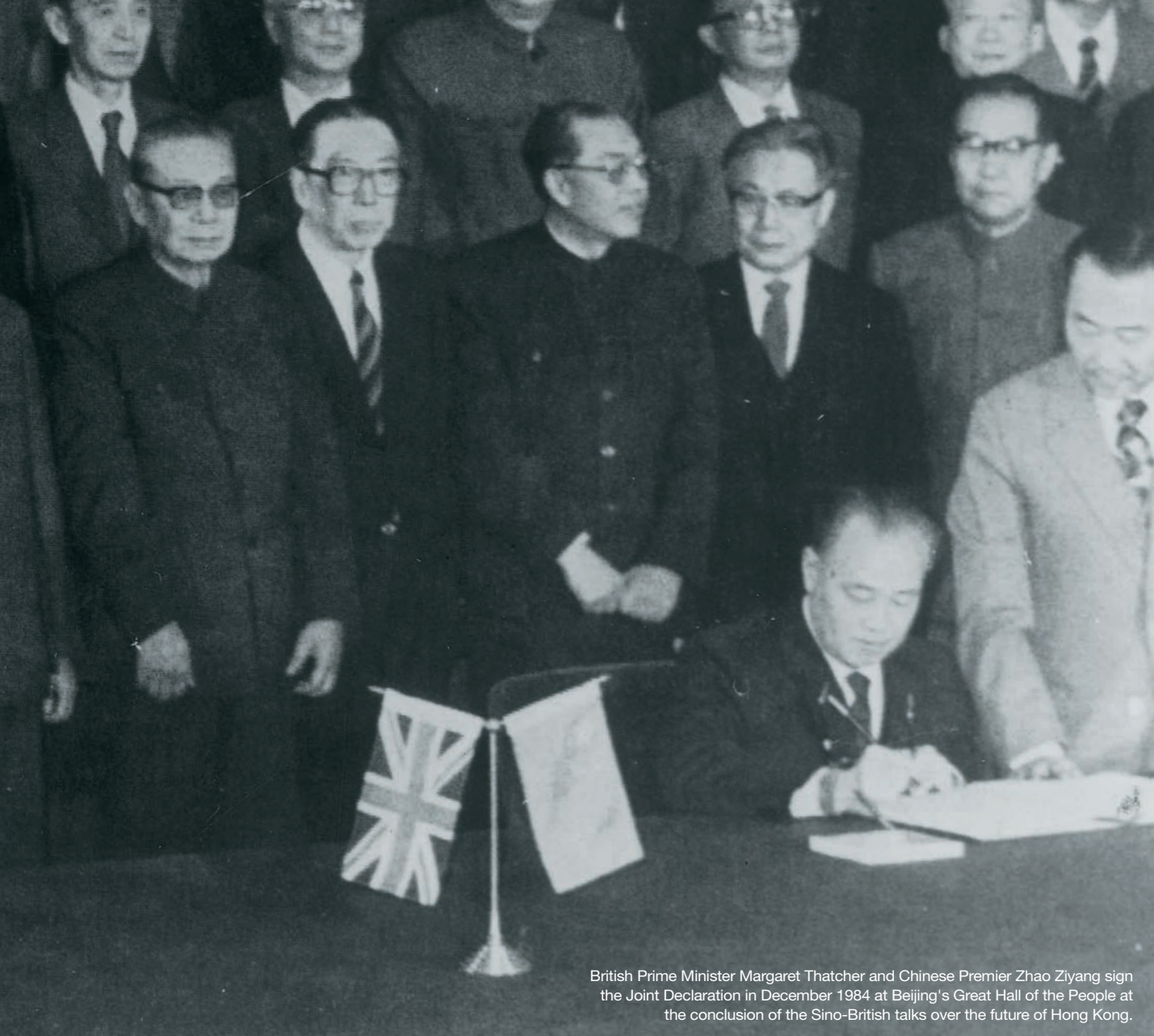
It was also a politically tumultuous time for Hong Kong, with Chinese and British negotiators at times accusing each other of undermining Hong Kong's future. The secrecy of the talks worsened the confidence crisis, leading to a huge migration out of Hong Kong which reached a peak after the 1989 Tiananmen Square crackdown, even though by

then the 1984 Sino-British Joint Declaration handing Hong Kong back to China had already been signed.

Like other sectors, the legal profession was hard hit by the uncertainties. T.S. Tong, the Law Society's president in 1984, wrote in his report about the widespread insolvencies that followed the dollar's crash, blaming it on property speculation in the preceding years. "The slump in the property market not only contributed to these insolvencies but also affected, to a certain extent, those members of the Society who rely heavily on conveyancing as a source of revenue," Tong wrote.

The Sino-British negotiations of the early 1980s had their roots back in the late 1970s when Hong Kong's governor at the time, Sir Murray MacLehose, was invited to Beijing – making him the first serving governor to formally visit the mainland. Deng Xiaoping was in charge





British Prime Minister Margaret Thatcher and Chinese Premier Zhao Ziyang sign the Joint Declaration in December 1984 at Beijing's Great Hall of the People at the conclusion of the Sino-British talks over the future of Hong Kong.

at the time, having got rid of the so-called Gang of Four, and opening up the country to economic reforms by creating special economic zones along the southern coast to attract foreign investments. Mainland leaders were, therefore, mindful of Hong Kong's importance to China's prosperity, but MacLehose and other British officials were more worried about the growing uncertainties in Hong Kong over land leases, land sales, and bank mortgages that stretched beyond 1997 when Britain had to return the New Territories to China. MacLehose and British Ambassador Sir Percy Craddock raised their concerns with Deng in March 1979, but the meeting ended inconclusively with the Chinese leader merely stating that Hong Kong was part of China but people should put their hearts at ease for the time being.

Fearful that Britain would be swamped by millions of Hong Kong

people if the Colony was handed back to China, the British Parliament passed the Nationality Act of 1981 which downgraded Hong Kong's status to that of a dependent territory, effectively denying the right of abode in Britain to Hong Kong people but keeping the door open to those from the British territories of Gibraltar and the Falkland Islands.

Former Law Society president Simon Ip Sik-on, who was part of a Law Society delegation to London to discuss the Act, dismissed fears that millions of Hong Kong people would flood into Britain, but argued unsuccessfully that confidence in the territory would grow if the nationality status of the people was not downgraded. It was not until nine years later – following the Tiananmen crackdown – that Hong Kong professionals considered vital to the city's success were given full British passports.

When talks over Hong Kong's future

formally began in 1982, British Prime Minister Margaret Thatcher insisted that Britain should continue to administer the territory, a demand quickly dismissed by Deng who made clear the return of sovereignty was non-negotiable.

The two years of often acrimonious talks that followed put Hong Kong on a roller-coaster ride, with Britain quickly realising the best it could get was to extract a deal that would protect Hong Kong's freedoms and lifestyle under the one country, two systems formula proposed by Deng.

The two years of negotiations produced the 1984 Sino-British Joint Declaration which was at first greeted with relief, but political uncertainties soon returned and remained until the actual handover in 1997. It was a rocky period for solicitors. Property deals were down and people were voting with their feet.





Workers only had one weekend to remove all the files and furniture from the Supreme Court building after it was damaged by MTR construction work.



French Mission building, which was also once the Victoria District Court, is now the Court of Final Appeal.

When MTR construction damaged the foundations of the Supreme Court building (now the Legislative Council building, top left) in June 1978, proceedings had to be conducted temporarily at various locations, including the French Mission building (top right), the Sun Hung Kai Centre (bottom left), the Fire Brigade building, and the Central Magistracy on Arbuthnot Road. Lawyers found this confusing and sometimes showed up at the wrong location. It was not until four years later, in October 1982, that some judges returned to the old Supreme Court building after repairs were completed. Two years later, in October 1984, then governor Sir Edward Youde opened the new Supreme Court building (bottom right) in Admiralty, now called the High Court.



Sun Hung Kai Centre in Wan Chai.



Governor Sir Edward Youde unveils the plaque at the new Supreme Court building (now the High Court) in Admiralty on October 31, 1984.

## LAW SOCIETY PRESIDENTS (1975-1984)

Public service is a cause very close to the heart of **Ian MacCallum** of Wilkinson & Grist, who served as Law Society president from 1975-1977. He was also chairman of the Hong Kong branch of civil rights group Justice in the 1970s and 1980s during which time he campaigned for, among other things, the abolition of flogging in Hong Kong.

In his president's report in 1976 MacCallum articulated his feelings about the legal profession's duty towards the greater community. "The legal profession ... must be able to show that it is entitled to public confidence. Every member of the Law Society has a duty ... to ensure that his professional standards leave nothing to be desired; that the standard of training which he is giving to his articulated clerks is the best he can give and that he is inculcating them with the highest standards of public service."

In 1977, the Law Society reached out to the community by co-sponsoring a television programme - *gum for yuk lut* - meaning "golden laws and precious rules", with RTHK. During the show Law Society members were asked to deal with legal problems confronting the average Hong Kong citizen. **Wong Chung-hin** of P.C. Woo & Co, Law Society president from 1977-1979, said in his 1978 report that the popularity of the show was due in no small part to the "thorough competence and expertise with which our members have dealt with the problems put to them." He said the willingness of members to take part in the show augured well for the success of the free Legal Advice Scheme which was due to begin later that same year.

During the term of the next Law Society president, **Edmund Y.S. Cheung**, from 1979-1981, the Society organised for the first time in its his-

tory, a delegation to visit Beijing and Shanghai in 1979. In 1980, Cheung pushed for the terms of articles for a trainee solicitor with a PCLL, which at the time was 18 months, to be extended to two years to bring it in line with the term of articles for a trainee solicitor in the United Kingdom. He later noted the suggestion was adopted "to the chagrin of those who were caught in the transitional period" who had an extra six months added to their articleship.

The Professional Indemnity Insurance Scheme also came under scrutiny in the early 1980s when the insurers at Lloyd's wanted to raise the premiums to a level unacceptable to the Law Society. Cheung, who has his own firm Cheung & Co, said the Society "shopped around and were able to obtain a reasonable quotation from an insurance agent headquartered in Melbourne, Australia." Lloyd's was skeptical about its competitor's quotation and turned down an offer by the Law Society to match it. "So we changed insurers, thereby saving our members literally thousands of dollars," Cheung said.

According to the 1982 president's report, the year had been one of consolidation after a number of changes which had taken place the year before. One initiative taken at this time by **John Wimbush**, of Deacons, who served as Law Society president from 1981-1983, was the introduction of an annual survey of solicitor's costs in the hope that by showing solid data on how costs have risen, applications for increases in fees for litigation and legal aid would receive a more sympathetic hearing. By 1983, Wimbush repeated this point by saying "as long as we are tied to scale fees and fixed allowances the Council is duty-bound to continue its efforts to try and ensure the increased cost of running a firm is reflected in the scales and al-

lowances." Wimbush passed away in 1984.

**T.S. Tong**, who was president from 1983-1984, noted in his 1983 report the "widespread insolvencies" that followed a slump in the property market which in turn caused a plunge in the conveyancing business. Tong wrote optimistically that he "hopes the worst is over". Touting was also a concern during his presidency. He reminded members that it was a breach of the Society's rules to tout and that clerks would be subject to disciplinary proceedings. He noted that six circulars on the matter had been issued during the year and urged members to "exercise strict control and supervision over their clerks." The Tel-Law scheme was inaugurated in March 1984 allowing Hong Kong people to receive legal information on 26 pre-selected topics. On the first day, demand was so high that another number had to be added for people to call.

**Timothy Freshwater** of Slaughter and May was president from 1984-1985, a time when touting remained such a concern that it eventually led to the system of commissioned clerks being abolished. In his president's report, Freshwater said a "further concentrated effort had begun to combat the evils of touting and further to improve the standards of the profession." It was during Freshwater's presidency that the Supreme Court moved to its new home in July 1984. He noted the complaints of Law Society members that earlier agreed-upon facilities for solicitors in the new building had somehow disappeared during the course of construction. Solicitors had also complained about a lack of telephones and slow lifts. Two rooms with telephones were eventually provided for solicitors but Freshwater noted the lift situation "remain the same."







1985-1994

Thousands of Buddhist monks, nuns, pilgrims and visitors attended the opening ceremony of what was then the world's biggest bronze Buddha statue on Lantau in December 1993.







Hong Kong was the venue in 1994 for the 5th meeting of the Presidents of the Law Associations in Asia (POLA).

## "Preparing for the Worst"

*Singapore's prime minister at the time, Lee Kwan Yew, concluded his country should take advantage of the brain drain caused by the 1997 handover jitters and sent attorney-general Tan Boon Tiek to Hong Kong in 1985 to recruit lawyers.*

For more than a decade leading up to the 1997 handover, Hong Kong was home to a shaken population unsure of itself as the 1989 Tiananmen crackdown worsened the confidence crisis triggered by the 1982 Sino-British talks over the city's future. A jittery community waited for the 1997 handover with apprehension, hoping for the best but expecting the worst. Many even sought out fortune-tellers, rattling fortune sticks to learn their fate.

*Fortune* magazine decided to make its own prediction, without the sticks, famously forecasting the "Death of Hong Kong" in a June 1995 cover story. As immigration lines grew at western consulates, one letter writer to the *Asian Wall Street Journal* described the atmosphere as being like "the terror of the Jews in the Warsaw Ghetto."

The *Ta Kung Pao* noted that the "decade of emigration" had started with 20,000 people

leaving a year, rising to 30,000 in 1987, then doubling to 60,000 in 1991 in the nervous aftermath of the 1989 crackdown. The exodus peaked at 66,000 in 1992, then dropped back to around 30,000 at the time of handover. By then, Hong Kong had lost 400,000 people.

But even in those uncertain times, the city lived up to its name for being practical by always keeping its options open. As tens of thousands acquired foreign passports, they also registered with head-hunting firms – just in case. One firm, PA Consulting, reported in 1989 that business had never been better, with companies scrambling to replace people who had emigrated, as well as a growing list of emigrants registering for future jobs should they return to Hong Kong.

Against this backdrop of turbulence, the Law Society polled its 2,100 members in 1989, along with 384 barristers and 250

Law  
Society

100th  
Anniversary

government lawyers. Eighty percent said they had no confidence in Hong Kong's economic and political future, and 60 percent said they were considering leaving. But pragmatic as ever, half said they would stay if they could acquire foreign residency without actually having to leave Hong Kong.

Simon Ip Sik-on, Law Society president from 1987-1989, who released the survey results predicted at the time that the outflow of lawyers would only pick up between 1993 and 1997.

The Law Society also mounted an effort to convince the British government to grant passports to Hong Kong's 3.5 million British subjects.

Before 1970, all Hong Kong-born citizens had the right of abode in England but in the 1960s and 1970s, the British government removed the right of abode as it was facing a large rush of immigration and was finding it difficult to cope. Gradually it changed all its immigration laws to exclude everybody within the Commonwealth, including the Hong Kong Chinese who were British dependant territory citizens at the time. From 1970, Hong Kong-born people no longer had automatic right of abode in England.

The Law Society's argument was simple: a full British passport would be an insurance policy that would halt the "brain drain" at the time as thousands left to acquire foreign residency.

Recalled Ip: "I was laughed out of court. A group of British parliamentarians came to Hong Kong and took evidence from many people, including me and I presented the argument. I was castigated by them - 'you know England is a small place and we will be swamped. How can we take 3.5 million people from Hong Kong?' My reply was that the United Kingdom did not have to take in millions of people. People don't actually want to leave Hong Kong - they were only leaving because they don't have a passport. If they had a passport they wouldn't go. This was back in 1987-88."

But the 1989 Tiananmen crackdown so rattled Hong Kong's confidence that the British government knew it had to do something. Confidence was at a low

point. Hong Kong was in a state of paralysis and the people who were nervous before became paranoid. The momentum grew for the British government to do something rather than simply saying everything would be fine.

The end result was the British

Nationality (Hong Kong) Act of 1990 which allowed for a British Nationality Selection Scheme granting citizenship to 50,000 Hong Kong families. Those who qualified were people considered important to Hong Kong's well-being, the reasoning being that if they were



*A confidence crisis that steadily worsened in the run-up to the handover led to a June 1995 cover story in Fortune magazine wrongly predicting the death of Hong Kong under Chinese Rule.*

*At about the same time, a resident of Massachusetts drowned in the swimming pool of a Hong Kong hotel in 1993. Her family wanted to sue the hotel in the United States instead of Hong Kong. The judge said that "the uncertain future of the Hong Kong legal system, given the island's reversion to Chinese sovereignty in less than two years, counsels heavily in favour of jurisdiction to ensure that the family have the opportunity to obtain redress, if any be appropriate, for the grievous loss they have suffered." His ruling that the case should not be tried in Hong Kong amounted to a vote of no confidence for the Hong Kong legal system.*

*Law Society president Roderick Woo wrote to members in September 1995: "It must be said that there are people in Hong Kong who have consistently painted, for overseas consumption, a bleak picture of Hong Kong's legal future. It is regrettable that the Government has not organised positive measures to correct the resultant misinformed views abroad. Hong Kong stands to suffer incalculable loss if such views are allowed to fester and spread."*

*"It may eventually fall on the Law Society to inform and assure at least our counterparts in other jurisdictions that the transfer of sovereignty will not change the legal system in Hong Kong and that common law will continue to be practised here."*

*Woo travelled to the United States and Canada to make the point that the gloom and doom being predicted was greatly exaggerated. It was so successful that the Government asked him to repeat the feat.*





This 1990 photo shows residents, unsure of Hong Kong's future under Chinese rule, lining up at the US Consulate for immigrant visas.

handed British residency, they wouldn't leave Hong Kong.

The scheme kept professional business people who would otherwise have gone overseas in Hong Kong.

"In hindsight, we achieved something. We didn't achieve everything we wanted but we got something. Of course it was not realistic to expect 3.5 million passports, but if you don't ask, you don't get. And immigration was politically difficult for the British government at the time," Ip said.

Brian McElney, who was Law Society President from 1971-1975, and member of the Law Society Roll of Honour, remembers that even if people did not leave, their assets did. "A lot of people decided to move their funds abroad – things like collections of Chinese art for instance," he said. "I don't think I thought anything of it. I'd seen it happen before. During the time of the Cultural Revolution, nobody knew then whether the communists would walk in. But there was a lot of uncertainty. Were they going to allow freedom of speech, or were the courts

going to face interference? One didn't know."

Ambrose Lau Hon-chuen, who was Law Society president from 1992-1993, remembers that most members took a pragmatic approach. "Certainly, some people were concerned but not a substantial number, about the handover. There were uncertainties in the sense that some people weren't confident that Hong Kong would enjoy a high degree of autonomy after the handover as promised in the Basic Law. As president, I had the opportunity of being in contact with a lot of fellow members of the legal profession. I would say that the impression I got was that the majority took the pragmatic approach."

The years during which Roderick Woo Bun was president from 1993-1996 have been described as the most turbulent and challenging. Soon after Woo took office, Martin Lee, a barrister and public figure, claimed that as many as 18 law firms had refused to represent him in a libel action because they were concerned about keeping a good relationship with the Chinese authorities.

Even at its most politically panicky period, Hong Kong's entrepreneurial spirit thrived. In 1985, Mieler Dolls, sensing a profit opportunity in the migration out of Hong Kong, produced the Rice Paddy Baby doll, a spin-off from the popular Cabbage Patch doll. Aimed at tourists, the Rice Paddy Baby, dressed in a kung fu outfit, came with an immigration form and a plea to be taken abroad.

Lee would not, however, substantiate his claim. Woo offered his firm's services to Lee but he demurred.

A poll conducted at the time showed that 43 percent of the respondents said their confidence in Hong Kong lawyers had lessened as a result of the controversy. Even though there was no evidence to justify Lee's claim, Woo decided to take action to shore up public confidence.

At that time (as it is now), solicitors in Hong Kong and other common law jurisdictions were free to decline instruction from any individual, but the refusal could not be based on grounds of race, colour, ethnic origin, sex or religious belief. The Law Society decided to add "political belief" to the anti-discrimination category. The incident reflected the community's feeling of insecurity during the run-up to 1997.

What helped sustain the confidence of the legal profession during those traumatic times was a good balance between supply and demand of solicitors, good business and a strong economy.

And the economy was booming. As if sensing it was now or never, Hong Kong people dug in and produced a remarkable GDP per capita annual growth rate of 6.5 percent from 1965 to 1989. According to Tony Yu's *Entrepreneurship and Economic Development of Hong Kong*, by 1990, Hong Kong's per capita income officially surpassed that of its colonial master, the United Kingdom. Yu noted the phenomenal economic growth of 18.7 percent in the five years between 1980 and 1985, which jumped to an even higher growth rate of 21.86 percent in the following five years up to 1990. And when it looked like the economy could not possibly grow at an even faster rate, it did, growing 15.34 percent in a single year between 1990-1991, and then 15.82 percent between 1991-1992.

While the robust economy convinced many solicitors to remain in Hong Kong, it did not stop them from acquiring foreign qualifications.

It was in fact quite common, even fashionable, for Hong Kong solicitors to get admitted in places like the United

Kingdom and Singapore as it simply required a formal application. Many lawyers mixed vacations with getting admitted in foreign jurisdictions. The Australian state of Victoria was a popular place to go to for such admissions as noted in a 1986 *Hong Kong Standard* article which reported that nearly 1,000 lawyers (a mixture of barristers and solicitors) had been admitted to the Supreme Court of Victoria in Melbourne over the previous five years. "Some local lawyers have gone down individually to be admitted," the newspaper said. "But more commonly, they fly down in 'tour groups' ranging in size from eight to 30 or more, and mix securing admission to the court with a holiday in Melbourne."

Singapore's prime minister at the time, Lee Kwan Yew, concluded his country should take advantage of the brain drain and sent his attorney-general, Tan Boon Tiek, to Hong Kong in 1985 to recruit lawyers. One of those approached was Ella Cheong Shuk-ki.

"A small group of us – one from each field of law – were specially invited to set up a practice in Singapore. We were promised three things – one,

that we would be admitted automatically and the law would be changed to allow for that, two, we could practise in both jurisdictions at the same time which of course was very important and third, most importantly, we would get permanent residency without having to go and live there. The beauty of the invitation was that you could practise in both jurisdictions and also gain residency without having to physically move there."

One irony at the time was even as Hong Kong people grew increasingly apprehensive about mainland rule, China itself was opening up its economy, creating numerous opportunities for lawyers and others willing to take the plunge.

In 1986, China's long march towards World Trade Organization (WTO) membership began as the country expressed an interest in joining the General Agreement on Tariffs and Trade (GATT), the predecessor to today's WTO.

Jeffrey Bader, who was the Assistant United States Trade Representative handling the China portfolio, told a 2001 conference at the Woodrow Wilson International Center for Scholars that "joining the GATT was one more step in



Hong Kong lawyers were in great demand as overseas investment poured into mainland China in the 1980s. Ties between lawyers on both sides also strengthened. Members of the Law Society were invited by the All-China Lawyers Association to visit Beijing, Xi'an and Guangzhou in November 1987.





the alphabet soup" of organisations that China was determined to join. He reasoned that membership was not so much part of an economic strategy as it was a part of China's determination to become a full-fledged member of the global community.

But being a WTO member meant having to lift barriers on trade and services which led many China experts to predict that economic liberalisation would in turn change the mainland in other profound ways. The Chinese government would have to become more transparent by publishing laws and regulations, for example. Bader predicted at the time that this kind of accountability would help develop China's rule of law, not just commerce.

But what finally pushed the door open to the mainland's legal system was overseas investments. As more investors, both local and foreign, began to

see China's huge potential, they turned to Hong Kong solicitors to facilitate their investments. Writing in the *Hong Kong Lawyer* in 2002, Raymond Ho Chi-keung described local solicitors as "pioneers" on the mainland, having been there since 1979 to provide a range of legal services, with property and commercial dealings leading the way. Ho also saw litigation and arbitration as instrumental in the development of mainland corporate law. Hong Kong lawyers – trained in the British system of rule of law and sharing the same cultural and language background as people on the mainland – were a natural choice to lead the way to changes in China.

In a speech to the New York Bar Association in September 2006, Secretary for Justice, Wong Yan-lung, noted that Hong Kong solicitors are still leading the way.

"Hong Kong's constitutional status

and its geographical location also provide a unique opportunity to provide dispute resolution services for mainland-related contracts. Hong Kong's legal system offers a reassuring setting for litigation, arbitration, mediation and other forms of alternative dispute resolution.

"It is not just international corporations that find comfort in the depth and breadth of experience we have in our legal sector. Mainland parties also find there are benefits in using Hong Kong as a dispute resolution centre. We share the same language and culture, and we are extremely familiar with the way the mainland market operates."

As business transactions grew, mainland authorities saw the need for reassurance that legal documents were in order. At the time documents for international transactions were authenticated by notaries, as Hong Kong operated under





More than a decade has passed since the 1995 cover story in **Fortune** magazine predicting the "Death of Hong Kong" but Chief Executive Donald Tsang Yam-kuen still keeps a framed copy of the cover on the desk of his Government House office.

Not only does it serve as a daily reminder of how wrong the magazine was, Tsang also likes to show the framed cover to visitors to make his point that he never lost faith in Hong Kong's future despite the handover.

The Wan Chai Stadium was converted into a special "queuing zone" on March 30, 1996 after thousands turned up at Immigration headquarters to apply for British National Overseas (BNO) passports before the March 31 deadline. People believed the passports would guarantee security after the handover.

the traditional English notarial system. In the leadup to the handover an ordinance was inserted which preserved the notarial system, with the main change being that the High Court of Hong Kong approved applications rather than the Archbishop of Canterbury.

In order to become a notary public, the applicant had to be a solicitor of at least seven years standing and submit character references from a variety of people, including 10 notaries public, solicitors or barristers. They also need to pass an exam which past president of the Hong Kong Society of Notaries, Robin Bridge, described as extremely difficult, as evidenced by the fact that out of the 136 people who sat the exam in 2005, only 29 passed.

President of the Hong Kong Society of Notaries, Ma Ching-nam, said the notarial system continued to operate in the same manner following the han-

dover. "We tend to be senior lawyers, with most of us having at least 25 years' experience."

However, as China did not regard Hong Kong as a separate country, the notarial system was not applicable for documents to be used in the mainland, so in 1981, the China-Appointed Attesting Officers (CAAO) scheme was set up and eight lawyers were appointed.

Yung Ching Tat, president of the Association of CAAO in 2007, said the scheme was designed to parallel the traditional notarial system.

The number of CAAO grew to 210 in 1997, and in 2007 there were 302. This number is expected to rise steadily as every law firm in town ideally wants at least one attesting officer on its staff.

"The first four lots of CAAO were appointed, but now the Ministry of Justice administers an exam. Out of the over 100 people who apply every time,

the pass rate is about 30 percent," said Yung.

At the beginning, the bulk of the work was civil rather than commercial, for instance getting married on the mainland, inheritance law or adoptions. At one time most of the work was conveyancing, but now it is easier for people to go into China themselves and sign documents.

The bulk of the work gradually became commercial such as the formation of joint ventures or a certificate to verify company records.

Since 1992, about 700,000 documents had been submitted by attesting officers. Mainland officials and ministries now regard the documents as essential paperwork before proceeding.

But actually practising as a foreign lawyer on the mainland was a contentious issue in the early days when China opened its doors.





A delegation of China-Appointed Attesting Officers visit China's Ministry of Justice in 2006.



In the 1980s, a lucrative business could be made representing foreign multinationals attempting to navigate the thicket of Chinese regulations in order to expand their manufacturing and retail operations in the country. However, foreign law firms were in a quandary – they had to follow where the business was but were also barred from practising on the mainland. The solution was to take on a different identity – that of consulting firm. In 1979 Coudert Brothers, an American law firm, established a representative office in Beijing as in-house counsel to its clients but also providing legal services in its own name.

Other firms, including US-based Baker & McKenzie and Paul Weiss, along with several British firms, incorporated consulting firms in their home countries or Hong Kong and then set up representative offices in Beijing or Shanghai to provide legal services. By early 1989, foreign law firms had established over 20 consulting companies on the mainland. This caught the attention of the Chinese government which, after studying the impact, took an initial decision to let foreign law firms establish offices in China starting in 1989. But it was not until July 1, 1992 that the Ministry of Justice finally started its

official experiment in allowing foreign law firms to open offices on the mainland and the trickle became a flood.

At an Inter-Pacific Bar Association conference in Beijing in May 2007, the Vice Minister of Justice, Zhao Dacheng, noted the mainland had law firms from 20 different countries with a total of 253 representative offices in no less than 19 Chinese cities. There were also more than 500 registered foreign lawyers.

Hong Kong law firms occupied a privileged position. The groundbreaking Closer Economic Partnership Arrangement (CEPA) came into effect in January 2004 allowing Hong Kong law firms with a representative office on the mainland to enter into an association with a mainland law firm, and Hong Kong permanent residents with Chinese citizenship to sit for the lawyers' qualification examination and conduct non-litigation work.

In July 2005, a Trade Development Council survey showed nearly half of Hong Kong's solicitor firms were anticipating a pickup in business as a result of CEPA, especially in the area of mergers and acquisitions, and China's demand for high-quality professional legal advice for international business transactions. The same survey showed that 83 percent of respondents had already

handled cross-border transactions, with most M&A mainland deals invariably being transacted through Hong Kong.

By 2006, demand was so high that solicitors with commercial experience, fluency in Putonghua, and qualifications to practise mainland law could pretty much state their own terms when negotiating an employment contract.

As mainland enterprises became more internationalised – thanks to the CEPA arrangements as well as the simplified procedures for mainland firms to invest in and set up offices in Hong Kong – the mainland legal system had to take a crash course on international law practices and Hong Kong played a key role in this.

In 2006 in a speech in Washington, Secretary for Justice Wong Yan-lung highlighted the legal reforms occurring on the mainland in order to facilitate the rapid economic development.

"I would like to think that Hong Kong has played a part in the mainland's development on the rule of law. Since the reunification the Department of Justice has launched different projects to enhance the understanding of Hong Kong's common law legal system among mainland officials and lawyers."

## LAW SOCIETY PRESIDENTS (1985-1994)

**Brian Tisdall**, who was working with Johnson Stokes & Master at the time, was Law Society President from 1985-1987. He had to deal with the contentious issue of the compulsory professional indemnity insurance scheme during his term.

In his President's report for 1986-1987, Tisdall acknowledges the acrimony caused by the issue but said "long suffering members" did not need to have all the arguments for and against re-iterated. During his term, Tisdall also invited members to help form the Guidance Committee to help with professional concerns. The Law Society's involvement on the issue of bilingual legislation grew after Hong Kong set up the Basic Law Consultative Committee to seek views on the drafts of the Basic Law. Tisdall and two other Law Society members took part in the meetings. Tisdall also played a key role in creating the *Law Society of Hong Kong Gazette*, the first issue of which came out in May 1987.

**Simon Ip Sik-on** was president from 1987-1989 while he was working with Johnson Stokes & Master. His presidency was during a time of major upheaval in Hong Kong. He remembers three main issues during his presidency – the Basic Law draft and consultations, the argument with the government over allowing foreign law firms to set up and practice in Hong Kong, and Hong Kong law firms branching out into the mainland. In 1987, Ip and other Law Society council members were invited to visit China by the All China Lawyers Association. In his report for that year, Ip said "it is only with proper understanding of and mutual respect for one another's system that the concept of 'one country, two systems' will find concrete expression." As the Basic Law draft was being debated, Law Society members

gave presentations with drafters during the consultation period and also went to the House of Commons in London to share concerns regarding the draft.

**Donald Yap** became Law Society president in 1989 when he was working with Philip K.H. Wong & Co. He took office a few months before the Tiananmen Square crackdown. As such, his first president's report begins by discussing the nature of the rule of law in Hong Kong and for the need for it to continue after 1997. The Legal Awareness Committee was also set up to help educate Hong Kong citizens about their rights and increase their understanding of how the law works. Society members were involved in giving talks at schools, community associations and to the media about everyday legal topics. This led to the first Law Week being held in 1991. During Yap's presidency, which lasted until 1992, he was also involved in legal education changes and setting common standards as a second PCLL course started at City Polytechnic and the ongoing issue of regulating foreign law firms opening in Hong Kong. From 1995-1997, Yap was president of LawAsia, the Law Association for Asia and the Pacific.

**Ambrose Lau Hon-chuen** was president from 1992-1993 while working with Chu & Lau. During his presidency the Council passed rules and legislation to enable the Society to counteract touting. Another visit was made to the All China Lawyers Association in Beijing and China allowed foreign lawyers to set up branch offices for the first time. Mainland lawyers also visited solicitor firms in Hong Kong to learn more about the nature of legal practice in the city.

**Roderick Woo Bun** was president from 1993 to 1996 while working with F Zimmern & Co.

During his presidency several major reforms took place. For the first time a permanent office was set up within the Law Society premises for a president whose job became almost a full time one. Woo started writing weekly letters to members which came to be known as "pink letters" because of the colour of the paper he used. He also started writing a monthly column in the Law Society's professional journal, a tradition which his successors have continued.

Woo encouraged members to become involved in the affairs of the Society, by offering them opportunities to sit in the Council and the different committees, and a sense of greater openness and accountability prevailed. It was also during his term that the inaugural issue of Hong Kong's own *Solicitor's Guide to Professional Conduct* came into being. The profession had hitherto relied on the English Law Society's Code of Conduct.

He campaigned hard for solicitors' rights and during his presidency solicitors became eligible for direct appointment to the Supreme Court and gained the opportunity to prosecute in the District and Magistrates Courts, on the Attorney-General's instructions. Before then only barristers were eligible for both.

Foreign lawyers and foreign law firms had to be registered with the Law Society which assumed the power and responsibility of regulating their practices. There was great controversy over the Council's recommendation to support the Court of Final Appeal Bill which, after heated debates, a majority of members eventually supported.

Woo was the founding chairman of Law Week and he served a total term of three years as such.







# 1995-1997

Hong Kong saw many ups and downs in the years before and after the 1997 handover. The April 1997 opening of the Tsing Ma Bridge provided spectacular relief.







Chief Justice Andrew Li and members of Hong Kong's judiciary are sworn in during the handover ceremony.

Law  
Society  
*100th  
Anniversary*

108

COMING TO TERMS

## Coming to Terms

*The path to the Basic Law was anything but smooth. Soon after the 59 drafters – 36 mainlanders and 23 from Hong Kong, including solicitor Liu Yiu-chu – got down to work in June 1985, the squabbles began.*

One country, two systems. Those four words, which shaped Hong Kong's future after 1997, first entered the world's vocabulary in the early 1980s when the visionary Chinese leader, Deng Xiaoping, proposed the phrase for the ultimate reunification of China, starting with Hong Kong although the formula had been tailored for Taiwan. It was a formula that would allow capitalist Hong Kong, with its common law system, to co-exist as part of socialist China which had an entirely different legal system.

Hong Kong faced the seemingly daunting challenge of keeping its legal and other systems intact yet having to abide by the Basic Law, its new constitution approved by the Central authorities. But as it turned out, the hiccups from accommodating the common law with the Basic Law were few.

When Deng dismissed Britain's opening

negotiating position of keeping Hong Kong under British administration, Prime Minister Margaret Thatcher settled for second best. In a BBC interview in June 2007, 10 years after the handover, Thatcher recalled: "One country, two systems was developed some years earlier as an approach to the issue of Taiwan. It did not at first seem to me the way ahead for Hong Kong. What I wanted was a continuation of British administration. But when this proved impossible, I saw the opportunity to preserve most of what was unique about Hong Kong by applying Mr Deng's idea to our circumstances. In fact, I complimented him on his brilliance. It's often a good idea to tell people with whom you negotiate that they were right all along."

The Basic Law fleshed out the Sino-British Joint Declaration giving Hong Kong a high degree of autonomy over its domestic

affairs by preserving its way of life and its independent judiciary. But the path to formulating the Basic Law was anything but smooth. Soon after the 59 drafters – 36 mainlanders and 23 from Hong Kong, including solicitor Liu Yiu-chu – got down to work in June 1985, the squabbles began. With the very future of Hong Kong at stake, everyone wanted a say. A year into its work, the drafting committee's secretary general, mainland official Li Hou, sparked a political storm by telling the *Outlook* magazine that direct elections in 1988 would violate the spirit of the Joint Declaration. Although he later retracted his remarks, that did nothing to ease growing fears of mainland interference.

A month after Li's remarks, Legislative Councillors sharply criticised the first draft of the Basic Law in a two-day debate, claiming it had deviated from the spirit of the Joint Declaration. The following months saw street protests and public rallies asking for more consultation.

After a roller-coaster ride, the Basic Law was finally promulgated in April 1990 by China's National People's Congress (NPC). Anthony Chow Wing-kin, who was Law Society president between 1997 and 2000, says much of the acrimony is now water under the bridge. "Seventeen years down the road, a lot of people have already forgotten the process that one had to go through to create the Basic Law, let alone the con-

tents of it. How it is connected, how it is structured in respect of the Chinese constitution, how it was born – there is very little knowledge about it."

When looking at both the Joint Declaration and the Basic Law, the central theme is one of continuity highlighted in the fact that the common law principles and the nearly 600 Ordinances that were in force before the handover continued to apply afterwards. This was specified in Article 8 of the Basic Law which states bluntly that "the laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained."

Other guarantees were also adhered to including an independent judiciary with security of tenure, the use of the English language as well as Chinese in the courts, reliance on precedents from other common law jurisdictions, an independent public prosecution service and the continuing ability of overseas lawyers and law firms to practise in Hong Kong and a locally based Court of Final Appeal.

The continuity of the legal and judicial systems was further underpinned by the Hong Kong Reunification Ordinance which provided for, among other things, the continuance of laws previously in force, the continuance of legal proceedings, the criminal justice system and the administration of justice and the continuing validity of official acts and documents.

Law Society president from 1992 to 1993, Ambrose Lau Hon-chuen, said: "We were promised one country, two systems and the retention of our legal system which would remain unchanged. My main concern as president was to make sure that we'd continue to enjoy that up to and after the handover. Political gestures may last a year or two, but we are talking about the Basic Law – as a system it was going to last."

In 2007, at the 10th anniversary of the handover, Chief Justice of the Court of Final Appeal Andrew Li Kwok-nang asserted the power of the courts to rule freely, including in sensitive cases involving the Basic Law.

"The independence of the judiciary is fully guaranteed in the Basic Law and is a pillar of Hong Kong's society. The exercise of judicial power by the courts is not subject to any interference by the executive, by the legislature or by anybody else," he said. "What is spelled out is an independent judiciary ... there is no doubt that judicial independence and its separation from the branches of government are fully guaranteed by the Basic Law."

What worried the legal profession in the run-up to the handover was the language of the law, specifically its bilingual nature. In a speech marking the opening of the 1995 Legal Year, the then Law Society president Roderick Woo Bun noted that only 60 of Hong Kong's 550 ordinances had been translated into Chinese – with only 30 months remaining until Chinese became



Members of the Basic Law drafting committee held public consultations before starting work.





The public get their first view of the draft Basic Law as copies are distributed throughout Hong Kong.

eral Chinese it comes out as something like 'responsibility for providing evidence.' That one wasn't too hard." But Yen noted how more arcane, legal terms often proved impossible to translate. "Sometimes we've had to coin entirely new words."

The end result has been criticised as being complicated rather than elegant Chinese, which is a common charge against legalese in English as well. A more serious concern was that disagreements would arise over the different interpretation of meanings between the two languages. Christopher Chan Cheuk, who was Law Society president at the time, warned that "the fear held by many is that a wholesale swing toward the use of Chinese throughout our courts will eventually lead to the abandonment of the common law system".

Yen's law drafting group had apparently anticipated this exact problem and adopted some of the solutions in other multi-lingual jurisdictions, including Canada and especially the United Nations. Yen also accepted the fact that arguments over the meaning of words in court is unavoidable, even in monolingual environments.

In addition to making Hong Kong's laws bilingual, the statute books also had to be cleared of their colonial-flavoured terminology. For example, the word "Crown" appeared over 4,800 times in the law books and could mean either Whitehall or the Hong Kong Government. Draftsmen had to decide which it referred to by looking at how the word was used in the text before changing it to the central Government or the SAR Government. Another issue was the term "Secretary of State", which was widely used in Hong Kong laws. Yen noted it was "unclear what rank of official in the Central People's Government is comparable to that." It could either have been the vice-premier, a foreign minister or even another minister altogether.

Looking back today at the mammoth task he had to oversee, Yen is mindful that accusations continue to linger that the Chinese translation of the laws was not elegant, but he points out

an official language in the Legislature and Judiciary. Woo described as "morally indefensible" the Official Languages Ordinance that required all proceedings in the District Court and above to be conducted in English. "Because of it, the Jury Ordinance disqualifies persons with insufficient knowledge of English from serving as jurors, a law which hardly satisfies the high notion that a defendant is entitled to be tried by his peers." The Bill of Rights Ordinance was being violated in the courts every day, Woo said, whenever Chinese-speaking defendants were not given a Chinese translation of the charges or the Court's findings.

Woo delivered part of his speech in Cantonese, the first time this had ever been done at the opening of a Legal Year.

The mammoth task of translation fell on the shoulders of the law drafting section which was a part of what was then the Legal Department. Solicitor Tony Yen Yuen-ho, Law Draftsman, spoke in 1997 about the many problems his department encountered in handling the translation work. A major issue which arose in 1990 was the Chinese translation of the words of "barrister" and "solicitor" which were

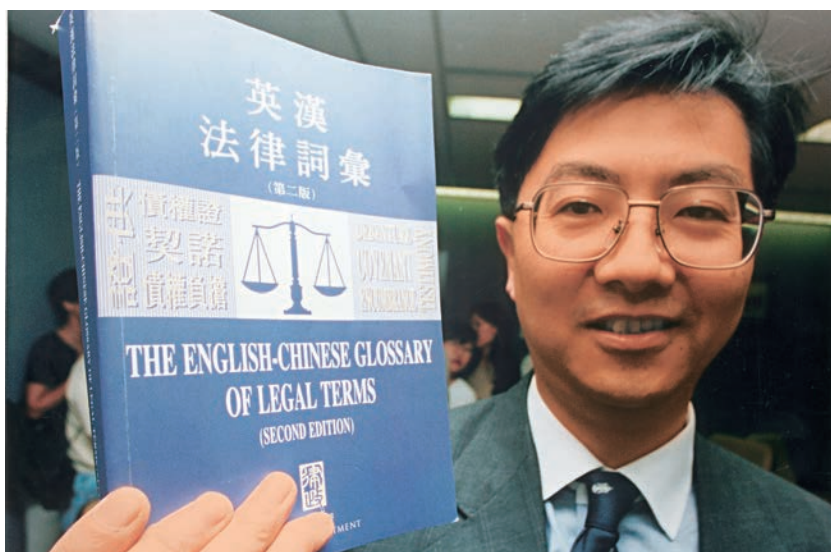
rendered as "big lawyer" for barristers while solicitors were merely "lawyers."

The argument between the Law Society and the Bar Association continued for over a year, with the issue holding up the passing of the Interpretation and General Clauses Ordinance in the Legislative Council. This Ordinance provided a general guideline for interpretation of the whole body of legislation and was a vital component in the translation of hundreds of other ordinances.

Finally, in 1991, the Bilingual Laws Advisory Committee whose members included both barristers and solicitors, ruled that "barrister" should be translated as "advocate lawyer" and "solicitor" as "business lawyer" – an interpretation that the Law Society agreed to.

However, after submissions by the Bar Association, the Legislative Council voted in March 1992 by a margin of 20 to 11, that the translation in the Ordinance would remain "big lawyer" and "lawyer."

Yen described the work of translation as a "huge challenge" as he and his team had to tackle even common terms like "the burden of proof" which is an easily understood English term. "In lit-



Tony Yen, Law Draftsman, holds the completed *English-Chinese Glossary of Legal Terms*.

A 20-year ambition was fulfilled when, in 1997, the Law Society bought its own premises on the 3rd floor of Wing On House in Central. The Society's president at the time, Anthony Chow, wrote in his annual report: "I very much hope that the club premises that form an integral part of the layout will prove an attraction to members either as a 'peaceful oasis' to relax in the library area or a popular 'watering hole' in the bar after work."

that the spirit of the law was still there. "In practical terms, the translation has not produced difficulties in court or in the Legislative Council. The readability of the Chinese is more for lawyers and judges."

Michael Lintern-Smith, Law Society president from 2004 to 2005, describes the translation of the law as something that just "doesn't work" in practical terms. "There are other jurisdictions that tried to have bilingual legal systems and found that it didn't work either. In India, after their handover in 1948, they were having bilingual proceedings but they reverted to English. My experience with Chinese translations is that no two people ever agree on the translations. Translation is an imprecise art."

Not only did the laws need to be translated, it became increasingly clear that the colonial practice of dragging an interpreter everywhere would no longer be practical. Fully bilingual, if not trilingual, solicitors, barristers and judges would have to become the order of the day, though this resulted in fears that expatriate lawyers and judges would be driven out of Hong Kong.

While this did not happen, Chinese gradually found its way into the lower courts as the language of choice. By 2007, about 80 percent of proceedings in the magistrate's courts were conducted in Cantonese. English remained the dominant language in the higher courts, with only 20 percent of cases in the Court of First Instance in Chinese.

In 1997, law professor Derry Wong Hak-ming caused a minor furore when he said judges should resign if they did not speak any Chinese. The following year legal expert Yash Ghai, then Sir Y K Pao Professor of Public Law at the University of Hong Kong and author of *Hong Kong's New Constitutional Order*, attempted to clarify the comments during a newspaper interview.

"We now have a bilingual system of law," Ghai said. "The Basic Law says English may also be used for official purposes, and Chinese is, of course, the official language ... In that sense, Professor Wong is right. If you are a judge, you best perform your function if you understand the two languages."

According to Ghai, the Interpretation and General Clauses Ordinance provides that both the English and the

Chinese versions of Hong Kong's legislation to be "equally authentic." Where there is a possible difference in meaning of the two versions, the court should adopt the meaning "which best reconciles the texts, having regard to the object and purpose" of the legislation.

Despite the hiccups, Hong Kong's legal profession, helped by the Provisional Legislature, played a key role in ensuring a smooth transition of the legal system.

As the clock ticked towards the final days of British rule, the population remained jittery but there was a new sense of hope. The Basic Law was ready, the brain drain had slowed somewhat, and the economy seemed to be in good shape. Who could have guessed that the city was about to be hit by a devastating crisis that had nothing to do with the handover?



Sad farewell from Hong Kong's last governor Chris Patten as he boards the *Britannia* with his family.



# Regionalisation and Globalisation

*When US-based Coudert Brothers opened here in 1972, it was the first time the issue of foreign firms setting up in Hong Kong arose. Hong Kong was rapidly developing at the time, and along with it, the legal profession. This did not go unnoticed by foreign firms, many of which saw obvious benefits in setting up practices here.*

*The Law Society did not object to foreign lawyers and foreign law firms opening in Hong Kong provided they followed the Society's guidelines and did not practise Hong Kong law.*

*But some local lawyers were worried that the influx of foreign lawyers would change the face of the profession. Brian McElney, who was Law Society president at the time, said: "There was quite a lot of opposition, I suppose you would call it. I supported it as I could see that was the future."*

*In the years that followed the arrival of Coudert Brothers, the issue of foreign law firms came up again and again, with a particularly acrimonious argument in the late 1980s when, under pressure to comply with General Agreement on Trade and Tariffs (GATT) rules, the Hong Kong Government announced in August 1989 that it would allow foreign lawyers to practise Hong Kong law. The Law Society and its members opposed this move and newspaper articles at the time recounted the rounds of consultations required as the Society and the Government tussled over the issue. Simon Ip Sik-on, who was Law Society president at the time, re-*

*called: "It was the worst controversy I can remember between the legal profession and the Government and the depth of feeling was extremely strong. I think the Government completely misread the mood, particularly as the Government made a decision over the recommendations of the working party chaired by the Chief Justice, which said it shouldn't happen."*

*In his President's report for 1988-89, Ip expressed disappointment that the "legal profession and the Government should be engaged in open confrontation" but also commented that the profession was united as never before. However, in a speech delivered at the opening of the 1989 legal year, he was more blunt, saying: "The flames of dissension had been ignited by the Government's high-handedness and lack of proper consultation with the legal profession and fuelled by its inability or unwillingness to provide rational and convincing reasons for its decision."*

*Given the strong feeling in the profession, the Government withdrew the proposal but also highlighted the need for a gradual relaxation in the profession. It was left to the profession itself to devise a scheme that would allow for mutual recognition and mutual access. But the local profession continued to see pitfalls in opening the door to outsiders, or letting them come here, in effect, to practise law through local lawyers. "You can't have someone come over here,*

*hire a local lawyer and say they will practise Hong Kong law through him - it makes a mockery of the whole profession," said Ip.*

*Donald Yap, who was Law Society president from 1989-1992, recalls the tense atmosphere at the time, and how members "thought of all sorts of things to prevent them (foreign lawyers) from practising, to raise barriers" but finally had to concede defeat. "By the time of my presidency, I and some other senior lawyers realised it would be like King Canute holding back the sea. They were going to come anyway but could we make it in a way that Hong Kong lawyers and society would benefit from it? The rules were changed in my time and foreign lawyers were able to come in and qualify, so we gave them [some hoops to jump through], and once they did jump through them they could go on to be solicitors."*

*After the Government withdrew its 1988 proposal, the following several years were spent hammering out a scheme which would finally allow foreign lawyers to practise in Hong Kong. It took that long because the profession needed to work out two important areas - recognition and reciprocity. There were issues like which exams the incoming lawyers had to take and which could be exempted. There was also the question of whether reciprocity meant Hong Kong lawyers could simply go overseas and practise, or face immigration hurdles. Local lawyers felt that since Hong Kong was very free in that regard, they needed a level-playing field.*



## How the issue developed

**August 1986:** former Governor, the late Sir Edward Youde, sets up a committee to review admission and practising criteria for lawyers.

The committee consists of former Chief Justice Sir Denys Roberts, a Legislative Councillor and representatives of the Legal Department, the Hongkong Law Society and the Bar Association.

**January 4 1988:** seven US law firms submit petition to Governor Sir David Wilson.

**January 29:** the committee reports to the Governor and unanimously recommends rejection of the US lawyers' request.

**Between Jan and May:** the Government sets up an internal committee to study the petition. The Government refused to disclose the membership of the committee and when it was set up.

**May 13:** Assistant to the Chief Secretary writes to the Law Society requesting its comments.

**June 10:** the Law Society writes to the Government opposing the petition.

**August 5:** the Attorney-General writes to the Law Society informing it of its decision.

**August 8:** the Government announces its decision to allow foreign law firms to practise here by hiring local lawyers.

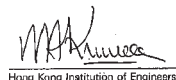
**September 13:** the Law Society at an emergency general meeting votes condemning the Government's decision by 1,068 to 23.

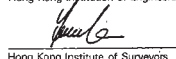
A Hong Kong Standard report on September 26, 1988 (left) listing the timeline on how the controversy over foreign law firms developed.

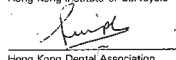
### JOINT STATEMENT OF PROFESSIONAL BODIES IN HONG KONG ON THE ISSUE OF FOREIGN LAW FIRMS

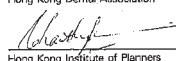
The Professional bodies mentioned below deplore the manner in which the Government has imposed its proposal on foreign law firms on the Law Society of Hong Kong for the following reasons:-

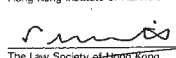
- (1) Professional practice in Hong Kong involving the public should only be carried on by appropriately qualified persons who are recognized as such by the appropriate Hong Kong professional bodies.
- (2) Changes or proposals for change affecting a self-regulating profession, in this case the Law Society, should not be made without full and thorough consultation with the profession and such changes should not be made over the objections of the profession without compelling reasons which are in the public interest. This is of special importance for the maintenance of confidence in the Administration in the run up to 1997.

  
Hong Kong Institution of Engineers

  
Hong Kong Institute of Surveyors

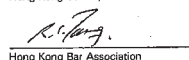
  
Hong Kong Dental Association

  
Hong Kong Institute of Planners

  
The Law Society of Hong Kong

  
Hong Kong Medical Association

  
Hong Kong Society of Accountants

  
Hong Kong Bar Association

  
Hong Kong Institute of Architects

## Govt bowed to pressure: Law Society

THE Law Society accused the Government of bowing to US pressure yesterday as the battle over the rights of foreign law firms operating in the territory heated up.

On Monday the Government announced it had agreed to allow foreign law firms to employ local lawyers to advise on Hongkong law despite rejection of the idea by a Government committee and strong protests from the Law Society.

Yesterday the Law Society said there had been "unwarranted and unfair external pressure" on the Government.

"It is the society's belief that the Government has reached its decision under threat of US trade sanctions and references to the General Agreement on Tariffs and Trade, and without regard to the long-term effects of their decision on the legal profession and other professions and Hongkong as a whole," vice-president Mr Donald Yap said.

Seven American firms petitioned the Governor in January to change the law in their favour. The Law Society, which did not learn of the petition until May, said the decision was made without proper consultation.

In the petition the firms said: "It would be unfortunate if American law firms were left with no alternative but to file a formal trade action in Washington."

"Such a complaint against Hongkong will certainly damage the territory's reputation as a free trading area."

The Government rejected the society's allegation.

"We categorically deny any suggestion that the Hongkong Government has been pressured by the US Government in relation to this issue," said the assistant solicitor general, Mr Stuart Cotsen.

He said free trade was one of Hongkong's greatest traditions, and the proposal would provide the kind of service demanded by the business community.

A spokesman for the US Consulate, Mr Dan Sreebny, said Hongkong was well aware of the US Government's views on trade barriers, which had been made known over several months.

He said the US gives a high priority to eliminating barriers, and believes all foreign lawyers should be able to operate on an equal footing.

A Hong Kong Standard article on August 10, 1988 reporting on the growing controversy over the issue of foreign law firms in Hong Kong.



Law Society members packed the ballroom of the Furama Hotel (now the AIG Tower) on September 13, 1988 to vote against government proposals that lifted restrictions against foreign law firms.



*British lawyers, who enjoyed automatic admission prior to the change of sovereignty, saw this privilege gradually disappear. Herbert Tsoi Hak-kong, Law Society president from 2002-2004, recalled how more of them came during 1997 than at any other time. "By 2000-2002, the number had dwindled quite a bit. Pre-1997, lawyers could register from England without an examination, but after 1997, we were closing the door step-by-step. By 2000, the door was closed except for Hong Kong residents that were caught in school during the change." Many in the profession, even includ-*

*ing foreign lawyers, felt the easy entry for British lawyers was unfair and could not go on forever. They were given ample warning before being put in the same category as other lawyers.*

*The 1990s and beyond saw more foreign law firms eyeing Hong Kong as a base for expansion into China. Where once the expat lawyer was the norm, the profession had to evolve to keep pace with the changing nature of clientele. Chinese clients wanted to deal with Chinese-speaking lawyers. Bilingual lawyers became very much in demand. By 1995 entry of foreign lawyers into Hong Kong be-*

*came law in anticipation of Hong Kong's entry into the General Agreement on Trade in Services (GATS), a precursor of the World Trade Organization. Between September and November, 234 overseas solicitors were granted eligibility to sit for the first qualification examinations.*

*The test covered conveyancing, civil and criminal procedures, commercial and company law, and included an additional oral test on the principles of Common Law for lawyers from non-Common Law jurisdictions.*

*Recent years have also seen foreign*





law firms with a presence in China opening up branch offices in Hong Kong as well. In March 2006, King & Wood Hong Kong became the first branch office set up here by a foreign law firm on the mainland. In September that year, Gide Loyrette Nouel (Gide), which in 1993 had been one of the first foreign law firms to open an office in Beijing, also established a Hong Kong presence.

The issue of globalisation was also a hot topic in the 1990s and the early 2000s with the advance of international law firms with cross-border capabilities and the merger trend among top law firms in the United States and

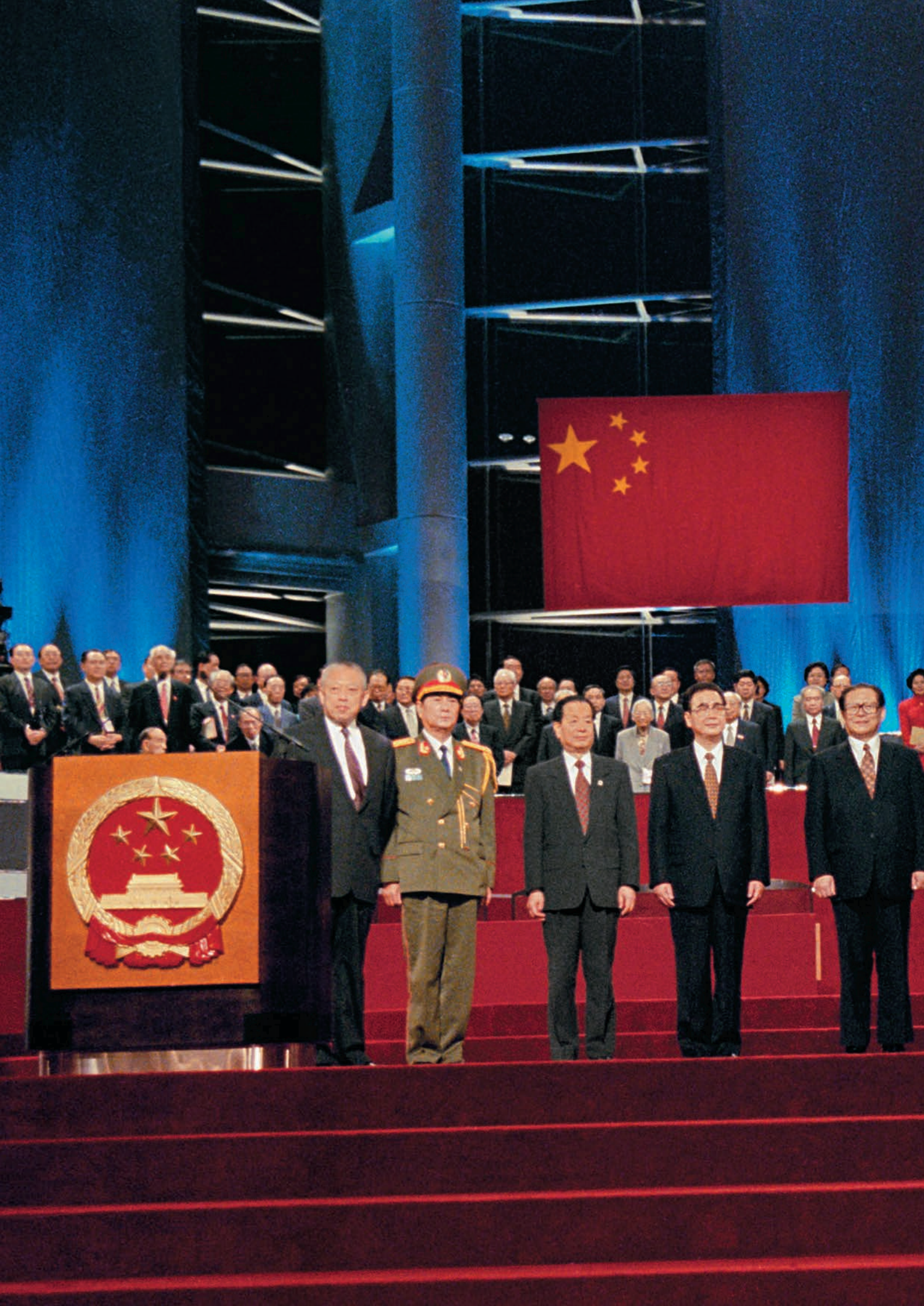
Europe spreading into Asia. In 2000, several "mega mergers" occurred among international law firms, the largest of which was between Clifford Chance of Britain, Rogers and Wells of the US, and Pundher, Volbard, Weber and Axster of Germany.

When Andersen Legal acquired local firm Kwok and Yih in 2001, founding partner Larry Kwok Lamkwong said the merger set an example for other Hong Kong firms to position themselves in light of the globalisation trend. Even so, Timothy Hill said there were "perhaps 12 to 20 firms in Hong Kong which would truly be called global."

Michael Lintern-Smith, Law Society president from 2004-2005 recalled: "The trend was for the major firms in the United States and the United Kingdom to embark on a whole series of mergers - they were eyeing being globally dominant. But it's all horses for courses, we don't all want to work for those types of firms.

"Happily, Hong Kong is one of the places on the route. If you're going to have a world firm, you need to be in New York, London and Tokyo. But in Asia, one of the places you have to be is Hong Kong, it's a city that still carries a great deal of importance on the global scale."





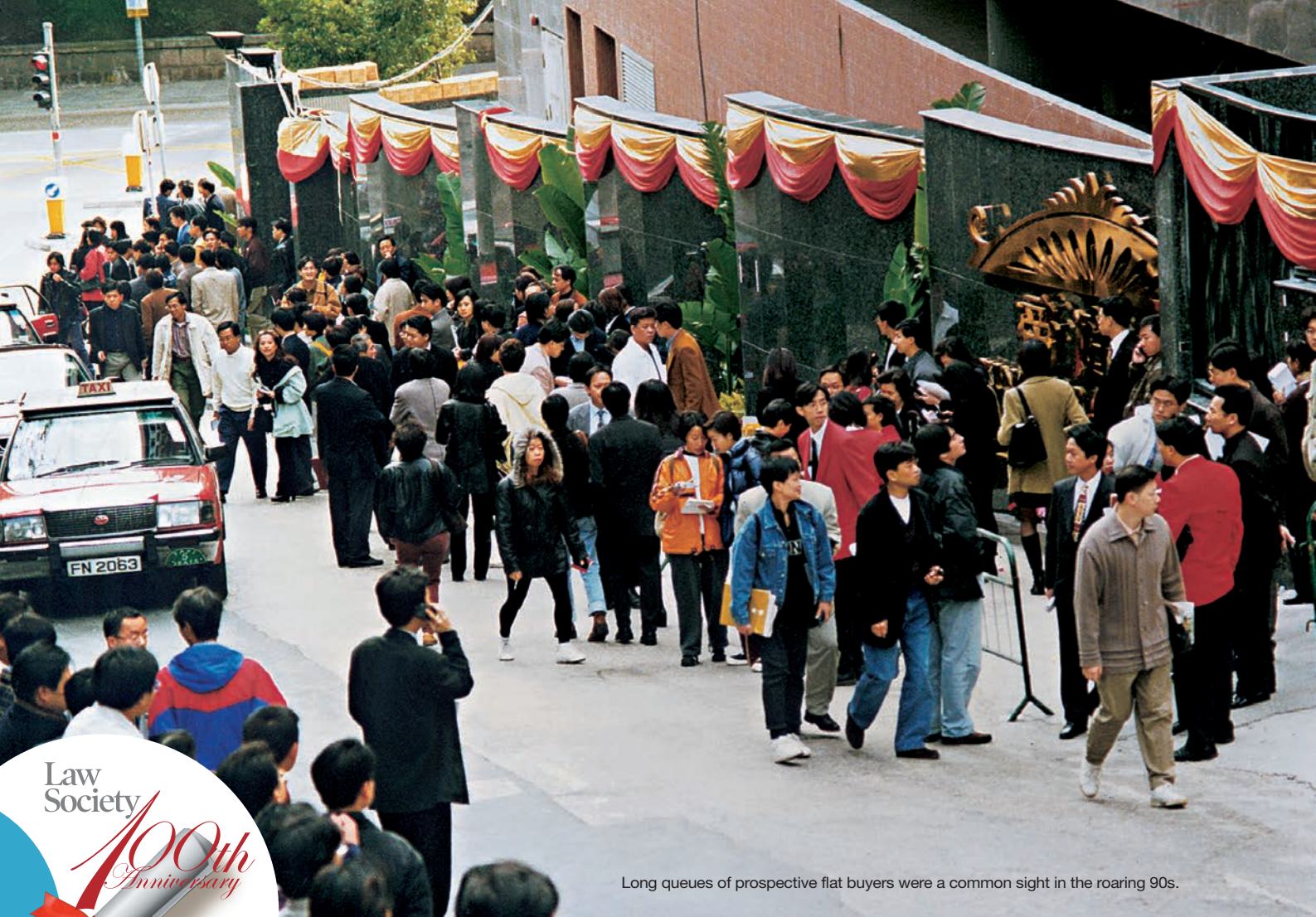


# 1997- 2007

Midnight June 30, 1997 - the eyes of the world turn to Hong Kong as history is made and the former British colony is returned to China.







Long queues of prospective flat buyers were a common sight in the roaring 90s.

Law  
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A NEW ERA

*The profession had been under growing pressure to do away with conveyancing scale fees. Finally, in June 1997, the Legislative Council voted to make the fees negotiable, effectively ending the four-decade-old system that had been the bread and butter of most Hong Kong solicitors.*

Hong Kong was barely 24 hours into its new life as a Special Administrative Region under China when disaster struck – not of the political kind as many had feared, but economic. On July 2, 1997, as the territory – led by its first Chief Executive, Tung Chee-hwa – was still bathing in the limelight of having been the centre of a history-making event, the Bank of Thailand announced it had floated the country's currency, the baht.

At first, the enormous financial implications of the move, together with Thailand's plea to the International Monetary Fund for "technical assistance" didn't sink in as Hong Kong's attention continued to focus on the handover's aftermath. But it didn't take long for panic to set in as the baht collapsed from the pressure of the float, setting off a domino effect that toppled the region's overheated economies.

## A New Era

It took some time for the rolling earthquake to reach Hong Kong. But the territory's inflation rate had been significantly higher than that of the US for years, and by October 1997 the US-pegged Hong Kong dollar came under such intense speculative pressure that the Government was forced to spend US\$1 billion defending it. With US\$80 billion in foreign reserves, the Government made it clear it had the money and the nerve to defend the Hong Kong dollar, and the speculators eventually backed off. Still, the defence of the currency's peg had side effects that spilled into other sectors of the economy. One such side effect was a spate of short-selling in the stock market, causing the Hang Seng Index to tumble 23 percent from October 20 to 23 alone. A year after the handover, stock prices had plunged by as much as 60 percent from their peak in August 1997, and real per capita GDP went down by 7.8 percent in 1998.



Arguably, the greatest impact of the crisis, for the legal profession at least, was the collapse of the property market. By the summer of 1997, the currencies and economies of East Asia were starting to crack one after another as a result of heightened property speculation. Two years earlier, in 1995, Hong Kong's solicitors had been under growing pressure from Legislative Councillors and organisations such as the Consumer Council to do away with conveyancing scale fees.

Finally, on June 25, 1997, the Legislative Council voted to make the fees negotiable, effectively ending the four-decade-old system that had been the bread and butter of most Hong Kong solicitors.

Unfortunately, events conspired against the timing of that decision. One of the first policy decisions of the incoming Chief Executive was to launch a housing policy aimed at reining in residential property prices that had doubled during the property market boom leading up to the handover. The policy called for 85,000 flats to be built each year for at least a decade to boost home ownership to 70 percent. But the massive increase in supply, coupled with an equally fast decline in liquidity in the

region resulting from the financial crisis, only hastened the market's decline. By 2003, residential property prices had nosedived by 70 percent from their peak in the summer of 1997.

Conveyancing charges began to hit rock bottom, almost literally, in late 1999 when law firms engaged in cut-throat competition for a dwindling supply of public housing contracts. In terms of conveyancing, it was truly a buyers' market despite efforts by the Law Society to keep charges at a level that would not compromise the standard of work.

There was a backlash from the Housing Authority and Consumer Council when the Law Society urged firms not to offer conveyancing lower than HK\$3,500 for the sale of 7,600 Home Ownership flats. This was already a considerable discount on the HK\$9,000 fee for similar flats before 1997. But fees continued to nosedive.

"In five months, conveyancing fees dropped from more than HK\$1,000 to around HK\$800, clearly as a result of the tendering system," Law Society Council member Peter Sit Kien-ping said at the time. He justified the price the Society proposed, saying

it was endorsed by the Society's costs committee. In a letter to the Housing Authority, the Law Society said: "The cheapest is not necessarily the best in the provision of legal services."

The Housing Authority introduced conveyancing tenders in March 1999 for buyers of the Tenant Purchase Scheme with a fee of HK\$1,250 per flat. By September, the fee had dropped to HK\$888 per flat. The Authority short-listed 20 of 37 firms that had made bids lower than HK\$3,500 to re-tender. In July 2000, the Authority announced it had awarded a contract to four firms to do the conveyancing of 982 Home Ownership Scheme flats in Stanley for HK\$191.50 per unit.

A spokesman for one of the firms told the media it would lose money with the bid and could only hope to cover losses by preparing bank mortgages for clients. He said although it had won the bid, it was "improper" for the Authority to shift its legal costs by accepting the lowest price under a tendering system.

Peter Sit noted that the price had "shocked" the legal sector, and warned solicitors were plunging towards destructive competition. He estimated the HK\$191.50 fee would cover only 15



The opening of Hong Kong International Airport in 1998 by President Jiang Zemin pointed to the longer term prosperity of Hong Kong. But at least five more difficult years lay ahead for the SAR.





The collapse of regional currencies sent shockwaves through the Hong Kong stock market.

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percent of the cost. "The market is now out of control where people are only concerned to see if they can get the business, regardless of the price." Law Society vice-president Ip Shing Hing expressed concern but admitted "nothing can be done in a free market."

In July 2000, in the midst of the crisis, *Hong Kong Lawyer*, the Law Society's official journal, spoke to several local solicitors about how the decline in the conveyancing market had affected their business. A Mr Szeto [not his real name] told the journal he had been practising conveyancing in his Central office for almost five years. Before 1997, conveyancing provided almost one-third of the total profits of his two-partner firm. "Now it has shrunk to as low as one-eighth," he lamented. "In the bumper days before 1997, we were getting as many as 90 transactions per month. Today, we are grateful to get 20."

Before 1997, under fixed scale fees, a solicitor could charge up to HK\$20,000 in conveyancing fees for a flat worth HK\$3 million. By mid-2003, law firms in Central were offering the same services for between HK\$3,000 and HK\$4,000.

A Mr Law, again not his real name, summed up the pessimistic outlook for *Hong Kong Lawyer* in 2000: "The value of property has been dropping so dramatically that the market value of a home owner's flat represents only a fraction of its mortgaged value. People would rather put their cash into the banks to earn interest and the rewards they could accumulate would be higher than those they might earn by investing in a property."

As conveyancing revenue dried up, bad debt among lawyers grew to alarming levels. The Law Society began arranging business management courses and other training to help members diversify their practice.

Solicitor Daniel Wong Kwok-tung told a newspaper in October 2002 that firms had "been slashing costs since 1997 wherever they could" and noted that the future looked dim for those relying on traditional sources of income. "Before 1997, no one cared much about how much money was spent here and there. But now income is so unpredictable that people are signing shorter term tenancy agreements because they're

not sure if they will be able to pay next month's rent."

The economic downturn at the time did not help. People tightened their wallets and became less litigious. Even married couples who would have sought a divorce under normal circumstances stayed together because splitting up meant having two households with little job security. Some lawyers found ironic niches in the downturn. Thomas Tse Lin-chung said at the time his firm was fortunate as it specialised in workers' compensation cases, which had increased.

There were also debt problems and bankruptcy cases. But many firms worked their lawyers harder than ever, offering flexible payment plans to customers and slashed other fees. For example, consumer insolvency cases that could cost up to HK\$10,000 just a year earlier were available for between HK\$1,000 and HK\$2,000.

The *Hong Kong Lawyer* concluded in 2000 that the decision to make fees negotiable was probably bitter medicine needed by the profession and local economy: "The winds of change may blow cold, but they may have given the hous-





Prospective buyers attend a public offering of Home Ownership Scheme flats in 2002.

ing market a much-needed shake. Rising property prices eventually hurt the economy and make the HKSAR a less attractive place in which to do business. The latter point takes on further significance in the light of China's imminent entry into the World Trade Organization (WTO) and the increase in foreign firms wishing to set up here. More realistic property prices and simpler conveyancing procedures may mean a loss of profit to conveyancing solicitors, but it is more important that the SAR develops a sound, sustainable economic base on which to prosper, and that can only come from diversification and the development of high-technology and service industries."

The concerns of the legal profession before the handover were put to rest with the continuity of the judicial system which had been guaranteed in the Hong Kong Reunification Ordinance. Courts and tribunals which were previously in existence (though some were renamed) were all re-established and operated as before. A Hong Kong-based Court of Final Appeal replaced the Judicial Committee of the Privy Council as the

highest court of appeal. All judges who were in service immediately before the handover were re-appointed by the Chief Executive and solicitors continued their work unhindered as before.

The Law Society itself saw the successful launch of the Continuing Professional Development Programme and the move of its headquarters from

Swire House to its own premises at Wing On House.

Still, as President Anthony Chow Wing-kin wrote in a column headlined "Painful Adjustment" in the January 1999 edition of *Hong Kong Lawyer*: "I think I can safely say that it was also a year that a vast majority of our Members would like to forget."



Owners of negative equity properties aired their grievances at a public meeting in Tsuen Wan in November 2001.





Property prices more than doubled in the years before the handover. By 2003, they had dropped by 70 percent.

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A NEW ERA

As of May 2007, there were: 5,741 solicitors with a current practising certificate. 4,678 were in private practice working in 705 firms, 1,965 were partners or sole practitioners. 2,818 worked as assistant solicitors or consultants in law firms. 1,063 were employed by private business or the Government.

Of the 705 firms, 315 or 45 percent were sole practitioners. Of all the sole practitioners, 41 percent did not employ any other legally qualified persons. Of all 5,741 practising solicitors, 57 percent were men and 43 percent were women. Of the 596 trainee solicitors employed by 195 firms, 33 percent were men and 67 percent were women.

Eighty three percent of practising solicitors were ethnic Chinese. There were 53 foreign law firms which employed 322 foreign lawyers. 518 foreign lawyers were employed in local law firms.

The strain of the times was clearly showing. In answer to queries from members about what the Law Society could do to generate more business opportunities for the legal profession, Chow replied: "Whilst I sympathise with the predicament in which a lot of our Members find themselves and the Council will use its best endeavours to assist, I hope our Members realise that as the regulatory body of solicitors in Hong Kong, the primary obligation of the Law Society is and will always be the regulation of the conduct and maintenance of the quality of its Members."

The heyday of conveyancing was clearly at an end, but the economic crisis rocking Hong Kong was going to get a lot worse before it got better. The trigger for the further slide was a doctor from Guangdong named Liu Jianglun who booked into the Metropole Hotel in Ho Man Tin, Kowloon on February 21, 2003. Liu had travelled to Hong Kong to attend a family function. Before his arrival, he had been treating patients in Guangzhou who were suffering from what appeared to be a mysterious form of pneumonia. Liu was already showing similar symptoms when

he reached Hong Kong, but the following day he felt so ill that he left the hotel and took himself to Kwong Wah Hospital, warning staff he was infected with a "very virulent disease." In his short stay at the Metropole, Liu (who had been booked into the prophetically numbered Room 911) had infected 16 other guests, who in turn carried the first major new disease of the 21st century to Vietnam, Canada, Germany, Singapore and Ireland. Liu died on March 4, the first casualty of the as-yet-unnamed Severe Acute Respiratory Syndrome, or SARS.

Although SARS originated in the Pearl River Delta, Hong Kong was its conduit to almost 30 countries, where it infected more than 8,000 people. By June 23, 2003 when Hong Kong was finally removed from the World Health Organization's (WHO) list of SARS-affected areas, the disease had struck 1,755 people in Hong Kong, of whom 299 died. Of these, 329 cases including 41 fatalities occurred in the Amoy Gardens housing estate in Kowloon Bay.

"For Hong Kong, SARS is likely the most significant medical disaster in its modern history," legal academics

D.K. Srivastava and Richard Cullen wrote in the months following the outbreak. The consequences of the crisis were "serious and far reaching," with the city resembling a ghost town as people shunned restaurants, cinemas and shopping malls – anywhere with crowds – choosing instead the perceived relative safety of home.

But although SARS worsened the Asian financial crisis, the fallout from the disease had minimal effect on global trade, ravaging instead the local service industries. Following a WHO travel advisory against Hong Kong, passenger air traffic in the HKSAR dropped by 80 percent at one point while local hotels were practically empty. Many local businesses went under, while thousands more struggled on to avoid bankruptcy.

It was highly likely, Srivastava and Cullen predicted, that many of the key players in the crisis – victims, their families, frontline hospital staff, health administrators and other civil servants – would be seeking legal action, or defending themselves against it. Of particular interest to the authors were the public law consequences of the outbreak. The near simultaneous outbreak of the disease abroad also made it possible to observe the onset and reaction to the disease in comparable jurisdictions. For example, it was concluded that timely preventative measures spared Vancouver from a serious SARS outbreak, unlike Toronto, which was slow to react.

One of the first cases to emerge in Hong Kong involved Frankie Chu Hei-tak, a corporate lawyer for a Chinese television station in New York. A traffic jam on the morning of September 11, 2001 saved his life when he missed a 9.30am bank appointment at the World Trade Centre. But that event prompted Chu to move his family back to Hong Kong.

He contracted SARS on a flight to Beijing on March 15, 2003 and was admitted to Tseung Kwan O Hospital on March 20. Despite his illness he was first put on regular antibiotics and did not receive the SARS treatment of

steroids and Ribavirin until a week later. He died on April 16.

Chu's wife Karen discussed taking legal action against the hospital with her husband's lawyer friends but was told that unlike in the United States, suing for medical malpractice in Hong Kong was extremely difficult and would cost between HK\$1 million and HK\$2 million to take the case to the High Court.

Srivastava and Cullen found that while the handling of the SARS crisis in Hong Kong by both frontline medical and related staff to be excellent, the Government's management of the crisis was lacking.

The authors noted significant legal issues would need to be addressed by plaintiffs. While the legal position appeared to be "fairly favourable" for some potential plaintiffs such as certain

frontline medical staff, the absence of a specific class action regime in Hong Kong heightened the risk for individual plaintiffs considering SARS-related legal action. The existing provisions in the Supreme Court Rules left open the possibility, though, of gaining court approval for what might be termed a "*de facto* class action" using a test case for a particular group of plaintiffs, such as the residents of Amoy Gardens.

The Government eventually established a Trust Fund to provide ex-gratia payments ranging from HK\$100,000 to HK\$500,000 for surviving family members, survivors with long-term health effects and even suspected SARS patients who suffer long-term effects of treatment with steroids.

The assistance is provided "on a without admission of liability basis" and

## Conflict as Law Society calls for end of tender system

THE Law Society has called for the abolition of the Housing Authority's tendering system which it claims has forced solicitors to "cut their own throats".

But the authority insists the system does not have loopholes "in principle" and should continue.

"Our goal is for the conveyancing fee to be reached in an open, fair and reasonable way. In principle, I do not find any loopholes in the system and do not see why it cannot be continued," Assistant Director of Housing, Simon Lee Pak-sing, said yesterday in defence of the authority's controversial tendering system, which was introduced in March.

The authority received submissions from 79 firms out of 86 invited companies when the tender for the Home Ownership Scheme closed at 10 am yesterday.

But the authority has yet to announce whether any bidders had offered a price lower than the solicitors' agreed minimum of \$3,500 per flat in the scheme.

*The tendering system forced the legal profession to "do business at a loss".*

Meanwhile, the Law Society also broke its silence and hit out at critics of its move to fix the minimum fee.

Law Society spokesman and member, Peter Sit Kien-ping, denied the price-fixing allegations.

He said the tendering system forced the legal profession to "do business at a loss" because they had to compete by lowering their legal fees.

The spokesman called for the resumption of the rotation system — which meant a panel of the Housing Authority's selected law firms would rotate housing projects.

Mr Sit said conveyancing fees for authority projects plunged by 30 per cent in five months — from \$1,250

per flat when the tendering system was introduced in March to \$897 in July.

"The practice brought the concerns of some members, who are worried the tendering system could create a vicious competition and force law firms to cut their own throats," Mr Sit warned.

The firms were doing business at a loss, which also means it is hard to guarantee their service quality.

"We should place priority on public interest, but consumers' interest is not the totality of public interest," he stressed.

Mr Sit explained that the proposed \$3,500 legal fee was recommended by the Cost Committee, a statutory body in Hong Kong to review legal fees.

He added that the Law Society was alarmed by a flood of public complaints against the quality of legal services. The society spent \$18 million to inspect the service quality of the profession last year — which was six times the \$3 million spent in 1997.





Like all Hong Kong people, lawyers went about their business during the SARS outbreak.

Law Society  
100th Anniversary

is administered by the Director of Social Welfare in consultation with an independent committee.

Members of the Law Society were quick to respond to the crisis. On March 27, 2003, they held a press conference to explain the SARS-related implications of the Employment Ordinance and other legal issues arising from the crisis.

A SARS telephone hotline was launched on April 7 to offer free legal advice through the Law Society's Community Relations Committee of the External Affairs Department. Volunteer lawyers offered advice on questions relating to the Employment Ordinance, Landlord and Tenant Ordinance, claims procedures and other issues.

The hotline, run jointly with volunteer doctors and nurses, started initially as a service for the hard-hit residents of Amoy Gardens, but was expanded to assist the general public.

In early May, the Law Society and other groups formed the HK Coalition of Professional Services Atypical Pneumonia Charitable Trust. Members of the coalition, including lawyers, engineers and surveyors, visited residents of Amoy Gardens' worst affected residential area,

Block E, on May 8 to inspect the building and advise on repairs and maintenance.

SARS eventually subsided as mysteriously as it had appeared. By mid-2003, Hong Kong received the all-clear from its worst public health scare in more than a century.

By the end of the year, light was beginning to show after its worst financial downturn ever. It did not take long for such events to seem part of

the distant past. With the continuing emergence of the mainland economy, the future was increasingly promising for the new generation of Hong Kong lawyers, who had a choice of three tertiary institutions at which to gain their degrees: The University of Hong Kong, City University, and from 2005, the Chinese University of Hong Kong. No doubt many challenges and changes await the profession in this exciting era.



The Amoy Gardens Estate in Kowloon suffered the worst outbreak of the mysterious disease.

## LAW SOCIETY PRESIDENTS (1995-2007)

**Christopher Chan Cheuk** was Law Society president from 1996-1997 while working for Woo, Kwan, Lee & Lo. His presidency was a period when the Legislative Council was dealing with the Legal Services Legislation Bill. As he himself noted in his report, he had led "numerous delegations" to make submissions to various LegCo Committees. His frequent appearances led one legislator to remark that Law Society members were attending more often than LegCo members themselves. During his presidency, Chan focused on the need to bring knowledge of the law to the public, especially the Basic Law, which was the theme for Law Week that year. Chan stepped down as president to take up an appointment as a District Court judge in 1998.

**Anthony Chow Wing-kin** from the firm of Peter C. Wong, Chow and Chow was president during the tumultuous years of 1997-2000 when Hong Kong was being rocked by crisis after crisis including the economic meltdown and the interpretation of the Basic Law. The abolition of the conveyancing scale charges just before the handover led to Chow urging members in his 1998 report to diversify their practices away from the traditional conveyancing business. With the Asian economic downturn taking its toll, Chow reminded members in his 1999 report that they were expected to act in a professional manner even during hard times. He encouraged members to participate in the Continuing Professional Development courses. One bright spot was the move to Wing On House which gave the Law Society its own premises for the first time, a move that Chow had advocated for several years.

**Herbert Tsoi Hak-kong** from Herbert Tsoi & Partners was president from 2000-2002, at a time when Hong Kong's economy was making a slow comeback. The new millenium began with the Law Society making efforts to benefit from China's expected entry to the World Trade Organization. The Society organised seminars for members to acquire the knowledge to enter the China market. Tsoi noted in 2001 that firms were still going through the painful process in 're-tooling' their practices to diversify. He noted in his report the great interest among members in ongoing discussions with mainland legal authorities to allow mainland lawyers to have some form of association with Hong Kong law firms. Tsoi highlighted the issue of higher rights of audience, promising to find ways to open new opportunities for members.

**Ip Shing Hing** was president from 2002-2004 while working at Christine M. Koo & Ip. His presidency was a challenging time when SARS hit Hong Kong, further weakening the economy. The Society held a press conference to explain employment law, consequences of quarantine, absence from work and expectations for a safe work environment. It set up a hotline for people to get more information. The CEPA agreement which came into effect in January 2004, was a timely boost to Hong Kong's sagging confidence. Members helped promote the benefits of CEPA, and mainland lawyers were invited to spend time at Hong Kong law firms.

**Michael J. Lintern-Smith** from Robertsons was president from 2004-2005 when the effects of CEPA were still being analysed. In his report,

Lintern-Smith said while professional links had strengthened, more had to be done to open the mainland's legal system to foreign lawyers before the profession could benefit from CEPA. During his presidency, the Society introduced the Risk Management Education Programme, which required mandatory attendance by all principals. Lintern-Smith said in his report that the course "will be of benefit to clients and should enable practices to become more efficient and less of a drain on the indemnity fund. It may also enable principals to sleep better at night."

**Peter C.L. Lo** from Woo, Kwan, Lee & Lo served as president from 2005-2007. The Society's Law Week continued to be a success with the introduction of a Community Law Course for the general public. Lo noted the popularity of the course in his 2005 report. A Recreation and Sport Committee was formed under Lo's presidency, enabling members to play against other professional bodies in competitive sports. Lo proudly announced in his 2005 report that "players had acquitted themselves with credit".

**Lester G. Huang** from PC Woo & Co was elected president in 2007. In an interview, he said that there were some issues he would like to address during his presidency, including negotiating with the Government for a better pay rate for legal aid work; servicing the members better with regular communication and continuing the work of helping the public to better understand the law. Huang has also served as vice president of LawAsia since 2003.



*The Law Society of Hong Kong organises many extra-curricular activities, including sporting events, to give its members a chance to socialise and network in an easy and fun atmosphere.*

*Hundreds of members participate in the annual Law Week, which highlights the importance of the legal profession to Hong Kong people. Law Society council members also make regular trips to the mainland to visit legal practitioners and share their expertise and knowledge.*

*Through these regular events, both formal and informal, the Law Society ensures that it remains an active, vital part in the life of every one of its members.*

## Law Week

Since its inauguration in 1991, the annual Law Week has been an eagerly awaited event in the legal calendar. It is regarded by many members as the Society's pivotal achievement. Thousands of Hong Kong people flock to the event seeking legal advice which is generously offered *gratis* by hundreds of Law Society members, while public forums and seminars also serve to enhance the public's understanding of the legal profession.

Law  
Society





# 2007 Centenary Lecture and Gala Dinner

Serving the community with distinction is a major achievement that any society can be proud of. The Law Society celebrated its centenary in style.

First up was a centenary lecture held at the Island Shangri-La Hotel on April 14 by Sir Konrad Schiemann, the United Kingdom's Lord Justice of Appeal from 1995-2003 and one of the judges of the European Communities' Court of Justice, who spoke on the topic of "A Union with Several Legal Systems – the European Experience."

The highlight of the year was a gala dinner and dance on June 7 at the Hong Kong Convention and Exhibition Centre with guests of honour the Chief Justice Andrew Li Kwok-nang and the Secretary for Justice Wong Yan Lung. Following a cake cutting ceremony, the 1,100 guests were entertained by singing star Francis Yip.





# China Visits

Hong Kong's solicitors are held in high regard for their skills and international expertise. That is why they are in high demand on the mainland as it continues to open up to the rest of the world. Since the 1980s, Law Society members have made frequent trips to visit their Chinese counterparts to share their expert knowledge and strengthen ties across the border.



Law Society



# Inaugural Sports Night

November 18, 2006

The Regal Hong Kong buzzed with life on November 18, 2006 as members of the Law Society gathered to celebrate its inaugural sports night where prizes were awarded following vigorous games of volleyball, basketball and tennis. Now established as an annual event, the end-of-year competition gives members a chance to socialise in a fun-filled atmosphere.





# 2007 Centenary Sports Meet

Close to 250 lawyers from Hong Kong, Beijing, Shanghai, Taipei, Guangzhou, Macau and Shenzhen gathered at the Chinese University on July 7-8 for friendly matches of soccer, badminton, tennis and bowling.



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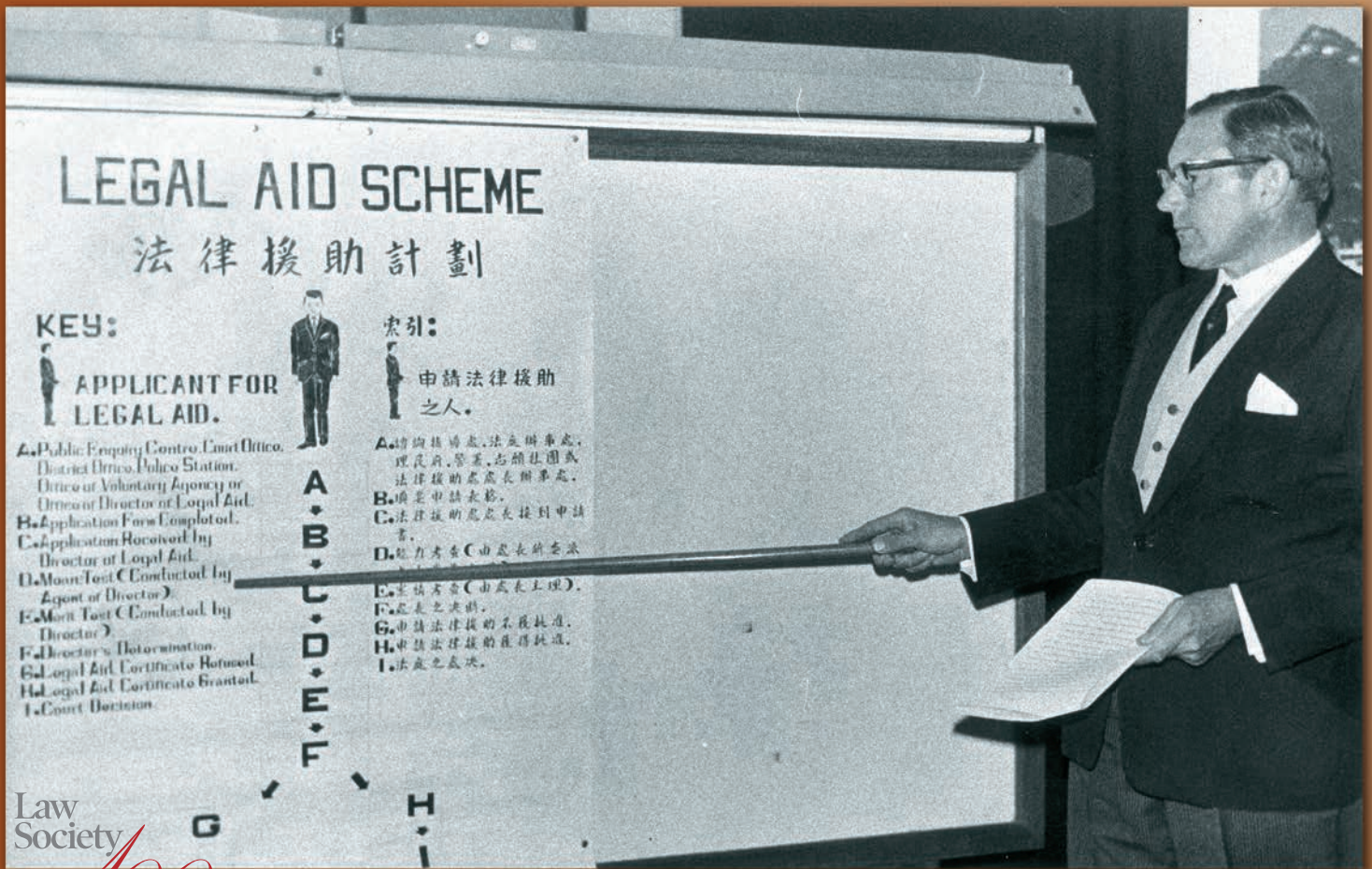
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The emergence of local lawyers in the 1970s changed the face of Hong Kong's legal community.  
The Hong Kong University set up the Colony's first law school which was housed at the now  
demolished police officers' dormitory at the junction of Caine and Seymour Roads.







Scott Haydon, acting director of the Legal Aid Scheme in 1967, explains the means and merits test for legal aid applicants.

## The Changing Profile Of Solicitors

*The output of law graduates at HKU helped change the face of the profession, with a corresponding change in the make-up of the Law Society which, in 1983, had for the first time, more Chinese members than expatriates.*

The British-educated Anglo-Saxon male solicitor that dominated Hong Kong's legal scene in the early days of colonial rule continued into the 20th century when market forces brought about a greater mix in the pool of lawyers. While the largest firms still recruited from the United Kingdom, aspiring young local solicitors also saw their opportunities grow alongside Hong Kong's booming economy. By 1972, as the University of Hong Kong turned out its first graduates, the uncertainty over the qualifying exams had been settled after Professor Peter Willoughby of the Law School lobbied hard to have the Postgraduate Certificate of Laws (PCLL) established here, sparing graduates from having to sit qualifying exams in the United Kingdom.

Among the HKU graduates who went on to serve as president of the Law Society were Peter C. Wong and Christopher Chan Cheuk.

Albert Chen Hung-yee, who graduated in 1980, became the first Hong Kong-born and bred solicitor to pursue a teaching career at his *alma mater*, going on to become Dean of the Law School in 1996. In the 10 years after Chen graduated, he saw the number of graduates grow from 56 to 150. As Dean, he was instrumental in introducing the mixed degrees in law and business, and law and political science, while also introducing the Master of Common Law Programme for mainland students.

The opening of a law school with the LLB at the City University of Hong Kong in 1987, followed by the introduction of the PCLL a year later, and a full-fledged faculty in 1993, provided another avenue for law students. Associate Professor Anthony Upham, who joined the school in 1990 as its first batch of graduates emerged, recalled: "I took my



first degree in 1961 and I went to a red-brick university, one of the new ones springing up at the time. We had to break in, as we were being compared to the established universities of Cambridge, Oxford and London. City University went through the same situation, because it was not until our graduates go out and make something of themselves that the profession starts to take notice."

The City University's Law School was the new kid on the block but Upham remembers how the institution made the best of the situation by maximising on its advantages, especially in the way it treated foreign and returning students by mixing them with local students to "widen visions, standards and English skills." The smaller class sizes also helped to create the feel of a law firm which helped the students prepare themselves for the real thing.

In 2005, the Chinese University of Hong Kong launched its own law school, with more than 750 students enrolled in its second year of opening. "We've got the mostly highly qualified law students in Hong Kong's history, with over 34 percent of them entering with first class honours," said Professor Stephen Hall of the school.

Two decades after Hong Kong's first law school opened on the Pokfulam hillside, the profession became troubled over what it felt were problems with the PCLL, specifically that the two law schools lacked a uniform approach to assessment, and that the courses had become outdated and were no longer practical. Law firms were also unimpressed by the quality of some graduates. The rift that opened between the legal profession and the universities turned into a crisis in the early 1990s when the Law Society and the Bar Association considered introducing their own separate examinations if the law schools did not improve. That would have meant yet another hurdle for students to overcome.

The situation came to a head in 1997 when the Society launched its own study that served as a catalyst for change, leading to an Advisory Committee on Legal Education's recommendation for a

fully-funded, full-scale review. Overseeing the review was an informal Steering Committee on Legal Education, staffed with representatives of the law schools, both branches of the profession, the judiciary and the government.

A final report in August 2001 compiled by Australian consultants recommended the replacement of the PCLL with a course operated by a free-standing institution with representation from all the relevant parties as well as from the wider community.

Former Solicitor General Robert Allcock recalled the problems plaguing the PCLL: "We were receiving complaints from so many people that we had to take it seriously. In the past, the universities ran a PCLL course without input from the profession. Some thought it wasn't developing to meet current needs. The judiciary suffered from faulty paperwork by solicitors, or barristers that weren't any good in court. What came out of the committee was a more

formal structure, whereby the professional bodies had a direct say into course design and examination. They were much more involved."

Once a system was in place for the profession and law schools to work together on the PCLL course content, their cooperation extended into newly-formed Academic Boards from where the profession could influence matters such as admission requirements, assessment methods and standards.

On September 1, 2004 a statutory Standing Committee on Legal Education and Training was set up to replace the *ad hoc* and advisory bodies, creating the three-tier mechanism of the Standing Committee, PCLL Academic Boards and sub-committees for the working level.

Lester G. Huang, who became Law Society president in 2007, believes the new arrangement has benefitted the profession: "We have trusted the universities to do the institutional vocational training, whereas the firms themselves, when they hire trainees, do the vocational training.



The PCLL had teething problems in the early years, solved later by a Standing Committee made up of the various parties in the legal sector. Picture shows the 2007 PCLL opening ceremony at the Hong Kong University.





Graduating LLB class of 1996 at Hong Kong University. By the 1990s, the combined output of Hong Kong's law schools changed the face of the legal profession, making it more ethnically Chinese.

So the two have got to be linked. They cannot be totally divorced."

No amount of hours spent in the classroom or reading books can prepare a solicitor for the real world of meeting clients and keeping billable hours, which is why solicitors go through a period of articleship to hone their skills. Anthony Chow Wing-kin, Law Society president from 1997-2000, recalled how he decided against a career in dentistry to become a lawyer instead: "The very prospect of looking in people's mouths for the rest of my life was too much." He was also heavily swayed by his then-girlfriend whom he met at boarding school in the United Kingdom and who later became his wife. Chow still remembers her words: "If you had actually gone on to become a dentist, I would never had gone out with you!" Chow chose London's College of Law because of the shorter course terms even though it was like an intense crash course without holidays. Once done with school he found himself in a highly competitive job market which finally yielded something after a month of letter writing.

At a Friday interview with a Jewish law firm, he was asked three questions - "when can you start, how much do you want, and did you know this was an Jewish Orthodox firm" to which Chow replied: "Tomorrow, whatever you want to pay me, and it doesn't really matter." The interviewer liked his responses and Chow got the job for £15 a week and was told to start work Monday morning.

"Not only was I the first Chinese, the first Asian, I was also the first non-Jew in the firm. It was very interesting," said Chow, who also enjoyed a four-and-a-half-day week, due to the firm's observance of the Jewish Sabbath. His articleship included keeping his lunch kosher and cheering *l'chaim* before drinking, earning him the nickname "Tony, the Chinese Jew" from his colleagues.

Simon Ip Sik-on, Law Society president from 1987-1989, did not go through what he called the "turgid" process of learning the laws before seeing them in practice. He also opted for five years of apprenticeship and studies, completing his training in England after

attending the College of Law. The benefits of that route to Ip was the chance to see the law in action, relating his experiences in the office to his studies. On his first day, he was handed a kettle, working from the very bottom delivering mail and making tea and photocopies. With email and faxes still years away, Ip recalled jumping on and off the London tube and buses, making his way around Piccadilly and Berkeley Square.

Roderick Woo Bun, Law Society president from 1993-1996, started work out of a desire for early independence. At the advice and recommendation of his secondary school teacher, he was offered the job as a litigation clerk by P.T. Yu who told him, "Young man, this is hard work. Harder for us in fact because we have to train you." But Woo still had no hesitation in accepting the job at HK\$50 per month in 1958.

"I was told to observe the firm's elderly litigation clerk's daily routines and learn from him. Not unnaturally, the man suspected that I was the 'replacement killer', so he became very secretive in what he did. He adopted evasive tactics



such as going to the washroom and not returning to his desk until he had done all the court work in the afternoon. In the end I simply followed him no matter where he went."

Subsequently, Woo went on to serve five years of articles (with a decent wage) in London and then started practising there. He repatriated in 1973 when the new head of the same Hong Kong firm wanted a junior partner. He did not leave that firm again until 2005 when he accepted the statutory appointment of Hong Kong's Privacy Commissioner for Personal Data. Looking back, Woo said, "Had I not left Hong Kong my chances of becoming qualified as a solicitor would have been very slim. As things turned out, I was able to become in due course the senior partner of the very firm

where I started life as the most junior clerk whose initial training largely comprised of stalking and spying on a nervous old man."

Donald Yap, Law Society president from 1989-1991, remembered that during his articleship in the United Kingdom, articulated clerks were the lowest of the low in the office. Yap still clearly recalls the early months of his clerkship, and the managing clerk who was the focus of everything. Not a solicitor by training and almost always grumpy, the old man was firmly in charge, but also a source of guidance and a model of the solicitor's non-stop work ethic. Unlike today's graduates, Yap's legal career began with a five-year clerkship, working his way up in the office by doing chores which included licking stamps,

delivering post and making tea. He was expected to study during his evenings in addition to his day-time responsibilities at the firm, an obligation increasingly difficult as his day job often bled over into the night. Yap sums up the difference between the old days, when he had to spread his studies over five years while working at the same time, to how lawyers qualify today: "By the time we qualified, we had more practical experience. On the other hand, a young lawyer that does a degree and articles would have studied all the basic laws. They would have an easier time and be a few chapters ahead on the academic side." Yap recalled what the exam proctor told him when he sat his final exam: "This will be the hardest examination you will face in your life, and I am sure you will



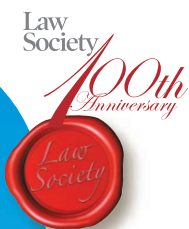
The Young Solicitors' Group did much to help new solicitors get a foothold in the profession. Picture shows the Group's 2006 Dragon Boat Team.

Like the Law Society itself, the Young Solicitors' Group had a humble beginning, starting off as an informal lunch club. It won official status five months later when, in May 2001, the Law Society amended its Memorandum of Association to allow student members.



The Young Solicitors' Group is heavily involved in community work. Here, members are pictured with children they teach English to in Sham Shui Po.





**I**n 1977, the Law Society partnered with Radio Television Hong Kong to bring law to the people through television. The 30-minute, 13-week series offering legal advice proved such a hit that it was turned into an hour-long show.

Observed the then-president of the Law Society, Wong Chung-hin: "The popularity of the programme certainly indicates the great demand from the man in the street for legal advice."

do your best, and I don't want to see you here next year."

Solicitors who took the five-year clerkship route still had to pass two sets of exams before they could be fully qualified by the end of their articleship. Former Secretary of Justice Elsie Leung Oi-sie recalled completing the second of the gruelling exams: "For part two, there were seven subjects and I failed one. It was a test of your physical strength, not just your knowledge. At the end of it you just felt blank because the seven subjects were tested over three and a half days continuously."

Albert Chen found his exams during the early years of the law school at HKU daunting. "There were no computers or Internet, so we actually had to read the cases from the law reports. All the exams were closed-book, unlike today. We weren't allowed to bring anything, so we had to memorise by heart, all those case names, which wasn't easy." Robert Allcock recalled how the exams kept the students on their toes. "There used to be a myth up at the law school that there was a quota for failures in the first year. We showed them the different failure rates over the years, but they would just respond that we changed the quotas. There was suspicion, we were quite tough, not deliberately, but we felt there was a benchmark to meet."

The output of law graduates at the HKU helped change the face of the profession, with a corresponding change in the make-up of the Law Society which, in 1983, had for the first time more Chinese members than expatriates, at 53 percent to 47 percent. By 1996, with the combined output of the HKU and City University, the Society's membership was almost three-quarters Chinese. Not only had the profession become more ethnically Chinese in make-up, it had also evolved to include people from all sectors, not just the privileged class. There were not that many lawyers in the early years, and aspiring young ones found it hard to get principals for articleships. This led to the charging of premiums for articles amid fierce competition among graduates. Family networks and

connections also played a large role in whether solicitors were able to put their learning into practice. Roderick Woo likened it to "a form of birth control for solicitors", but as more solicitors qualified, the bottleneck was eventually removed. The profile of hopeful law students had also shifted, with the number of female LLB students nearly doubling that of male LLB students in the University of Hong Kong as of 1996. The make-up of the profession was also getting younger. In 2007, 80 percent of local practising solicitors were under the age of 40, a result of the fact that Hong Kong's first law school did not open until 1969 and only began producing graduates in the 1970s.

Instrumental in opening the Law Society to trainee solicitors and law students was Cecilia Wong Ng Kit-wah, chairman of the Young Solicitors' Group. "When the Group was set up, trainee solicitors were not members of the Law Society because they hadn't finished their training and weren't yet admitted. Who were they? They weren't students, not members, just somewhere and they didn't belong to anybody," said Wong.

Created to provide networking opportunities for young members, the Group was also responsible for helping them acquire continued professional development (CPD) points. To meet a quota of 15 points each year, solicitors could contribute to professional journals, teach or attend seminars. Seminars usually worked out to be a few hundred dollars per seat, a challenge especially for younger members of the profession. "All our members had to pay because they had to attain a certain amount of CPD points. But young members have lower incomes and they still have to gain CPD points. So we thought it would be a good idea to run some CPD courses free of charge for members," said Wong. Eliminating overheads was her way around costs by pairing unpaid speakers from the profession together with the rent-free venue of the Society's office. "Just ask any member and you'll hear horror stories about how once they

**I**n 1984, the Law Society launched Tel-law, giving free bi-lingual legal advice over the phone, a scheme that is still going strong even though the Society now offers a similar service online. The 10 phone lines and 50 topics of law drew 54,646 calls in the first nine months. There are now 78 topics, and also caters to Putonghua speakers. In 2006 the Society also began free legal consultations online, with select law firms offering initial legal consultations for 45 minutes, free of charge and covering 12 areas of law.



see the circular for available courses, immediately it's too late. That's how popular it is," she said.

Aside from CPD courses, the Group also has a long tradition of public service and charitable work dating back to a tree-planting outing in 1999 organised by the Community Chest. It has kept up its links with the Community Chest as well as with the Tung Wah Group, another charitable organisation. And it has maintained other activities such as English lessons for underprivileged children and felons, and even workshops on table manners for its members. Group committee member, Bonnie Chan Jo-ying believes all these activities help to shape the character of young solicitors. "It makes sense that our group is serving the majority because 80 percent of the profession are young solicitors. The fact that we organise activities and voluntary work helps young solicitors because they work long hours, and the fact that we help get them out of the office and socialise helps them lead fuller lives."

The spirit of public service that is evident in the Young Solicitors' Group

has roots that originated from the legal aid work that lawyers provided for those in need. Hong Kong's rapid industrialisation after World War II led to sweatshops and cramped living conditions that created an underclass prone to social unrest. Many of those who found themselves on the wrong side of the law also found themselves without the financial means to have recourse to the law. Legal assistance became a key to easing frustrations and putting everyone within reach of the law. Before legal aid, the only door open to defendants without financial means was the so-called pauper's petition that enabled judges to appoint lawyers for those in need, but the tight rules meant only those charged with a capital criminal offence and those in civil cases involving less than HK\$500 could squeeze through the door. Also, the uncertainty of payment left most lawyers unmotivated, making it an inadequate system.

On November 23, 1966 the face of legal aid in Hong Kong changed when the legislature passed the Legal Aid Ordinance to cover civil actions which had been recommended by the Legal

## Extend legal aid, says Mr. P. C. Woo

A suggestion that legal aid be extended to all accused persons in the Supreme Court and the District Court and, in deserving cases, the lower courts as well, was made yesterday by Mr. P.C. Woo.

Seconding the motion that the Legal Aid Bill 1966 be given second and third readings, he told the Legislative Council he hoped Government would give his suggestion every consideration.

The Bill provides, in the main, for the granting of legal aid in civil actions to persons of limited means.

If legal aid was extended to criminal cases, said Mr. Woo, "It would in the long run save considerable time and expense and the accused person will be able, at an early stage, to establish his innocence, thus preventing any injustice being done to him."

November 24, 1966 headline in the *Hong Kong Standard* reporting the progress of the Legal Aid Bill.



A growing number of applicants in the 1980s put great pressure on the legal aid system. Here, a Legal Aid Department lawyer interviews an applicant in March 1982.





Law  
Society

The Law Society launched its popular Tel-law in 1984, providing free legal advice over the phone. Here, staff of the Law Society play tapes containing legal advice to callers in March 1984.



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THE CHANGING PROFILE OF SOLICITORS

Aid Committee made up of both the Law Society and Bar Association. Woo Pak-chuen, Law Society president from 1959-1960, said the approval of the Ordinance would "dispel the impression in certain quarters that there is one set of laws for the rich and another for the poor." Funded by the government, legal aid was subject to two tests – a merits test to establish there were reasonable grounds to proceed, and a means test to determine eligibility based on an applicant's financial assets.

A Legislative Council resolution in 1972 raised the financial threshold for legal aid resulting in even more applications. By 1978, legal aid was available to all eligible criminal case defendants in the District Courts. But a severe shortage of solicitors at the time, combined with the rich pickings from a booming property market, meant few lawyers were available for legal aid work even though legal aid had widened. This prompted the government's Legal Aid Department to form its own in-house litigation unit in 1973 which in turn led to an agreement with the Law Society to count trainee solicitors' experience gained in the Legal Aid Department towards their clerkship.

In 1977, the Law Society launched

the Legal Advice Scheme, offering one-off preliminary advice to the public. Within two years of the scheme coming into operation, 144 lawyers were offering their services free. Hong Kong University law students were also invited to assist lawyers to gain practical experience. In 1979, the Duty Lawyer Scheme started, giving free legal representation to people brought before Magistrate, Juvenile and Coroners Courts. Separate from the government's Legal Aid Department, but still publicly funded, the scheme provided yet another outlet for practitioners to help defendants unable to pay. In 1984 alone, 168 solicitor duty lawyers represented 18,652 defendants on 24,370 charges.

In 1984, under the directorship of solicitor Patrick Moss, the Legal Aid Department introduced the Supplementary Legal Aid Scheme. This is a means and merits tested contingency fee scheme to assist those with a level of income or capital higher than that required to qualify for aid under the main scheme. It is available for actions to recover money and provides legal representation "in exchange" for a percentage of the damages recovered which goes to subsidise subsequent cases under the

scheme. The initial funding to set up the scheme came from a loan of HK\$1 million provided by the Lotteries Fund of the Jockey Club.

Moss said: "The 'gamble' paid off and the scheme has proved a success in meeting some of the needs of a 'sandwich' class whose members are often ineligible for assistance but are of insufficient means to pay to litigate from their own resources. Financially it was touch and go at the start but now the scheme has become self-financing. A number of overseas jurisdictions are very interested in it and want to copy it."

Actions brought under the scheme are conducted by solicitors assigned by the Director of Legal Aid in the same way as that in which other legally aided litigation is undertaken.

Legal aid was very much a part of the legal landscape of Hong Kong by the 1980s, but the system was also facing a lot of pressure. The decade saw a jump in the number of illegal women immigrants from the mainland giving birth in Hong Kong and applying for legal aid to fight deportation. The influx of nearly 200,000 Vietnamese refugees, many of whom sought legal aid for a variety of cases, added so much strain to the Legal Aid Department that the Legislative Council had to approve emergency funds for outside solicitors to deal with the growing caseload.

Fresh pressure came after the 1997 handover with the issue of mainland-born children of Hong Kong parents. An amendment to the Immigration Ordinance requiring children who wanted to return to Hong Kong to first apply for Certificates of Entitlement and one-way permits – a process that could take years – triggered a flood of applications for legal aid to challenge the law.

Reunification jitters, followed by the 1997 start of the Asian financial crisis, further triggered an upsurge in legal aid applications involving bankruptcy cases. Between November 1997 and April 1998, the number of such cases referred by the Labour



Department jumped by 40 percent compared to the previous six months.

The rapid growth in legal aid during the 1980s and 1990s coincided with another major shift in the profession - a rising number of solicitors turning to areas other than private practice. Never before in Hong Kong's history has there been so many members of the profession working as in-house lawyers or corporate executives and managers. When the Law Society began keeping records in February 2006 of members with practising certificates but not in private practice, it found that more than 25 percent of the members belonged in this category. Hong Kong conglomerate Hutchison Whampoa alone had 350 in-house lawyers as of 2007.

For most in-house lawyers in Hong Kong, work is probably more specifically focused than the broad range of duties at major corporations like the MTRC and Airport Authority. But it is no less rewarding. Kenneth Ng Sing-yip is Head of Legal and Compliance at one of the territory's oldest banks. He spent "three enjoyable years" in private practice but hasn't looked back since joining his current employer 20 years ago. He believes working in-house provides a number of advantages for both lawyer and client.

For one thing, while the in-house solicitor must always be mindful of costs, he or she is not under the same pressure to generate revenue as the private practitioner and so can devote more time to purely legal work. Job satisfaction is another plus: "While one can make good friends out of clients, there are times when even good and appreciative clients challenge your bills and you feel really bad," Ng said. "This will not happen in-house. If you do a job well, the internal clients appreciate it. They know very well that you are their colleagues and you help to solve their problems."

These views are echoed by Peter Griffiths, General Counsel at the Hong Kong practice of one of the world's largest accountancy firms: "The main difference is that as an in-house counsel, one only has one client. Billing is not

such an issue in the corporate environment, although some very large corporations expect their legal departments to bill other parts of the corporate organisation for work done. The other difference is in the professional work. Often in private practice you specialise in a particular field but as a corporate counsel, unless you are in a very large corporation, the legal work is more general and hence gives a lot of variety of experience."

Another joy of working in-house, says Ng, is participating in the decision making process. "When I first met the company chairman 20 years ago, he told me that the organisation did not need a 'two-hands lawyer,' by which he meant someone who indulged in saying 'on the one hand... and on the other hand' while not providing definitive advice. He did not enjoy reading pages of legal advice,

and this, I believe, is a point not only for in-house lawyers but lawyers generally as clients want to be told how things can be done, not why things can't be done."

In-house lawyers agree that it is not always possible to give definitive advice in private practice because lawyers tend to cover every angle (and may also have an eye on potential joint liability of other partners, professional indemnity claims and so on). Working in-house, lawyers may still go through the same mental process themselves by covering every angle, but their advice can be more robust and precise. The clients are also their colleagues. Everyone knows everyone and they all know the business well, so when collective decisions are taken, nobody will blame the other if things go wrong. Also, there is no question of being sued for professional negligence.



The issue of mainland-born children of Hong Kong parents seeking abode rights here after the 1997 handover created a fresh load of applicants for legal aid. Picture shows legal aid lawyer Pam Baker helping relatives of mainlanders fill out application forms in February 1999.







Many mainland businesses use Hong Kong law firms when looking to list in Hong Kong and internationally. The amount of work required has led to a boom for local solicitors.







Mainland enterprises were slow to list in Hong Kong, but once the trend started in the 1990s, it paved the way for a boom, providing much work for Hong Kong solicitors. The Bank of China's listing, one of the biggest in the world, drew long lines in May 2006.

Law  
Society

100th  
Anniversary

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ADAPTING TO CHANGING TIMES

*Where once most solicitors operated as sole proprietors, the majority now operate as partners. Law Society figures in September 2007 show that only 6.7 percent or 319, were operating as sole proprietors.*

Hong Kong's legal profession has gone through so many changes in the past 100 years that it now bears little resemblance to what it was on that chilly, overcast day on April 8 1907, when seven of the Colony's most distinguished solicitors incorporated the Law Society of Hong Kong. Foremost among those changes have been the shift in strategy from sole-proprietorships to small-and medium-sized partnerships, the increasingly competitive nature of the profession, and the inescapable reality of the need to have an international presence to stay afloat.

Where once most solicitors operated as sole proprietors, the majority now operate as partners. Law Society figures in September 2007 show that only 6.7 percent, or 319, were operating as sole proprietors.

Globalisation has created a demand for large multinationals with a spread of branch

offices to serve the needs of international clients. Although the profession is highly stratified with a mix of various-sized firms, the feeling is that there is room for everyone despite the competition lawyers face.

The reasoning behind this is simple: different clients seek out different law firms to suit their needs which means the multinationals would not be competing with the small firms for business.

Changing attitudes towards the legal system have also generated a need for lawyers that was not there even in the recent past. Many now turn to the law to shape government policy and bring about social change as evidenced by the use of the courts to deal with issues like harbour reclamation and the fate of the Central Star Ferry Pier and Queen's Pier, revealing the emergence of a social justice consciousness.

## Adapting to Changing Times



Larry Ko Sai-kit, a partner at a law firm which has 14 partners, describes the practice as medium-sized and believes clients like it that way. "I think Chinese people especially prefer to go to the smaller-sized firms. Maybe they feel intimidated by the large firms and the smaller ones have the personal connections. If you are a large bank or business, then you are used to dealing with large conglomerates but I think that ordinary Chinese people feel more at ease with family-based middle-sized firms. I think some people also baulk at seeing a sole practitioner, but with three or five-man firms, they think that there is some back-office support."

Not only has the size of the firms changed over the years, the profession itself is no longer as tightly-knit as it was. The profession has grown rapidly in pace with Hong Kong's economic growth, and with growth comes increased competition. Many firms, for instance, now have office managers with an eye to profit margins. Lawyers who have been around since the old days say this increased competition, while necessary, has also been at the expense of professional courtesy. They also lament the loss of many of the informal customs they had grown used to.

Recalled Charles Sin Cho-chiu: "Solicitors in my day more or less knew each other and the profession was rather friendly. Judges, magistrates and lawyers were much more down to earth then. They did not belittle each other nor were they condescending. We were very mindful of teaching and training the more junior members of our profession in an amiable and non-confrontational way."

Paying courtesy calls on judges and magistrates, often together with the solicitors who represent the other side, is another tradition that has died out, seen as a "quirky" custom that has outlived its time. Lawyers nowadays often go without greeting each other in court, preferring to get straight down to business instead, which is a far cry from the days when they would go out for tea after the case. Some of the older lawyers say the

principals nowadays still do a good job in teaching their trainees the practical aspects of the profession, but the personal touch of the old days, like courtesy visits to judges and magistrates, is missing.

Billy Ma Wah-yan remembers when the judge would invite lawyers into his chambers after the case. "Back then, it was possible because there were not as many lawyers or cases. We would try to speedily settle cases and work to-

gether, unlike today when it is a fight. During callovers, lawyers would be much more friendly which allowed for mediation. Today there is not as much harmony between the lawyers and it's much harder to know what your opponent is thinking."

Geoffrey Booth feels the advent of court recordings has changed the once relaxed atmosphere of court proceedings. "If you've read the book, *Myself a*



The New Territories Magistracy in Fanling was opened by the then Chief Justice Sir Michael Hogan on September 2, 1961.



Court proceedings in the 1960s and 1970s had a much more relaxed atmosphere, as described in *Myself a Mandarin* by the Fanling Magistrate Austin Coates. Many lawyers say proceedings nowadays lack the personal touch.

The new Fanling Law Courts Building (left) was opened by Chief Justice Andrew Li Kwok-nang on December 6, 2002.



# Disputed scale fees to stay

By Priscilla Cheung

THE Law Society yesterday won its two-year battle to retain scale fees for property conveyancing, after offering earlier to slash the fees by up to 48 per cent.

After a marathon debate, legislators voted 27-23 to retain the fees described by the government and the Democratic Party as anti-competitive and unfair to consumers.

The Democrats and Frontier, along with legislators Dr Edward Leong Che-hung and Yum Sin-ling voted to scrap the fees.

Legal profession representative Margaret Ng Ngoi-yee, the Liberal Party, the Democratic Alliance for the Betterment of Hong Kong, and several independent legislators voted to retain the fees.

But an amendment seeking to ban free conveyance fee negotiations between clients and solicitors was defeated when a tie forced the Legco president to use his casting vote.

The new law, therefore, still allows clients and solicitors to negotiate freely although the scale fee system is retained, leaving what the Democrats called

a thorn in the side of the Law Society.

Former Law Society president Christopher Wong, current president Anthony Chow Wing-kin and members watched the 10-hour debate from the public gallery.

"I feel very sorry for consumers that they're all going to have to put up with a system that I continue to consider unfair and anti-competitive," Attorney-General Jeremy Mathews said.

"The scale fees will eventually be abolished because that's the mood of the community."

Legislator Albert Ho Chun-yan said pegging scale fees to property prices was unfair because buyers of more expensive properties had to pay more for similar services.

But Ms Ng, who championed the fees' retention, countered: "The scale fees ensure that individual consumers who have limited negotiating power would not be forced to pay higher fees (than corporations)."

Under the new law, buyers will be able to use their own solicitors instead of being forced to pay half of the developers' legal fees. The Cost Committee is expected to rule on the Law Society's offer to cut fees now that Legco has agreed to keep the fees.

This June 26, 1997 report in the *Hong Kong Standard* shows how the controversial issue of conveyancing fees came to a head just days before the handover. The headline proved to be overly optimistic.

*Mandarin* by the Fanling magistrate Austin Coates, it gives an idea of Hong Kong courts in the New Territories in the 1970s. Hong Kong had more quirks in practice and court life. There was more colour, judges used to make jokes in court. That's all been done away with now with court proceedings being recorded. People are a lot more inclined to be better behaved."

Over the years, even as the old ways gave way to the new, the cases handled by Hong Kong's law firms provided a fairly accurate indicator of the economic and political situation of the city, from the booming economy and the heyday of conveyancing to the Asian economic crisis which saw many firms downsizing in order to ride out the storm.

But nothing has had a greater impact over the past few years than the abolition of the scale fees in 1997. Many firms which had relied heavily on conveyancing were forced to look at other areas to make up the shortfall in revenue. Firms looked towards China for new work and set up branch offices to

fill the need for legal expertise sought by the many Hong Kong and international businesses that moved to the mainland.

But Fred Kan Ka-chong believes it will be hard to replace the good times that the heyday of conveyancing brought to lawyers. Legal work from just one real estate developer was enough to keep his practice going from 1984 to 1995. "We did all the work for the developer which was real estate with thousands of units a year. It was the primary driving force of the firm until 1995. It was vulnerable to be captive to one client, but we saved enough resources to survive when the relationship was broken off."

Technically, the scale fees still exist but in practice, as Leung Siu-hon notes, clients and lawyers prefer negotiating their own fees. This often results in under-cutting, making conveyancing work less and less attractive. "The practice of conveyancing is no longer a profitable one. In fact, in some cases the fees collected hardly cover the remuneration payable to solicitors and clerks involved in the transactions. Nowadays, solicitors are not eager to learn the practice of

**I**n the two decades immediately following World War II, articled clerks, now called trainee solicitors, typically did not receive compensation for their first few years on the job. Recalls Edward Sousa: "In 1952 I began as an articled clerk and had to pay HK\$6,000 for the privilege. It's not much now and some people probably spend that in a weekend in Macau but to us back then, it was a princely sum."



conveyancing." Ng Kwok-wing agreed: "The public is also looking for cheaper prices and a lack of conveyancing skill has reduced the quality of the practice. In the future, we need to educate the public that it isn't easy work."

But Peter Lo Wai-keung believes the economic crisis in the late 1990s had much more of an impact on the profession than the loss of conveyancing fees. "In early 1990s, I ran two offices, one in St George's Building in Central, and the other in Bank Centre in Mongkok. I had to give up the office at St George's Building because of the economic crisis. My business could not support the expensive rent. In the good old days, I was able to delegate my conveyancing work to assistant solicitors, and get involved in charity work and I was also a District Board member of Wong Tai Sin. During the economic crisis, the first thing I did was to reduce the size of my firm, and gave up the voluntary work."

Many lawyers saw conveyancing as "printing money" but not everyone wanted to put all their eggs in one basket. Some solicitors considered it too risky to become so dependent on it. They concluded that if most lawyers concentrated on conveyancing, there would be steady business and less competition in other areas of legal work.

Among those who saw it this way was Vincent To Wai-keung who resisted the temptation of conveyancing to specialise in civil and criminal litigation. "Nobody wanted to do litigation because it was tough. It wasn't great money but it was steady money and there was always a demand for it. After 1997, conveyancing was collapsing, and when the economy went bad, it was a boost to our litigation practice. The beauty of litigation is that when the economy is good, business is good, and when the economy is bad, business is still good for us."

Although China gradually became the new frontier for Hong Kong law firms, working on the mainland brought its own set of unique challenges, especially during the early years of its opening up to the outside world. Vincent Lo Wing-sang remembers the hard time he

had trying to explain the concept of conveyancing to Chinese officials back in 1979 when he acted for his first mainland client, a Guangzhou developer, who wanted to sell units in Hong Kong and overseas. "It was a nightmare," he said.

Important changes in the 1990s, including the creating of lease-hold interest, as part of the mainland's open-door policy, made things easier for lawyers like Vincent Lo.

"It was a whole new ball game. Most lawyers in China were unprepared so we moved into China to fill the vacuum. By the early 1990s, there were many projects, not just in the south but in all major cities, from Beijing to Shanghai to Guangzhou. Few international firms dealt with conveyancing and real estate so we had the field to ourselves. But, because of the boom and bust of the property cycle in China, the thing fizzled out and came to a halt in 1995."

Geoffrey Booth remembers the changes he has seen since joining a law firm in 1988 as a junior partner: "When I first joined, people used to bring in bagfuls of cash for fees, bail etc. Now they don't - it's all cheques."



China's opening up created new opportunities for Hong Kong law firms. Here, delegates attend a seminar on economic law in Xiamen in June 1988.





Many in the profession see mainland China as the new frontier. Delegations to the mainland have been increasingly frequent. Here, Law Society Council members meet representatives of the All China Lawyers Association and officials from the Central Government Liaison Office during a June 2001 visit to Beijing.

Law Society  
100th Anniversary

Steve Ng Siu-pang's firm became one of the first outside firms to open a mainland office in 1992. The 1980s and 1990s was a time when many clients moved to China, especially those from the manufacturing sector, and law firms had to follow. The service industry was also at a crossroads. There were clients in China, but the

law firms were reluctant because the mainland's service industry had yet to develop. Ng sums up the China market this way: "We are supplying Hong Kong legal services and acting as a conduit for Chinese and overseas lawyers to do business together. We don't need a large presence in China. We can do our work better if we put

the emphasis back in Hong Kong and not in China. In the wake of Chinese companies coming out of China, we can provide services on their doorstep and we need a better platform in Hong Kong, not in China."

In 1993 came the news that nine mainland state enterprises were preparing to list overseas and a legal framework



The advance of technology changed the way lawyers practised their profession. Instead of having to spend hours going through books, solicitors can now do research on the Internet by simply typing in key words.





needed to be developed to allow them to list in Hong Kong. Betty Ho May-foon, a lecturer at Hong Kong University at the time, was asked to look into the legal framework for mainland companies listing in Hong Kong. Not only were there compliance issues but the other hurdle she faced was that there was no company law in China at that time. Confronted with a seemingly insurmountable problem Betty Ho went through the laws of Hong Kong and identified about 200 articles that dealt with company listings in Hong Kong. International legal experts narrowed this down to about 130 articles which became the blueprint for the first batch of state enterprises listed in Hong Kong, paving the way for a boom in IPOs here.

The 1990s also saw law firms merging and forming alliances in order to have an international presence. Smaller firms felt the pressure but did not die out from this new challenge.

"There will always be room in this society for a sole practitioner or small firms even though competition may create pressure for firms to merge and consolidate," said Timothy Hill.

Mergers gathered steam when, in 2001, Andersen Legal –then the world's second largest firm by number of lawyers –acquired the local practice of

Kwok and Yih. Founding partner Larry Kwok Lam-kwong said at the time "it would be the start of a trend of mergers and acquisitions in Hong Kong."

Since then small and medium-sized firms have formed alliances or joined networks of overseas law firms. Billy Kong Chur-hoi believes such alliances are now necessary for survival.

"The world is getting smaller and smaller so we have to make alliances or have the capability to work closely with associates in other areas and countries."

The rapid advance of technology, especially the Internet, has also dramatically changed the practice of law, increasing efficiency, especially in areas such as document drafting, billing and legal research. James Jamison notes that technology has made the practice of law much faster.

"At one time, a short contract might take three weeks to review by all relevant parties and a longer one could take five to six weeks before it found its way back to you marked up in pencil and red ink from having been handled by different lawyers and clients."

One consequence of the new technology is that clients and partners alike expect prompt responses and for solicitors to always be on call.

But if the downside of technology

has been to turn the practice of law into a same-day service, the information age has also made client billing a dream.

Recalls Edward Sousae: "Before, we had to handwrite our bills on chits but now with computers the template is already there and you just fill in the blanks."

A side-effect of automated billing is that it has made the profession a lot more transparent, with clients having a clearer breakdown of charges and hours accumulated at their expense.

Perhaps no facet of law has changed as much as legal research with vast amounts of information now available online, negating the need to spend hours looking through books.

Timothy Hill said it was now possible to do away with hours of research by going to a government website and reading up on cases, ordinances or the judiciary. "You can type in terms like 'rape', 'assault' or 'forfeiture' and the search engines are so powerful that in a moment you'll get the basic legal principles and related cases both here and from the UK."

But he warns against seeing the Internet as a silver bullet. "Databases do not replace fundamental legal skills. Common sense, substantive knowledge and problem-solving skills still go a long way in a client's eyes."





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# 法律常識保權益 知

The annual Law Week, which began in 1991, is regarded by members as the Law Society's pivotal achievement. Picture shows the opening ceremony of Law Week 2006.

## Protect Your Legal Interest - Learn





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Law Society members team up with TVB stars to promote the Society's first Law Week in April 1991.

Law  
Society

100th  
Anniversary



## The Many Facets of The Law Society

*"When there are attacks on the legal system and the integrity of the courts, and even judges, in a way that could damage the confidence in courts and ultimately the rule of law, we must speak out."*

*Law Society president Lester Huang at June 2007 Centenary Dinner*

Although numerous changes over a century have greatly transformed Hong Kong's Law Society – from its humble beginnings to an influential group of about 6,300 practising and non-practising members in 2007 – its mission has remained consistent. The Society stuck to its ideals even when faced with the disruptions of two world wars, the uncertainties of economic turmoil, and the political upheavals in China. As its charter states, the Society's aim is to "promote high standards of work and ethical practice in the profession" and provide a voice for the profession to the government and other organisations. Its role as a regulator has meant having to step in to discipline members in order to ensure the public retained its confidence in the profession.

But Hong Kong's unique circumstances add extra dimensions to these roles. Few places in the world find themselves in a similar

position, culturally and politically, to the Special Administrative Region of Hong Kong. The community itself, not just the Law Society, has always known that someday this "borrowed place on borrowed time" would return to China. The Sino-British Joint Declaration of 1984 underscored that reality.

Not surprisingly, the time of greatest transformation and advancement for the Law Society was in the 1990s, during the transition years leading to the 1997 handover. The Law Society found itself fighting in many corners to make sure that Hong Kong's legal system – which had evolved over the years to become one of the most trusted in the world – remained reliably intact after the handover.

One of the most contentious issues for Hong Kong's legal profession at the time was the establishment and composition of the Court of Final Appeal (CFA) that, under the



Basic Law, would replace the Privy Council as Hong Kong's highest court.

As most Privy Council appeals took 15 months to be heard, Hong Kong faced the possibility of dealing with a judicial vacuum that straddled July 1997. Although the British and Chinese governments had agreed in principle in 1991 to the early establishment and composition of the CFA, a draft of the Hong Kong Court of Final Appeal Bill seeking the views of the legal profession was not produced until late 1994.

Much debate arose over the wording of Article 82 of the Basic Law, which states that judges from other common law jurisdictions may be invited to sit on the CFA as required. What was not clear was whether more than one overseas judge could attend any one sitting.

The Legislative Council in 1991 rejected a Sino-British provision that allowed for only one non-permanent judge to sit in the CFA at any one time. The matter came to a head again in 1995 and Legco passed it this time but only after a bitter debate. The delayed passage of the provision in turn delayed the opening of the CFA from the early 1990s to July 1, 1997.

When the CFA draft Bill arrived at the Law Society for comments, it led to a very public dispute among members on whether the CFA should have only one overseas judge whenever it sits.

Initially the Council, acting on responses to a Members' Forum and questionnaires, accepted that the Bill did not deviate from the Basic Law. Indeed, the Council saw the need for the CFA to be set up in good time to replace the Privy Council from July 1, 1997.

However, some opposing members requisitioned an extraordinary general meeting. Finding a venue in Central just before Christmas was not easy but three function rooms were booked at the Mandarin Hotel with a capacity of 350 people. On the day some 800 members turned up so the meeting was adjourned to January 15, 1995 at the Queen Elizabeth Stadium, where more than 600 members passed the Council's resolution in favour of the Bill.

"This split the Law Society membership right down the middle," president Roderick Woo Bun wrote in his last "pink letter" dated May 18, 1996. "Now that the Bill has become law, I hope a sense of unity will prevail."

The run-up to the handover was, in many ways, a defining period for the Law Society. The eyes of the world were watching not just how, and if, the political system could cope with the transfer of sovereignty, but also the legal system. And in many ways, it was up to the legal fraternity to prove it could. It was during these uncertain times that the Law Society became involved in two other important legal reforms. The Jury Ordinance at the time excluded all persons with insufficient knowledge of English from serving as jurors. "This hardly satisfies the high notion that a defendant is entitled to be tried by his peers," Roderick Woo wrote in a president's address at the time.

Due partly to Law Society lobbying, the Government introduced the Official Languages (Amendment) Bill in May 1995, allowing for the use of English and Chinese in all courts in Hong Kong. This came on the heels of another reform, again one that had been pushed by the Law Society: the Supreme Court

(Amendment) Bill that made solicitors of 10 years' standing in private practice eligible for direct appointment to the then Supreme Court. Both Bills were passed on July 5, 1995.

The provision of professional indemnity for solicitors has been a contentious issue for the Law Society for more than two decades. Beginning in the 1970s, members were insured under a compulsory scheme known at the time as the Professional Indemnity Insurance Scheme (PIIS) arranged by Lloyd's of London. Change came in the mid-1980s, however, when the insurers at Lloyd's substantially raised the premiums to a level that the Law Society found unacceptable.

Edmund Cheung Yan-shun who was the Society's president from 1979-1981, recalled: "Their reason for the hefty increase was that they and other insurers worldwide had suffered considerable losses due to the large number of claims elsewhere around the world, although our members' claims had remained more or less static. So we shopped around and were able to obtain a reasonable quotation from an insurance agent in Melbourne, Australia."

Lloyd's rushed to Hong Kong after hearing about the quotation, skeptical about a price it considered unsustainable.



One of the most contentious issues for Hong Kong leading up to the handover was the establishment of the Court of Final Appeal. Here, Law Society members discuss the issue in 1994.





Since the early 1990s, Law Week has become an eagerly-awaited annual event.

In 2003, Law Week went green with an environmental law and protection theme as solicitors were encouraged to move towards a paperless office. Led by Secretary for Justice Elsie Leung Oi-Sie, participants posted their wishes on a special "Wishing Tree" with one optimistic person saying, "I wish to swim or fish in Victoria Harbour one day!"

But the Law Society stuck to its guns, offering to continue doing business with Lloyd's only if it could match the price of the Australian insurer. "They could not match it, so we changed insurers, thereby saving our members literally thousands of dollars," Cheung recalled.

A mutual self-insured scheme known as the Professional Indemnity Scheme was established and managed by a wholly owned subsidiary of the Law Society known as The Hong Kong Solicitors Indemnity Fund Limited ("the company"). Contributions collected from members, the payment of premiums to re-insurers, the payment of that proportion of claims not indemnified by re-insurers and payment of legal and other fees are all handled through the company and the fund it administers to operate the scheme.

By 2001 the fund had built up substantial reserves. However the unexpected happened and the HIH group of insurers with whom more than half of the indemnity cover had been placed over the years either directly or through mergers of insurers, collapsed leaving a large proportion of the claims without indemnity. The potential loss was a shortfall in the fund of HK\$416 million. This came at a time when there was an unusually large number of claims pending against solicitors arising from the downturn in the property market. In the policy year 2001, although four out of every 10 claims was conveyancing related, the payouts from the fund in respect of such claims amounted to 86 percent of the total paid out that year.

The number of claims has greatly reduced partly as a result of increased awareness of the pitfalls highlighted by the mandatory Risk Management Education programme run by the Law Society, and partly by a lessened reliance upon conveyancing work within firms.

As a result of the HIH collapse, principals in all firms including sole proprietors found themselves having to pay a total of HK\$132 million to make up the deficiency in the fund and after the total reserves had been expended in the same manner. Understandably this led to a groundswell of dissatisfaction with the scheme. Consultants prepared a report on the scheme and the alternatives and in 2004 at a highly charged extraordinary general meeting members voted to take steps to move from a mutual scheme in which solicitors acted as insurers of last resort and were liable for the mistakes of their fellow members to a Qualifying Insurers Scheme ("QIS").

Such a scheme had recently been introduced in England & Wales in which members would go out to the open market to any of a panel of "qualifying insurers" for individual cover for their firms. A lot of work was done to draft rules and effect legislative changes to implement a QIS but when it was put to members at another extraordinary general meeting in April 2006 the vote was



substantially against a QIS and the mutual scheme remains in effect although subject to an on-going review.

The early 1990s was also a period during which the Law Society underwent sweeping reforms in the way it operated. A detailed study by Coopers and Lybrand (now PricewaterhouseCoopers) gave rise to the present structure of a Council with five Standing Committees, whose duties are backed up with a staffed Secretariat and relevant departments.

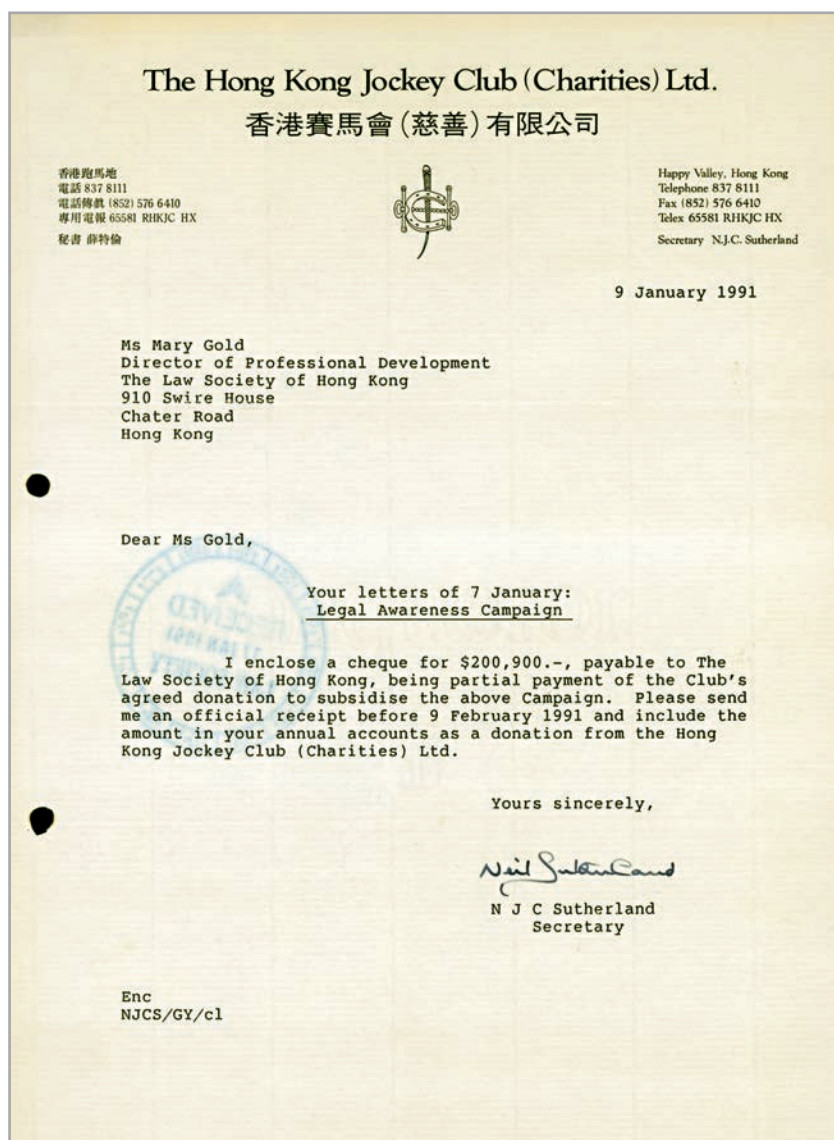
Celina Law, who was executive secretary from 1969 to 1986, remembers that when she joined there were only a few people in the office. "There were just a few hundred solicitors (as members). A lot has changed since then. There are many more lawyers now and the increase in numbers has put a greater burden on us. When I left in 1986 the workload had grown a lot, but now the Law Society work is compartmentalised. The Committee (now known as the Council) used to meet every Thursday and discuss bills which the Government had sent to us. During the meeting the members would eat lunch –they used to give us a few hundred dollars and top up the kitty when the money ran out –although the coffee and tea was free."

Patrick Moss, who became Law Society Secretary General in 1993, recalled how the Coopers and Lybrand proposals changed the very way the Society functioned compared to the way it was during Celina Law's time. "The proposals they made were very much a devolution of power from the Council to the Standing Committees which would do the majority of the work with some smaller committees under them. The rationale was to put the work into separate boxes and target it all downwards. Ultimately, a lot of the day-to-day work would be done by the departments, and the Standing Committees would be served by the corresponding departments within the secretariat." One of the secretariat's main functions was to act as liaison between the Society and the public: "We collect and pass on complaints and the occasional bouquet. We are also the link between the Council and the

committees and the membership. Ultimately, we are more able to get the feel of the profession and pass that on to the Council."

Lester G. Huang, who was elected Law Society president in 2007, has made better communication with individual members a priority during his presidency. "We have more than 40 committees and I feel that members need to be better informed on how these committees can help them in their practice. This points to the need for better communication –I am trying to meet as many members as I can and have weekly circulars. I hope the Law Society will be a more relevant organisation to all solicitors."

The Society's dealings with members have in fact grown progressively more transparent and inclusive over the years, starting in the early 1990s when Roderick Woo began writing a monthly column in the Law Society's official journal during his time as President, and when he launched a weekly personal letter to members reporting on matters of importance and interest. Members were invited to attend luncheons to meet one another, question the President on current issues, and participate in regular forums. All members could apply for membership to all committees. Non-confidential segments of all Council meetings were open to all members, and



The Hong Kong Jockey Club helped finance the first Law Week in 1991. This letter confirms partial payment of a HK\$1 million donation.



Exchange programmes with mainland lawyers have come a long way since the 1960s. Law Society past president Brian McElney recalls the story of the Canadian lawyer who went to Shanghai during the Cultural Revolution. "When he asked to meet some of his legal brethren they were taken to the local cemetery and told 'there they are'. They had all been liquidated!"



The 1997 Law Week also coincided with the Law Society's 90th anniversary.



a summary of the more important decisions made by the Council, the Standing Committees and other committees were published periodically. Members were given an opportunity to meet candidates standing for election to Council, and were given the option of voting by post.

It was a period marked by numerous changes. Perhaps most importantly, the Law Society required all members to undergo Continuing Legal Education (CLE). To help the cause of higher rights of audience, an Advocacy Institute was established that included barristers as well. It was a period that also saw the Society introduce its own Code of Conduct to further lift the performance of solicitors. A Law Firm Directory was drawn up as an aid for clients.

Beyond addressing the needs of its members, a key role of the Law Society is to represent the profession as its public face and voice. President Lester Huang during a speech at the Society's Centenary Dinner in June 2007 said: "When there are attacks on the legal system and the integrity of the courts, and even judges, in a way that could damage the confidence in courts and ultimately the rule of law, we must speak out".

Huang took his point further by making clear the Society had a responsibility to not only uphold the rule of law but to also help formulate new laws and ensure the public knows its rights. "We have a role in helping the administration and the Legislative Council to formulate better laws, so the Society makes submissions on how laws work and do not work. We also have a very important role in society in that it is incumbent on us to uphold the rule of law and to help the community understand issues of public concern from a legal perspective. Those issues come in all shapes and forms – they can be how justice is administered, the legal process, what rights they have and how the law can work for them."

A Legal Awareness Committee was, in fact, established years earlier, in February 1989, with Roderick Woo as its chairman. Two years after its creation, the Law Society's then Director of Professional Development Mary Gold wrote in a committee proposal: "Hong Kong is embarking on a momentous journey which takes her from a British Crown Colony to a Special Administrative Region of China. More than at any time in her history, Hong Kong's destiny will be in the hands of her people. There is great concern that whatever else must be preserved during and after

the political transition, the rule of law must be strongly fortified and every effort must be made to heighten the awareness of the people of Hong Kong of their rights and obligations under the law."

One way the Society raised public awareness of legal rights and obligations was through Hong Kong Law Week which many members regarded as the Society's pivotal achievement. Roderick Woo, who chaired the first three Law Weeks, called the event one of the most notable things he had been involved in. "The first event took on a life of its own, and we were uncertain whether there would be a second Law Week. But having started it, I decided it must continue. So I chaired the second Law Week, and by the third year I was Law Society president and was hoping someone would take up the mantle. But it was difficult to find someone appropriate and reluctantly I went on to serve for the third year. By that time the Law Week had become recognised as an important event in the legal calendar."

The first "Law Week" in April 1991 was in fact a two-day event, financed mainly by the Hong Kong Jockey Club which donated HK\$1 million after being approached by the Law Society for support. The event has since evolved into an almost three-week programme requiring



the services of 300 solicitors. It has become an eagerly anticipated annual event. People have now come to expect lawyers positioning themselves at different venues offering free legal advice. While there has always been a fun side to the event such as poster design competitions for children, there is also a much more serious aspect as solicitors strive to enhance the public's understanding of their profession through public forums, seminars and role-playing. A highlight was during the Law Society's 90th anniversary celebrations in October 1997 when the public was able to enter a specially constructed open-air replica of a courtroom to watch amateur actors and real lawyers act out trials.

Unsurprisingly, one of the most popular features of Law Week is the free legal advice – a section that has expanded every year. In 1997, with the economic crisis taking its toll, crowds appeared at Times Square looking for advice, with one disgruntled businessman saying "What I want to know is can I sue my broker? I lost so much I can't even afford to phone my lawyer".

Altruistic motives aside, Huang firmly believes the annual event has more than fulfilled its intended purpose. "Law Week has certainly helped the community to gain a better understanding of law and gaining access to lawyers."

Woo shares the view that people have become much more aware of what the law can do for them. "The law touches on every aspect of our life in Hong Kong, people are more aware about the law through our unique situation of being part of a country and yet enjoying another legal system."

Much as the Law Society has evolved over the years, that process has not stopped. It is in fact very much alive. Many Hong Kong solicitors now look north in search of their future, in the progression and development of the mainland legal system.

In the early 2000s, the mainland and Hong Kong Governments started talks on a trade and investment agreement whose goal was to liberalise trade in services as well. The result was the

Closer Economic Partnership Arrangement (CEPA). The Hong Kong Law Society played a fundamental role in formulating a legal roadmap that would open up the vast mainland market to Hong Kong solicitors.

Promoting cooperation between Hong Kong and mainland lawyers through visits and exchange programmes is also a mission the Society undertakes with keen interest.

Anthony Chow Wing-kin, Law Society president from 1992-2000, recalled: "Back in 1997 when we were asking for greater liberalisation of the market, the Chinese Ministry of Justice asked how we knew there was even a market in China for Hong Kong firms to form an association with local ones. We had to drum up support from provincial

lawyers and I also saw an opportunity to start up local law societies. We went to China and told them 'well, the country is about to enter the World Trade Organization, you will be playing world soccer, but have you got the skills and expertise to match the rest of the world? Is it not the best thing to team up with Hong Kong? It would raise your competitiveness.' They genuinely believed that and we also believed we would be able to help them.

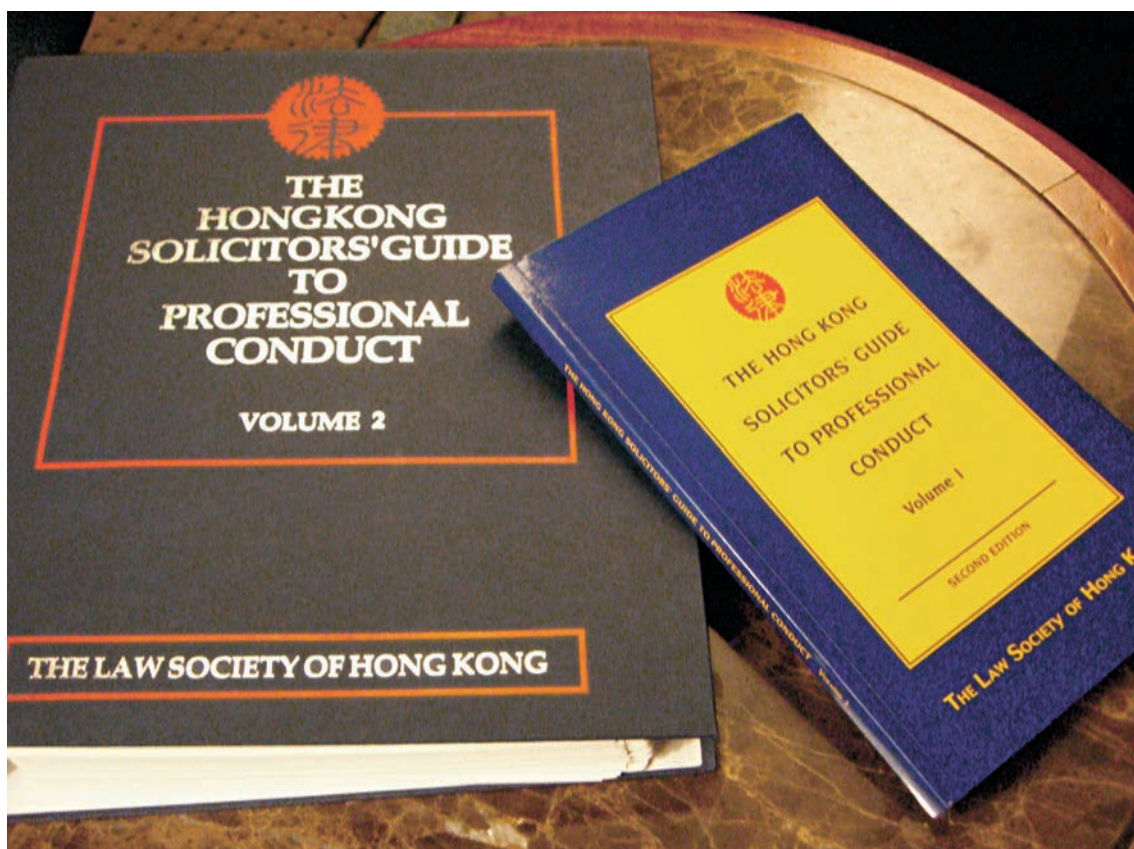
"So we signed all these agreements – we would bring them over for training and so forth. I think that has actually drummed up a lot of co-operation and has helped China improve its legal system. It has also improved lawyer skills in China as well as giving our lawyers more business."

A mock trial in an open air replica of a courtroom in Causeway Bay was a special feature of the 1997 Law Week.

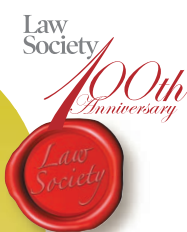


The CEPA agreement between Hong Kong and the mainland opened up business opportunities for solicitors.





The Law Society's Code of Conduct provides specific guidance for Hong Kong solicitors.



## *The Enduring Facet: Professionalism*

While there have been many changing facets to the Law Society over the years, some things have remained constant from the start. First and foremost is the discharge of its statutory functions and duties. Additionally, among other things, it protects the interests of its members and speaks out on their behalf. But at the core is the unwavering principle of setting and maintaining the highest standards.

The key to Hong Kong's success has been the rule of law, especially the common law system widely accepted by the international community. Solicitors have always been centre stage in the remarkable story of Hong Kong.

As the city continues to prosper as a commercial hub, solicitors continue to facilitate business transactions and resolve conflicts. But their activities reach

far beyond such typical services as property conveyancing, divorce, probate, civil and criminal litigations. It is not uncommon today to find solicitors in private practice who also act as Notaries Public, China-Appointed Attesting Officers or Civil Marriage Celebrants.

Today, Hong Kong has embraced the entry of international law firms whose wealth of experience have helped elevate Hong Kong's status as a financial centre to be on par with London, New York and Tokyo. At the same time, locally established law firms are blazing new trails in the mainland and setting up in other jurisdictions. Cross-border legal services on finance, securities, international trade, commercial litigation, information technology, intellectual property, mergers and acquisitions are now a major part of the portfolios of many law firms.

The Law Society rightfully can be proud that most solicitors practising in Hong Kong are locally born and educated. In addition to these solicitors, some 1,000 lawyers from different parts of the world, who work here but practise non-Hong Kong laws, are registered with the Law Society which can regulate their practices. Their presence broadens the legal services and expertise available in Hong Kong. They can apply for admission as Hong Kong solicitors only after they have passed the Overseas Lawyers Qualification Examination. Foreign law firms, as long as they are registered with the Law Society, can work in joint-operation with local firms, sharing expenses, profits and human resources.

For many years, Hong Kong has been and will certainly continue to re-



main, a preferred platform for doing business and investing in China and in the region.

There has been a steady increase in recent years in the number of Chinese enterprises diversifying their businesses and investments offshore. They often do so via Hong Kong. The IPO in October 2006 of Industrial and Commercial Bank of China broke the world record as the largest initial public offering. It brought the Hong Kong Stock Exchange ahead of the New York Stock Exchange in terms of funds raised by new listings in the same year.

For the past century, the Law Society's mission has been to maintain the public's confidence in the legal profession. The public is assured that its members, once licensed to practise, can only continue to do so if their professional standards are regularly maintained. Mandatory continuing legal education is provided to all practising solicitors and trainee solicitors, and guidelines are issued to help members observe relevant regulations and to maintain the highest standard of services and professional ethics.

The Law Society provides a wide range of other services to its members. In terms of professional development, it consults members regularly for their views and opinions so that appropriate improvements can be made to suit the needs of the changing practice environment. Sports and recreational activities are also organised to foster friendship among members.

As the voice of the profession, the Society is very responsive in expressing its views on proposed legislation or policies that may have a impact on members' professional development or on the interests of the public. In this respect it serves as a bridge to improve communication between the Government on the one hand and members and the public on the other.

The Law Society acts both as a regulator and a facilitator of the profession at all times. For example, under the Legal Practitioners Ordinance, an in-

spector acting under the direction of the Law Society Council may require a solicitor or a foreign lawyer to produce all documents in his possession which are considered to be relevant to any current investigation.

It also empowers the Law Society to intervene in a solicitor's practice in a number of circumstances, including situations where there is reason to suspect

dishonesty on the part of a solicitor, or following the death or disability of a sole proprietor.

The Society takes a proactive stance in investigating professional malpractice. It reacts not only when someone makes a formal complaint, but whenever it is reasonably satisfied that it needs to do so to protect the public interest.

## *President's Address 2006*

*In many ways the legal profession and Hong Kong have changed beyond all recognition since 1907, but certain things have remained remarkably constant. This is due not so much to the conservatism of lawyers, though generally speaking lawyers are extremely careful about changing anything, but because our work and the values we uphold are fundamental to a civilized society. If the subscribers to the Memorandum of Association of our Society were to resume practice today, they would still find much that is familiar. What have changed most are the variety of activities and scale of operations. Fundamental principles are not that different.*

*The political landscape has changed, but one could see that this is the result of a considered policy to effect fundamental changes without disruption. Many aspirations still remain unfulfilled, and for many people things are not happening quickly enough. But I do not see ourselves being at a dead end. Recent history has demonstrated that China and Hong Kong are good at finding practical solutions, and there is no reason to despair. The lawyers will be part of the process, not only in overtly political roles, but also as people who make things work and resolve disputes, enabling transactions to go forward and reforms to be effected.*

*Our own Society has of course grown tremendously over the past 100 years. Perhaps the greatest growth has taken place over the past three decades. There is a legend that before that time the entire records of the Society were capable of being lost by being left on a Star Ferry. I do not believe this story to be true. Even if it were, such a thing is not capable of happening again in view of the mountains of records we now have.*

Peter C.L. Lo in the Law Society Annual Report





Law Society members attend a CEPA forum in July 2003.



## Closer Economic Partnership Arrangement

*There is now little disagreement that Hong Kong's future lies with greater integration with the mainland, and the legal profession sees obvious benefits in this despite the great differences in the practice of law between the two jurisdictions. Indeed, Hong Kong solicitors have been playing an integral role in the development of the mainland legal system. In the years following the handover, the mainland and Hong Kong Governments started discussions on an economic agreement that would boost trade and investment co-operation and, eventually, liberalising trade in services. This eventually became known as the Closer Economic Partnership Arrangement (CEPA).*

*The Law Society played a fundamental role in formulating the legal roadmap which would open up the vast mainland market to Hong Kong solicitors. Anthony Chow Wing-kin, Law Society President from 1997-*

*2000 recalls: "When CEPA was first announced, Chief Executive, Tung Chee-wah, asked the various professions to come up with a roadmap pinpointing areas they wanted China to open up more. We already had one which was on the verge of being accepted by the Chinese Ministry of Justice. However, we were told by the Ministry that 'China is about to enter WTO and if we follow what you want in this package, it will also apply to the rest of the world,' which was more than China was willing to give, so the package was shelved. Luckily, CEPA came along and we shoved the package in under CEPA and immediately we had a roadmap."*

*The Law Society's roadmap, in essence, aimed at removing obstacles preventing Hong Kong lawyers from practising on the mainland. One big obstacle was the quota system for each mainland city. Most Hong Kong law firms wanted to open offices in*

*the main cities like Beijing but they could not do so once the quota was filled. At the same time, few were interested in opening up offices in places like Hainan, so the quotas in these cities remained unfilled.*

*Another big obstacle was the rule that prevented Hong Kong law firms from moving their offices from one city to another, even when business was bad, or when clients had moved to another city. The rules even prevented firms from opening up additional offices in another city. The Law Society also wanted a quicker processing time. Many firms saw the long processing time as a tactic by the mainland to block Hong Kong firms entering the market. It could take two or three years to get permission, by which time firms could just get tired of waiting and give up.*

*On January 1, 2004, the first phase of CEPA came into effect and the door to the mainland legal market slowly opened. In a speech to the*



*Hong Kong-Canada Business Association in Vancouver in November 2003, Hong Kong Secretary for Justice Elsie Leung Oi-sie outlined what changes CEPA would bring to the legal profession. "The mainland made the following commitments: to allow Hong Kong law firms to operate in association (but not partnership) with mainland law firms; to allow mainland law firms to employ Hong Kong barristers and solicitors; to allow Hong Kong permanent residents with Chinese citizenship to acquire mainland legal professional qualifications by sitting the qualifying exam; to allow Hong Kong lawyers with mainland qualifications to engage in non-litigation legal work in the mainland; and to waive the minimum residency requirement for all Hong Kong representatives stationed in the mainland representative offices of Hong Kong law firms in Shenzhen and Guangzhou. For those in other cities, the minimum residency requirement is only two months per year."*

*While CEPA was well received, a 2004 president report by Michael Lintern-Smith said "its benefits to the solicitor's branch of the profession are considerably less visible. Indeed there are those who feel that the rules now governing, for example, associations between Hong Kong and mainland firms are more convoluted and arguably more restrictive than before CEPA." A paper released by the Hong Kong Trade Development Council in 2005 backed up this view, pointing out that "while CEPA aims to lower the entry threshold for Hong Kong's legal sector, it is not meant to offer a special privilege." The paper continued: "Even though Hong Kong lawyers have an advantage over their foreign counterparts in that they may sit the mainland legal qualifying examination, the running pass rate of the highly demanding examination is 7 percent*

*only and articleship is required before commencing legal practice. The path to becoming a practising lawyer in the mainland remains very challenging."*

*Since 2004, more liberalisation measures have been implemented as the different phases of CEPA came in effect, with the newest phase - CEPA IV - due to become effective on January 1, 2008. Under the new measures in CEPA IV, the locality restriction for association with one mainland firm by a representative office of a Hong Kong firm in the mainland will be removed. This will provide Hong Kong firms with greater flexibility in choosing their mainland partners when forming an association as they will no longer be confined to firms within the same province, but can select a partner from anywhere within the mainland which best suits their business needs.*

*According to Ip Shing Hing, Law Society President from 2002-2004, the new measures will be of greater benefit to the smaller firms: "As far as I know, there has only been six associations set up since CEPA started. This is out of about 50 Hong Kong firms which maintain a representative office on the mainland. For the big firms there is no urgency to have this sort of association - they would*

*have established a representative office long ago and therefore already have a relationship with different mainland firms. To tie themselves down to a single firm may not be to their commercial advantage. But under the new rules, I think we will see some smaller firms starting to think whether they should have a representative office in nearby Shenzhen or Guangzhou and then also have an association with a Beijing or Shanghai firm."*

*CEPA remains a work in progress, and the Law Society has a number of irons still in the fire. As reported by the Mainland Legal Affairs Committee in the August 2007 edition of Hong Kong Lawyer: "We will continue to lobby under CEPA for reciprocal recognition of the solicitors' post-qualification experience (PQE) on the same basis as the Law Society recognises the PQE of mainland lawyers under the provisions of the Overseas Lawyers (Qualification for Admission) Rules for admission to practise as solicitors. This will enable solicitors to obtain the mainland legal qualification by a route other than by taking the State Judicial Examination. Other important initiatives are underway."*



President Wen Jiabao (first row, third from left) and Chief Executive Tung Chee-hwa (first row, second from left) witness the signing of CEPA in Hong Kong on June 29, 2003.



# 香港回歸祖國







Hong Kong celebrated the 10th anniversary of the handover in the same year the Law Society celebrated its centenary. Here, the Government hosts a variety show for President Hu Jintao.





As the International Commerce Centre (ICC) and associated luxury residential complexes take shape above West Kowloon MTR Station, teams of solicitors for construction firms and property developers have been offering counsel on matters as diverse as planning, sales, negotiation of leases and the management of shopping malls.

## The Clients We Serve

*Globalisation is making the Hong Kong marketplace increasingly sophisticated and this in turn has created new demands on the legal profession which has seen a steady growth in the clients it serves.*

Legal academic and former Hong Kong University professor Peter Wesley-Smith defined law as "a collection of rules, principles, standards and concepts whose end is the regulation of human behaviour." In Hong Kong, much of that behaviour is centred around commerce and trade, and as this flourished over the years, the need has grown for lawyers to serve corporate clients.

Colonial Hong Kong began life as a trading port and commerce remains its life-blood. The city's foundations are built on businesses, big and small. Globalisation is making the marketplace increasingly sophisticated and this in turn has created new demands on the legal profession which has seen a steady growth in the clients it serves.

Swire Pacific is among Hong Kong's oldest and largest corporations but unlike most of the European shipping and trading firms that

set up in China in the 19th century, Swire survived and prospered to become a vast commercial enterprise involved in numerous activities ranging from property and marine services to fashion retailing, aircraft engineering and sugar production. But the corporation's crown jewel is Cathay Pacific Airways, Hong Kong's renowned home carrier.

In 2006, Cathay Pacific, Swire Pacific, Air China, China National Aviation Corporation (CNAC) and the China International Trust and Investment Corporation (CITIC) restructured their shareholdings of Cathay Pacific, the smaller Hong Kong carrier Dragonair, and Air China.

In what was described as one of the most important strategic airline deals ever undertaken, a leading Hong Kong law firm advised Swire in the transaction that made Dragonair a wholly owned subsidiary of Cathay Pacific.

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THE CLIENTS WE SERVE



Air China acquired a 17.5 percent stake in Cathay Pacific, which in turn doubled its shareholding in Air China to 20 percent.

Despite the size of the company and range of its activities, Swire has relatively limited in-house legal capacity and so outsources much of its legal work. It enjoys long-term relations with some firms – for example, Cathay Pacific still retains the firm that drew up its Articles of Association in 1946 – and instructs other firms with specialist expertise.

Swire relies on a small number of firms for much of its legal work. "The services we require range from general corporate and commercial advice, to advice on transactions. These may be large one-off deals like the acquisition of Dragonair or repetitive transactions like aircraft acquisitions, property sales or financing transactions. We also seek outside counsel for litigation matters and advice on intellectual property," a company official said.

The company relies on outside firms because it lacks sufficient or sufficiently specialised in-house legal capacity to provide these services. Law firms can offer capacity, specialisation and the ability to keep up to date by undertaking transactions for a wide range of clients. "We are grateful for their sound general and transactional advice," the official said.

Hong Kong's status as a commercial hub with a firmly established common law legal system, and its central location in East Asia, makes it a natural centre for banking. Its largest bank is HSBC, which has a history in the city that spans more than 140 years. Law Society Council member Kenneth Ng Sing-yip, HSBC's Head of Legal and Compliance, says the bank prefers to contain as much work as possible internally by the in-house legal team. There are a number of reasons for this, including costs, speed and the commercial practicality of advice. But since the bank's in-house legal resource is limited, it has to pick and choose what it handles. Outside law firms are normally used for

large transactions, documentation and other labour intensive work such as debt recovery, litigation and other assignments which the in-house team lacks the resources to handle. Private firms are also used for matters that require a particular expertise.

HSBC retains a panel of six Hong Kong law firms – one of them since the 19th century. This panel replicates the panel used by the bank's head office in London. Other specialist firms are hired on a project basis. "We would use them for transactions involving other financial institutions, for example, in syndicate loans where we may find it logical to go along with other participants' choice," Ng said. "From time to time, customers' choice also carries weight, and so is the

expertise of particular firms in certain deals. It's very much a matter of 'horses for courses'. Conflicts of interest is another reason for us to go outside the panel."

Many corporations agree that one of the comforting things about hiring outside firms is the vastly extended resources they can offer if in-house legal teams become over-stretched. "Large law firms can mobilise resources to get a significant job done within tight schedules," Ng explains. "They have resources to deal with labour-intensive or document-intensive work that our in-house legal team is not equipped to do."

Corporate clients agree that law firms need to provide more than just legal services. These clients want and

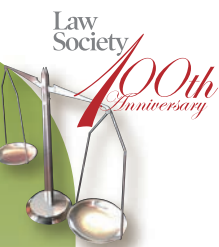


The shareholding re-alignment that made Dragonair a wholly owned subsidiary of Cathay Pacific is regarded as one of the most important strategic aviation deals ever.





Hong Kong today is a financial centre on par with New York. Banks look for law firms not only with technical knowledge, but who understand the markets their clients work in.



need added value. Outside lawyers are expected to understand not just the business but the business philosophy of the clients they serve. They are expected to provide legal as well as practical advice based on the risk appetite of their clients. Corporate clients believe outside firms would be more effective if they took time out to understand the nature of their clients' business, corporate culture, and risk tolerance.

Other international banks in Hong Kong with in-house legal teams also find themselves depending on outside firms from time to time. This happens whenever there is simply too much work for the internal lawyers to handle. Outside lawyers can provide expertise in areas such as convertible bonds, equity capital markets, and initial public offerings that in-house teams lack.

Some of the bigger banks here have a panel of City firms to handle assignments such as mergers and acquisitions or projects overseas, many in multiple jurisdictions. The preference for City firms is due to the nature of the work.

These big, reputable firms can offer quality and consistent service. Still, while expertise is essential, corporate clients have to be mindful of costs.

Law firms also find much work from investment banks and international financial services firms. Law Society member Sammy Li, vice president of the Hong Kong legal department of global financial services firm Morgan Stanley, says "we have about 20 in-house counsel within our legal department but we regularly use external law firms, mainly on execution of deals, but also advising on policy matters. We usually instruct UK and US law firms with an international presence but occasionally we will come across local firms working mainly on the client side of a deal. The firms we chose to act for us offer a high level of international experience. They are efficient and well versed with the markets in which we operate.

"We want to work with law firms who understand our needs and who know our business. The last thing I need

to be doing is training a consultant how to do his job." The level of service is generally very good, Li says. "I'd say I'm 70 percent satisfied with the service I get. Standards do vary ... if the work is not up to scratch then it is usually because the firm is overworked or there just might not be enough partner supervision."

Other heads of in-house legal teams say when they hire private firms, they look at past performance, reputation and compatibility with internal staff. They agree they are being well-served by outside practices, including City firms which offer valuable international expertise, but they note that they sometimes stick with individual partners rather than law firms because of their expertise and will use these partners even when they switch firms.

Not all Hong Kong banks are big international players, with a number of smaller, locally established lenders providing retail services for the home market. One of them is Wing Lung Bank, started in 1933 by the Wu family. The



same family remains as owner-managers today. Most of the bank's branches are in Hong Kong, but there is a growing presence on the mainland.

"Like other banks, we use external counsel frequently," says senior manager Arthur Wu. "But as we are a predominantly local retail bank we make good use of local firms, especially for bankruptcy petitions, winding up petitions, mortgage actions, litigation and so on." Use of the so-called Magic Circle or City firms is limited to complicated corporate work such as syndicated loans and collateralised debt obligations. Wu says the bank turns to law firms that offer good service and expertise.

As with banks, the construction industry is another major contributor to the Hong Kong economy, accounting for between 6 and 7 percent of Gross Domestic Product. Thomas C.W. Tse knows the industry as well as anyone in Hong Kong. A professional surveyor with more than 25 years experience in construction company management, he is also Secretary General of the Hong Kong Construction Association.

As the industry is particularly subject to legislation, Tse says many large construction firms have extensive in-house legal teams advising on labour and compensation issues, environmental compliance, contracts, and – since many construction firms are publicly listed – corporate secretarial and disclosure.

The role of private law firms, Tse says, is a largely complementary one: "We engage outside lawyers for additional advice. But they also offer resources, their networks and the experience of working on many cases that we simply don't have."

The Hong Kong Construction Association also retains law firms itself and maintains good relations with them. "Law firms play a crucial advisory role to the Association on legislation, and represent us in statutory and non-statutory bodies. Lawyers provide crucial input on such matters as security of payments legislation and competition laws."

The industry appears to be generally satisfied with the legal services it

receives from private firms. Clients agree they enjoy good relations with law firms and value ones with a good knowledge of the industry, but they note that a lot depends on the skills of the individual lawyers.

A major group of clients of both construction and legal services are property developers. Josiah Kwok Chin-lai is a Law Society member and Deputy Managing Director of Hopewell Holdings, a publicly listed company whose business interests span property investment and development, highway infrastructure, hotel and hospitality, and construction.

Kwok is a solicitor and former in-house legal consultant to the Hong Kong & Macau Regional Office of Bank of

China, Secretary of the Hong Kong Association of Banks, Legal Director of the Hong Kong Airport Authority, and Group Legal and Compliance Director of the BNP Paribas Peregrine Group.

He points out that the business of property companies has come a long way from the days of simply buying a site and erecting a building for sale or letting. The spectrum of legal services required by today's property sector is very wide.

"First, there is land acquisition. Clearly, legal services are essential at this stage – developers must have good titles," Kwok says. "Next comes planning and other approvals. Major developments will inevitably hit some planning or other regulatory issues. This area is

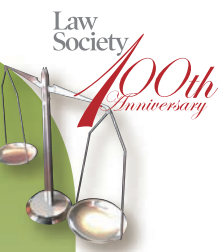


The construction industry enjoys good relations with solicitors, who provide valuable advice on government policy and legislation.





With most of Hong Kong's manufacturing now carried out on the mainland, trade and intellectual property issues are prime legal concerns.



becoming more complicated and cumbersome. Again, a law firm good in this area will be critical.

"Disputes arising during the construction phase are more common these days, and the importance of legal services for these types of problems cannot be underestimated.

"The post-development phase is equally important. On completion, a developer will inevitably sell, lease or retain a development for self use. In the case of sale or leasing, legal services and support is crucial."

Projects are now more sophisticated, and so the legal services that are required have become more specialised. "Further, most major local property developers no longer confine their operations to Hong Kong," Kwok says. "Property companies look for coverage in multiple jurisdictions, for example in the mainland and Macau."

It is common for property companies to have their own in-house legal departments, ranging from single lawyers to large-scale teams. However, they still need external legal services. Most retain one or more firms on a long-term basis as their core legal service providers, and if need be, consult other firms when some special service is required.

"The quality of Hong Kong lawyers is very good and improving all the time," Kwok says. "They are very professional, but you still find from time to time a six-page advice with one page recapping your instruction, two pages setting out the general legal principles and three pages of qualifications. Perhaps this is an exaggeration, but it is important for lawyers to understand that risks and imperfect situations are daily matters in business. The challenge is how to manage them. No one expects miracles from solicitors, but clients do look for concrete

solutions to specific problems. A good lawyer will be of tremendous help, even critical.

"It may be worthwhile for the profession to pay more attention in one area. Legal cost is expensive and usually charged on a time basis, so therefore advice cannot be useful if given in a vacuum: it has to be based on facts and law and take into account the constraints, business considerations and objectives of the client. Time, and thus costs, could be substantially saved if the facts and the core issues and objectives are properly, thoroughly and accurately identified and understood right at the beginning. If work needs re-doing, in addition to cost, it has a time and resource impact on the clients as well as the lawyers."

The manufacturing sector has long been a mainstay of the Hong Kong economy, even after most relocated their factories to the Pearl River Delta and beyond.



Dennis Yau Tat-wang is Director-General of the Federation of Hong Kong Industries, a statutory body representing and promoting the interests of manufacturers.

"Manufacturers are businessmen, so their legal concerns are primarily commercial. Lawyers are consulted not only for typical legal matters such as company registration," Yau says.

"One area of particular importance for manufacturers is intellectual property. Other areas include investment, property, labour, safety and compliance, environment and commercial disputes. We use both international and local firms, whose knowledge and experience of China is proving to be a real advantage, at least in this sector.

"Trade and intellectual property issues continue to dominate the legal landscape for manufacturers. But we have a view on conditional fees for legal representation, for which we have made a submission to the Law Reform Commission."

Manufacturers in turn rely on one of Hong Kong's founding industries, shipping, the role of which has only grown in importance over time. Maritime law, though one of the oldest of

legal disciplines, is a highly specialised area conducted by a handful of firms. One of their clients is Raymond Chow Tak-fai, managing director of Houlder Far East, a marine general insurance broker in Hong Kong.

"Costs can be very high in this field, and fees vary significantly among firms," Chow said. "We retain two international law firms which provide a number of essential services for our business. The level of service is generally satisfactory."

It is not only the private sector that calls on the services of law firms. The SAR Government, which maintains a sizeable in-house presence through the Department of Justice, also makes extensive use of law firms and individual solicitors. The Legal Aid Department also outsources much of its work to solicitors.

Through the Legal Aid Panel, the Director of Legal Aid maintains separate panels of counsel and solicitors to investigate, report and advise on applications for legal aid and to act for aided persons, in accordance with the Legal Aid Ordinance. Solicitors are selected according to their experience and expertise and how complex a particular case is.

There can be few measures of Hong Kong people's high level of confidence in solicitors than the vast sums of money – literally billions of dollars – that clients entrust to law firms.

Unlike in most common law jurisdictions, Hong Kong solicitors act as stakeholders for their clients, especially in property transactions. In some instances, for example on the settlement dates for a large residential property development, the amounts entrusted to solicitors can be staggering, when literally billions of dollars change hands and thousands of transactions are completed simultaneously.

This method of settling transactions through solicitors is far more efficient than having buyers and sellers doing it themselves. Not only are law firm accounts more convenient for clients, they are also testament to the confidence that clients hold in their solicitors.



Hong Kong is one of the main centres for maritime law, a highly specialised discipline within the legal profession.





The Kowloon Magistracy. The Legal Aid Department is a leading client of Hong Kong law firms.

The Director of Legal Aid, Benjamin Cheung King-man, says about 70 percent of personal injury and matrimonial litigation cases are assigned to solicitors. "We don't handle judicial reviews, public law litigation, employment disputes and other things – they are all assigned out," Cheung says.

"We keep some of the personal injury and matrimonial cases in-house, partly because we have that expertise available and partly because it is necessary for the professional development of the staff to keep in touch with current legal practice and developments. We also handle all insolvency cases in-house as it is more cost-effective."

Feedback from Legal Aid clients shows a high degree of satisfaction with services. "Questionnaires returned by aided persons in the Legal Aid Department's Customer Service Surveys from 2005 to September 2007 indicated that just under 90 percent of respondents were either 'satisfied' or 'very satisfied' with the overall performance of assigned lawyers," Cheung says. "The legal profession in Hong Kong on the whole is professional and ethical."

One important group that makes frequent use of the services that solicitors provide is the accountancy sector. These fellow professionals instruct solicitors either through their accounting firms or their 27,000-member professional body, the Hong Kong Institute of Certified Public Accountants.

Winnie C.W. Cheung, the Institute's Chief Executive and Registrar, likens the relationship between accountants and solicitors more to a partnership than purely one between a service provider and client.

"The two professions work closely in many areas, especially where there is both a legal and accounting dimension – for example insolvencies, corporate restructuring, corporate finance, initial public offerings and forensic accounting (fraud)," she says.

"But CPAs also make extensive use of solicitors. There will be many cases where an accountant will accept a job and in turn hire a law firm to carry out the legal aspects or offer advice. Like the Law Society, we are a self-regulating body, and in cases of misconduct involv-

ing accountants, the institute hires law firms to help conduct cases investigating alleged misconduct of accountants.

"The two professional bodies also enjoy a close relationship. The Institute has an Insolvency Interest Group with nearly 400 members, of which about one-third are lawyers, and the Hong Kong Institute of CPAs is an accredited CPD provider for the Law Society.

"We have a panel of lawyers under our Professional Indemnity Scheme, and we are growing closer in other ways," Cheung says. "Both organisations serve as hosts for members for social events such as golf and football and cocktails."

Cheung points out that lawyers and accountants make up two of the biggest segments of the Coalition of Professional Services, and share common ideals and ethics such as client confidentiality, integrity, service standards and accountability.

"I think the accountant-solicitor relationship, and our high professional standards and integrity, help illustrate how much Hong Kong's success is due to its professionals."



## *The Role of Interpreters*

*As a unique European and Chinese trading port, Hong Kong was built on a bedrock of commerce and finance which still provide the bulk of work for most of the city's law firms. While Hong Kong's legal system was, and continues to be, the envy of many countries in the region, the language of the court remained anachronistically English until the return of sovereignty. But with Cantonese being the mother tongue of the vast majority of Hong Kong people, language abilities remain essential at law firms.*

*Until the 1960s and 1970s, law firms were run by mostly monoglot British solicitors. Therefore a uniquely powerful role developed for the law firms' interpreters, who, in the early years, also drummed up considerable business. Retired High Court Registrar Christopher Chan Cheuk recalls just how important a role the interpreters still played in his early days in practice.*

*"Even in the late 1960s and 1970s, there were only about 300 solicitors in Hong Kong, mostly expatriates. Local Chinese could hardly find a solicitor they could talk to. Solicitors and their local clients had to go through the interpreters. These translators did a lot of important work, and played a significant role in the development of the legal profession."*

*But this power was open to abuse, Chan says: "The interpreters used to control the lawyers – they financed the firm, they had their own clientele, and the lawyers did not."*

*The creation of this special class was due to historical circumstances. Chan likened the interpreters to the compradors of the trading firms, who used their unique positions to make their fortunes. Court interpreters, too, wielded considerable power: "There was an infamous translator in the 1970s in the New Territories whose name I can't recall, but many people described him as the 'King of Fanling'. The judges were expatriates and didn't speak Chinese. So this man dictated everything – whether you pleaded guilty or not, he would give you legal advice," Chan said.*

*When William Munro joined Hastings from Britain in 1971, the firm employed 12 interpreters. "One of them was a remarkable character," Munro says. "He had quite an amazing way of doing things. In those days, interpreters were still paid a 20 percent commission on business they drummed up for their firms. The smart ones, like this gentleman, 'reinvested' their earnings by looking after the solicitors and clients - treating them to lunch and what have you. I remember him once lining up four new cases in a morning."*

*Munro recalls one such lunch after a certain client had been sent to prison. The interpreter suddenly began referring to the man as "that rascal". Puzzled, Munro asked: "Didn't you tell me you thought he was innocent?" "Of course he was guilty," came the reply. "I just said that because I wanted you to try your best."*

*Many interpreters were adept legal workers, Munro added. "They could have made better solicitors than some of the professionals. They had a lot of experience and were very familiar with legal procedures. But in those days, many didn't have the opportunity to become qualified. Neither schooling nor legal training was free, and their families couldn't afford it."*

*In the late 1970s, the Law Society passed a resolution that solicitors could not share profits with non-qualified persons, which diminished the influence of interpreters within firms. Today the services of interpreters in law firms is much less in demand as most lawyers in Hong Kong are native Chinese speakers.*







Throughout the years solicitors have always been a part of the Legislative Council.

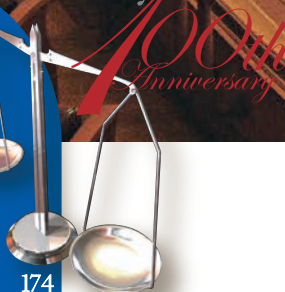




Many solicitors are among the long list of Hong Kong people Beijing has appointed to the National People's Congress before and after the 1997 handover.



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SERVING THE PUBLIC

## Serving The Public

*Solicitors have played influential roles in all aspects of public life, beginning from the early years through the war years and the long transition to Chinese rule. That tradition of public service is still very much alive today.*

Since the early years of colonial rule, lawyers have always played a prominent role in Hong Kong's public life. That tradition continued even into the war years when the territory was under Japanese occupation. Solicitors even agreed to serve, although reluctantly, in the various advisory and representative committees created by the Japanese who needed local input in governing an occupied territory. One solicitor actually made a name for himself advising the Japanese how to distribute rice efficiently during food shortages.

Lawyers again joined other community leaders on centre stage when the territory re-emerged after the war with a new identity. Keen to play a role in re-building the city, a number accepted invitations to join the Executive and Legislative Councils. As Hong Kong prospered in the post-war years, a growing number of lawyers volunteered a great

deal of their time towards public service. They joined groups like the Lions and Rotary Clubs, charity organisations and advisory committees set up by the government which needed public input before making major policy decisions.

Solicitors played influential roles in all aspects of public life as Hong Kong began the long transition to Chinese rule. They were among the ExCo and LegCo members who gave advice in the shaping of the 1984 Sino-British Joint Declaration on the Hong Kong handover. And helped draft the Basic Law which became Hong Kong's mini-constitution after the 1997 transfer to Chinese rule.

The tradition of public service continued after the 1997 change of sovereignty and is still very much alive today. Most of Hong Kong's voluntary agencies, government councils and committees have lawyers among their



ranks. As past president of the Law Society, Ian MacCallum, wrote in his 1975 report: "There are very few voluntary agencies or government councils or committees in Hong Kong which do not include at least one lawyer. Indeed, one might think that social work in Hong Kong would grind to a sudden halt without the many hours of voluntary time given by lawyers to the various social welfare agencies."

More than 30 years later, his words that "voluntary service falls naturally into (the lawyer's) concept of a professional vocation" still rings loud. Members of the Law Society are to be found in policy-making institutions like ExCo and LegCo, China's National People's Congress, government bodies, the Judiciary and charitable organisations. There are literally hundreds of solicitors who have volunteered their time, expertise and money in serving the community over the century since the incorporation of the Law Society of Hong Kong – too many to list, and every effort was made to name as many as possible, but their service to the community is acknowledged.

Listed here are those who played various roles in public life as members of ExCo and LegCo, the Judiciary, China's National People's Congress, the Basic Law Drafting Committee, and the Chinese People's Political Consultative Conference, known as the CPPCC, which is China's top political advisory body.

Also listed are solicitors who served as heads of government departments, public bodies and charity organisations, as well as those who received Bauhinia medals for service to the public.

## Executive Council

As Hong Kong's de facto cabinet, the Executive Council plays a major role in advising the Chief Executive on government policies. Solicitors have, throughout Hong Kong's history, served in ExCo. It is a prestigious appointment since members are involved in policy-making decisions at the highest level. ExCo played a particularly crucial role

in shaping Hong Kong's destiny during the jittery times leading up to the handover. Lawyer members of ExCo often joined lobbying missions to London to put forward Hong Kong's views on a range of issues.

With their close ties to all sectors of the public, solicitors are ideally suited as ExCo members. Their diverse knowledge of public concerns put them in a good position to advise the Chief Executive of the day.

Solicitors also bring to ExCo their knowledge of the law allowing them to offer differing views to those of government legal experts on the implications of various policy decisions. Hong Kong's governors during colonial times, and now the chief executive, appoint members to ExCo precisely for the knowledge and experience they can bring to deliberations on policy issues.

**Ronald Arculli** was appointed to the Executive Council in 2005. He represented the real estate and construction functional constituency in the Legislative Council from 1988-2000. In 2006 he was named chairman of Hong Kong Exchanges & Clearing. He was also chairman of the Jockey Club between 2002 and 2006. Arculli received an OBE in 1993 and the Gold Bauhinia Star in 2001.

**Kan Yuet-keung** was a member of the Executive Council from 1966-1980, having previously served as a member of the Urban Council from 1957-1962 and of the Legislative Council from 1962-1972. Kan was Law Society president from 1957-1958. He received an OBE in 1959 followed by a CBE in 1967, a knighthood in 1972 and a GBE (also a knighthood) in 1979.

**Charles Lee Yeh-kwong** was a member of the Executive Council from 1997-2002 and was re-appointed in 2005. He also served as chairman of the Stock Exchange of Hong Kong from 1991-1994, chairman of Hong Kong Exchanges and Clearing from 1999-2006, chairman of the Mandatory Provident Fund Schemes Authority from 1998-2007, and has been chairman of the Council of the Open University of Hong

Kong since 1998. Lee received an OBE in 1994, the Gold Bauhinia Star in 2000 and the Grand Bauhinia Medal in 2006.

**Lo Man-kam** was appointed to the Executive Council following the Japanese surrender in 1945. He had previously been a member of the Legislative Council from 1936 until the Japanese invasion in 1941. He was Law Society president from 1948-1949. Lo was knighted in 1948 and died in 1959.

**Lo Man-wai**, brother of Lo Man-kam, became a member of the Executive Council in 1959 when he was appointed to fill the seat left vacant by his brother's death. He had previously served as a member of the Urban Council from 1940 until his appointment to the Legislative Council in 1950. He received an OBE in 1950 and a CBE in 1955. Lo died in 1985.

**Lo Tak-shing**, son of Lo Man-kam, served as an Executive Councillor from 1980-1985. He was also a Legislative Councillor from 1974-1985, and a member of the 9th Chinese People's Political Consultative Conference. Lo also followed in his father's footsteps by serving as Law Society president from 1969-1971. He received an OBE in 1976 and a CBE in 1982. Lo died in 2006.

**Peter C. Wong** was Executive Council member from 1986-1988 and Legislative Council member from 1976-1988 and served as chairman of the Board of Education. Wong was Law Society president from 1973-1975. In 1986, he received a CBE. Wong passed away in 1989.

**Woo Pak-chuen** was a member of the Executive Council from 1972-1976, and was also a member of the Legislative Council from 1964-1973. He served as Law Society president from 1959-1960. Woo was awarded a CBE in 1973 and an OBE in 1963.

## Legislative Council

It is perhaps natural for many solicitors to want to serve as Legislative Councillors since much of the work involves scrutinising and amending draft legislation. They bring invaluable legal knowledge to Hong Kong's legislature.



Not only that, their work as solicitors bring them in regular contact with the people and this, combined with their expertise in the legal system, make them well-positioned to serve as lawmakers. Solicitors campaigning for seats in Legco often cite this combined knowledge as a reason for running.

Solicitors have served in every term of LegCo, but once they are in office, many find the workload of being a legislator simply too much to allow them to carry on an active practice as well. Some virtually sacrifice their practice to become full-time legislators.

Solicitors in Legco have played especially prominent roles in recent years, dealing with contentious bills leading up to and after the handover. A solicitor was in the driving seat in vetting the controversial Article 23 proposed legislation on national security in 2003 which was one reason why so many aspects of the Bill were questioned. Throughout the years, there have been many examples of LegCo solicitor members also serving in ExCo (see above).

**Andrew Cheng Kar-foo** first became a member of the Legislative Council in 1995. He was out of office between 1997 and 1998 during the time

of the provisional legislature but regained his seat later in 1998. He has represented the New Territories East constituency since 1998 and served as the chairman of LegCo's home affairs panel from 2000-2001.

**Moses Cheng Mo-chi** was a Legislative Council member from 1991-1995. In addition to serving as chairman of the Football Betting and Lotteries Commission (2005-2007) he was chairman of the Council of the Hong Kong Baptist University from 1997-2006. In 2006, he chaired the government's advisory committee on broad-based taxes and is also founding chairman of the Hong Kong Institute of Directors. He received the Gold Bauhinia Star in 2003.

**Chung Pui Lam** was a member of the Legislative Council from 1985-1991. He was awarded the OBE in 1991 and a Silver Bauhinia Star in 2005.

**Albert Ho Chun-yan** has been a Legislative Councillor since 1998. He was first elected to the Urban Council (which later evolved into today's District Councils) in 1995. Ho also became chairman of the Democratic Party in 2007.

**Simon Ip Sik-on** was a member of the Legislative Council from 1991-1995

and was the founding chairman of the Council of the Hong Kong Institute of Education (1994-2003). He also served as Law Society president from 1987-1989 during a time of major upheaval in Hong Kong. He received an OBE in 1993.

**Ambrose Lau Hon-chuen** was in the Legislative Council from 1995-2004. He was chairman of the Hong Kong Progressive Alliance party from 1997-2005. Lau was also chairman of the Central and Western District Boards from 1988-1994 and chaired the Board of Review on Education from 1993 to 2001. He has been a Standing Committee member of the National Committee of the Chinese People's Political Consultative Conference since 1998. He was appointed a Hong Kong Affairs Adviser in 1993. Lau received the Gold Bauhinia Star in 2001.

**Miriam Lau Kin-ye** is a long-standing member of the Legislative Council, having been there since 1988. She represents the Transport functional constituency. She chaired LegCo's transport panel from 1991-1997 and from 1998-2003. Lau received an OBE in 1992 and the Gold Bauhinia Star in 2004.

**Li Kwok-ying** has represented the New Territories East geographical constituency in the Legislative Council since 2004.

**Bruce Liu Sing-lee** served in the Legislative Council from 1995-1998.

**James To Kun-sun** became a Legislative Councillor in 1991 where he has been since except during the period 1997-1998 when it was a provisional legislature. He chaired LegCo's security panel from 1998-2004.

**Kennedy Wong Ying-ho** was a member of the Provisional Legislative Council from 1996-1998. Wong is a National Committee member of the Chinese People's Political Consultative Conference. In 2005, he was awarded the Bronze Bauhinia Star.

**Anna Wu Hung-yuk** was a member of the Legislative Council from 1993-1995. From 1997-1999, she was chairman of the Consumer Council. Wu



A night view of the Legislative Council Building which used to be the Supreme Court.



was also chairman of the Operations Review Committee of the Independent Commission Against Corruption from 1997-2002 and served as Equal Opportunities Commissioner from 2000-2003. Wu was awarded the Silver Bauhinia Star in 2000.

## Judiciary

As is common in many jurisdictions, Hong Kong has its share of solicitors making the switch from private practice to serving the public as members of the Judiciary. During Hong Kong's early years, and even as recently as the transition years leading up to the handover, expatriate judges were a common sight. Localisation was slow to get off the ground but picked up speed in recent years and the make-up of the Judiciary has undergone an evolution.

While expatriates brought much-needed experience to the bench, especially in the early years when there were few qualified locals, they understandably lacked local knowledge. Localisation of the Judiciary was inevitable. That became even more evident leading up to the handover when it was clear that the courts would become bilingual and Hong Kong's laws would be translated into Chinese.

Today's judicial make-up is more local than expatriate. That is only to be expected in a predominantly Chinese population where most of those in court do not speak English as their first language. Solicitors who moved on to the Judiciary brought with them the wealth of experience they gathered while working at ground level. Today they are found in numerous positions in the Judiciary, including the High Court even though solicitors have no right of audience there.

**Bruno Chan** was appointed District Court judge in 1995 and Family Court judge in 1997.

**Christopher Chan Cheuk** was a District Court judge from 1998-2000 before becoming Supreme Court (now High Court) Registrar, a post he held until retiring in 2007. He was Law Society president from 1996-1997. He

was awarded the Bronze Bauhinia Star in 2007.

**Mimmie Chan Mei-lan** was appointed District Court judge in 2007.

**Bebe Chu Pui-ying** was appointed District Court judge in 2003. In 2006 she was appointed as judge-in-charge of the District Court Family Court.

**Stephen John Geiser** was appointed a Magistrate in 1989. In 2001 he was made a District Court judge.

**Andy Ho Chi-yin** was appointed Deputy Registrar of the High Court in 2000. He was appointed magistrate of the Hong Kong Judiciary in 1995 and was acting Master of the High Court from 1998-2000.

**Helen A. Lo** became the first chairman of the Hong Kong Family Law Association in 1986 and was Hong Kong's first female judge when she was appointed to the District Court in 1986. She passed away in October 1988.

**Lung Kim-wan** was appointed Deputy Registrar of the High Court in 2000. He joined the Hong Kong judiciary as magistrate in 1990 and was appointed principal presiding officer of the Labour Tribunal in 1997.

**Simon Herbert Mayo** was appointed Registrar of the Supreme Court in 1976, judge of the High Court in 1980 and Justice of Appeal in 1995. In January 2000 he was appointed vice president of the Court of Appeal of the High Court. In 2003 he was awarded the Gold Bauhinia Star.

**Sharon Dawn Melloy** was appointed District Court judge in 2007.

**Marlene Ng May-ling** was appointed District Court judge in 2003.

**Robin Peard** was the first solicitor in private practice to serve as a deputy judge of the High Court when he served on a temporary basis in 1996. He was also past chairman of the Hong Kong Branch of the Chartered Institute of Arbitrators.

**Anthony To Kwai-fung** was appointed District Court judge in 1997 and Deputy Judge of the Court of First Instance of the High Court in 1999. To also previously served as chairman of the Mental Health Review Tribunal.

## National

Hong Kong's long transition to Chinese rule began as early as the late 1970s when the then governor Lord MacLehose raised the issue of the territory's future at a meeting with Deng Xiaoping in Beijing. Formal talks on Hong Kong's handover began in 1982, and after the Sino-British Joint Declaration was signed in 1984, the mainland's influence in Hong Kong grew.

Beijing realised the need for Hong Kong people to play a political role in the transition and that it needed the advice of community leaders as the territory began its long journey to reunification. The legal profession made an essential contribution to the drafting of the Basic Law, Hong Kong's mini-constitution, which ensured a smooth transition of the legal system in 1997.

A number of solicitors were appointed to serve on the Basic Law Drafting Committee where their legal expertise helped write Hong Kong's mini-constitution as the city prepared to enter a new era. Solicitors were also present on the Basic Law Consultative Committee which helped to canvass the views of Hong Kong people.

Several solicitors served at the national level before the handover, and more now continue to do so. They are appointed by Beijing to represent Hong Kong's interests by serving in the highest state body, the National People's Congress, or in the Chinese People's Political Consultative Conference, the political advisory committee. Some solicitors who are or were members of Hong Kong's Legislative and Executive Councils have also served at a national level (see above).

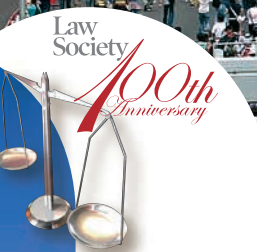
**Anthony Chow Wing-kin** was awarded the Silver Bauhinia Star in 2003 for his contribution towards promoting Hong Kong's legal profession. He was president of the Law Society from 1997-2000. Chow has been a member of the National Committee of the Chinese People's Political Consultative Conference since 2003.

**Gallant Ho Yiu-tai** was a member of the National People's Congress from





A Community Chest charity walk along the Hong Kong-Shenzhen Western Corridor in April 2007. Solicitors have a long record of charity work.



1993 to 1998. He also served as chairman of the Consumer Council from 1980-1984 and of the Po Leung Kuk Association from 1974-1975. He was also president of the Association of China-Appointed Attesting Officers from 1991-1994.

**Lai Kam-man** was a member of both the 8th and 9th National Committee of the Chinese People's Political Consultative Conferences.

**Dorothy Liu Yiu-chu** served on the Basic Law Drafting Committee from 1985 until it was disbanded in 1990. She was appointed a member of the National People's Congress in 1998, and in 1992 was appointed by Beijing as one of a select group of Hong Kong Affairs Advisers. Liu died in 1997.

**Carson Wen** became a member of the National People's Congress in 1998. In 1993 he was appointed by Beijing to be a Hong Kong Affairs Adviser. He was awarded the Bronze Bauhinia Star in 2007.

**Philip Yuen Pak-yiu** was a member

of the National Committee of the Chinese Peoples' Political Consultative Conference from 1993-2002. In 1993, he was appointed as a Hong Kong Affairs Adviser to the Chinese government. He received the Gold Bauhinia Star in 2001.

### Government Departments

Over the years a number of solicitors have headed government departments that dealt with the law. These postings are important in that the solicitors bring with them professional expertise that is crucial to the efficient operation of such departments. Running a government department is obviously very different from being a solicitor in private practice. But both jobs require a deep understanding not just of the law but also the needs of the people being served.

Such heads of department are often called to provide input in the drafting of legislation. And in the case of the Legal Aid Department, the director has to deal with the needs of literally thousands of Hong Kong people seeking legal aid

each year. Deciding who gets legal aid and who doesn't, especially in cases with political overtones, can be very controversial.

**Chan Shu-ying** was appointed Director of Legal Aid in 1996, a post he held until 2004 when he retired. He was awarded the Silver Bauhinia Star in 2005.

**Benjamin Cheung King-man** was appointed Director of Legal Aid in 2004 after working in the Legal Aid Department since 1973.

**Pauline Cheung Cheng Po-lin**, wife of the barrister Sir Oswald Cheung, served as Director of the Legal Aid Department from 1992-1996. She received an OBE in 1995.

**Noel Gleeson** was Hong Kong's Registrar General from 1982-1993 and was awarded an OBE in 1987.

**Richard John Freer Hoare** became director of administration for the Offices of the Chief Secretary for Administration and the Financial Secretary in 1993 where he served until the handover. He was awarded an OBE in 1993.



**Walter Hume** was Registrar General of Hong Kong from 1968 to 1976. He was awarded an OBE in 1974.

**Piers Jacobs** was a solicitor in the Registrar General's department in 1962. He became Registrar General in 1976, Secretary for Economic Services in 1982, and Financial Secretary in 1986, a post he held until 1991. He was awarded an OBE in 1981 and a knighthood in 1989. He died in 1999.

**Elsie Leung Oi-sie** was appointed the Hong Kong SAR's first Secretary for Justice in 1997, becoming the first woman and ethnic Chinese to hold the post, which, under British rule, was known as the Attorney General. In 1993 she was appointed a member of the National People's Congress and a Hong Kong Affairs Adviser. In 2002 she was awarded the Grand Bauhinia Medal.

**Jeremy Mathews** was Hong Kong's last Attorney General under British rule, holding the post from 1988 until the 1997 handover. He joined the Hong Kong government as Crown Counsel in 1968 and became Crown Solicitor in 1982. Mathews also chaired the Law Reform Commission from 1988-1997.

**Patrick Moss** was Director of Legal Aid from 1983-1993 after which he took up the post of Secretary General to the Hong Kong Law Society.

## Public Bodies

Experience, insight and dedication are prime qualifications the Government looks for in casting its net for candidates to fill positions in the territory's many public bodies. Many agree to serve in public bodies as a way to give back to society. It is time-consuming but rewarding work.

Public and professional bodies play an important role in shaping the principles, morals and identity Hong Kong lives by. Many Law Society members have, over the years, given their time and effort heading up both public and professional bodies. These bodies deal with a wide range of issues, from public housing and urban renewal to setting and regulating the various standards that

define our society. Often, the heads of such bodies find themselves in the firing line for making controversial decisions. But that goes with the job.

A number of solicitors who have devoted their time and effort to serving on public and professional bodies are or were also members of ExCo and LegCo (see above).

**Chan Bing-woon** served as chairman of the Appeal Board (Amusement Game Centres) between 1994-2004. He was appointed chairman of the Hong Kong Mediation Council in 2006. In 1998, he was awarded a Silver Bauhinia Star.

**Robin Bridge** was president of the Hong Kong Society of Notaries from 2006-2007.

**Edward Cheng Wai-sun** was chairman of the Urban Renewal Authority from 2001-2007. He was awarded the Silver Bauhinia Star in 2007.

**Cheung Wing-in** was an Urban Councillor from 1962-1967 and also served as president of the Association of China-Appointed Attesting Officers from 1997-2000.

**Edmund Cheung Yan-shun** was president of the Hong Kong Society of Notaries from 1981-1983.

**David Fung Yuen-yuet** was president of the Hong Kong Society of Notaries from 1989-1991.

**David Bernard Gunston** was president of the Hong Kong Society of Notaries from 1985-1987.

**Alice Lam Lee Kiu-yue** was governor of the Hong Kong University of Science and Technology from 1986-1995 and was chairman of the University Grants Committee from 1999-2007 after which she took up the chairmanship of the Quality Assurance Council for one year. She was appointed chairman of the Education Commission in 2007 for a term of two years. In 1994, she received an OBE and was awarded a Gold Bauhinia Star in 2003.

**Angela Lee Wai-yin** was chairman of the Appeal Panel (Housing) from 2003-2007. She was awarded the Bronze Bauhinia Star in 2007.

**Wilfred Lee Chee-wah** served as

president of the Association of China-Appointed Attesting Officers from 2000-2003. He also served as chairman of the Hong Kong Federation of Youth Groups from 1990-1994.

**Lin Chung-pak** served as president of the Association of China-Appointed Attesting Officers from 1988-1991.

**Patricia Loseby** was president of the Hong Kong Society of Notaries from 1983-1985.

**Ma Ching-nam** became president of the Hong Kong Society of Notaries in 2007.

**Ma Ho-fai** was appointed chairman of the Employees Compensation Assistance Fund Board in July 2006. He is also honorary chairman of the China Star Light Charity Fund Association. He was awarded a Silver Bauhinia Star in 2007.

**Peter Mark Wei-hang** was president of the Hong Kong Society of Notaries from 1997-2006.

**John Michael Seto** was president of the Hong Kong Society of Notaries from 1991-1995.

**Charles Sin Cho-chiu** was the chairman of the Kam Ngan Stock Exchange from 1985-1986 and the Hong Kong Stock Exchange from 1987-1988. Sin was awarded an OBE in 1987.

**George Egbert Sinclair Stevenson** served as president of the Hong Kong Society of Notaries from 1979-1981 and was also Law Society president from 1967-1969.

**Raymond Tang Yee-bong** was named Privacy Commissioner for Personal Data in 2001 before being appointed Equal Opportunities Commission Chairman in 2005.

**Peter James Thompson** was appointed chairman of the Hong Kong Port and Maritime Board in 1998 (now the Port Development Council) having been Chairman of its predecessor, the Hong Kong Port Development Board. He was awarded an OBE in 1995 and the Silver Bauhinia Star in 2001.

**Peter John Fletcher Whyte** was president of the Hong Kong Society of Notaries from 1987-1989.





The Kwong Wah (above) is one of five hospitals in the Tung Wah Group. The Po Leung Kuk (right) is also a major Hong Kong charity. Solicitors have chaired both these groups.

Law Society  
100th Anniversary

**Roderick Woo Bun** was appointed Privacy Commissioner for Personal Data in 2005. He was Law Society president from 1993 to 1996 during which period he introduced numerous reforms.

**Lucy Yen Shang-wen** served as president of the Association of China-Appointed Attesting Officers from 2003-2006.

**Yung Ching-tat** was appointed president of the Association of China-Appointed Attesting Officers in 2007. He was awarded the Bronze Bauhinia Star in 1999.

**Yung Kar-chark** served as president of the Association of China-Appointed Attesting Officers from 1994-1997.

### Charity Groups

Charitable work is an area Hong Kong's solicitors have been involved in since the early years of the territory when expatriate lawyers set up the first practices here. That tradition has continued to this day. In a way, it is the most re-

warding type of public service. Countless solicitors today, both locals and expats, are involved in charity work. The territory is known for its generosity and this was highlighted in the tragic aftermath of the 2004 tsunami when Hong Kong people donated amply to the disaster relief.

Hundreds of members of the Law Society, past and present, have, over the years, volunteered their time and service to helping those less fortunate than themselves, working tirelessly in various organisations ranging from the Tung Wah Group of Hospitals to the Po Leung Kuk.

In fact, so many have done charitable work that it would be a fruitless exercise trying to compile a full list. Some have become heads of the various charity groups they serve and they are listed here.

**John Robertson Budge** served as council chairman for the Queen Elizabeth Foundation for the Mentally Handicapped from 1991-1997, chairman of the Hong Chi Association from 1987-

2004 and chairman of the Hong Kong St Andrews Society from 2002-2003. In 1995, Budge received an MBE in 1995 and the Silver Bauhinia Star in 2004.

**Chan Chak-ming** is the founding chairman of the To Pui Kwan Grace Memorial Fund which specialises in environmental protection issues and child education.

**Christopher Chan Yiu-chong** served as chairman of the Tung Wah Group of Hospitals from 2004-2005. He was awarded the Bronze Bauhinia Star in 2005.

**John Joseph Clancey** has been chairman of the Asian Human Rights Commission since 2000.

**Casey Ho Kwan-chu** was chairman of Yan Oi Tong from 1992-1993.

**Junius Ho Kwan-yiu** was chairman of Yan Oi Tong from 1993-1997.

**Maxine Kwok Li Yuen-kwan** was chairman of the board of directors of the Po Leung Kuk from 1976-1977. She was awarded an MBE in 1978.

**Amirali Nasir** served as chairman of the Incorporated Trustees of the



Islamic Community Fund of Hong Kong from 1996 to 1998.

**Peter H. Sin** served as chairman of the Tung Wah Hospital during the 1930s and was commander of the street guards prior to the Japanese occupation. Sin died in 1982.

**Vincent To Wai Keung** was chairman of Po Leung Kok from 2005-2006. He was awarded the Bronze Bauhinia Star in 2006.

**Philip Wong Kin-hang** was chairman of the Tung Wah Group of Hospitals from 1971-1972. He has been chairman of the University of Hong Kong Foundation for Educational Development Research since 2003. He was awarded an MBE in 1973, an OBE in 1994 and a Gold Bauhinia Star in 2001.

## Awards

Receiving an award from the government is perhaps the best way to recognise the services given by citizens to their community. Hong Kong is rich with people who have been rewarded in this way. Before the 1997 reunification, it was common to find Hong Kong people included in the Queen's birthday honours list and the New Year honours list. After the 1997 handover, the HKSAR created its own awards for citizens who served the community.

There is a long list of solicitors who have received awards before and after the handover, many of whom were honoured for their government and public service or charitable contributions to Hong Kong society. Many solicitors who have received such awards also served or are serving in LegCo, ExCo, the National People's Congress and other bodies (see above).

Again, it would be a fruitless exercise to compile a full list of all the solicitors who received awards during Hong Kong's long colonial history. Below is an incomplete list of those who received British awards and a complete list of Bauhinia award recipients in the first 10 years after Hong Kong's reunification with the mainland. Again, many of those who received awards also served in other capacities and are listed above.

**Walter Chan Kar-lok** was awarded a Silver Bauhinia Star in 2005 for his contribution to the work of the Housing Authority.

**Chung Pui-lam** received an OBE in 1995 and was awarded a Silver Bauhinia Star in 2005 for his contribution to the Building Management Ordinance.

**Tony Kan Chung-nin** was awarded the Bronze Bauhinia Star in 1999 for his contribution to the work of the Provisional Regional Council and community service in the New Territories.

**Alfred Lam Kwok-cheong** was awarded a Bronze Bauhinia Star in 2007 for contributions in improving the welfare of the rural community.

**Norman Leung Nai-pang** received an MBE in 1986 and an OBE in 1994. He served as chairman of the Hong Kong Broadcasting Authority from

1997-2002 and was awarded the Gold Bauhinia Star in 2000. Leung was also council chairman of City University from 1997-2004 after which he took up the post of pro-Chancellor. He has also been commissioner of the Civil Aid Service since 1993.

**Vincent Lo Wing-sang** was awarded the Bronze Bauhinia Star in 2006 for his valuable contribution to the welfare sector.

**Brian McElney** served as Law Society president from 1973-74. He retired to the United Kingdom in 1983 and founded the Bath Museum of East Asian Art in 1990. He received an OBE in 2002 for his services to the museum.

**Philip Trevor Nunn** was awarded the Bronze Bauhinia Star in 2004 for his contribution to the work of the Housing Authority.

**Herbert Tsoi Hak-kong** was awarded the Bronze Bauhinia Star in 2006 for his contribution to the development of the legal profession. He was Law Society president from 2000-2002.

**William Turnbull** was awarded an OBE in 1984. Turnbull passed away in 2007.

**Peter Alan Lee Vine** was awarded an OBE in 1965 and a VRD (Volunteer Reserve Decoration) in 1961. He was president of the Hong Kong Society of Notaries from 1977-1979 and from 1995-1997 and also served as president of the Law Society from 1962-1964.

**Peter Geoffrey Willoughby** became Director of Professional Legal Education at the Hong Kong University in 1974. He became the first head of the Department of Legal Education in 1984. He was awarded an OBE in 1995. Willoughby passed away in 2000.

**Wong Chung-hin** was awarded a CBE in 1991.

**Tony Yen Yuen-ho** was awarded the Silver Bauhinia Star in 2000 for his 32-year service in the Department of Justice, especially for his contribution to the bilingual laws of Hong Kong.

*Names above are listed alphabetically.*



Many solicitors have received awards for their public service. Here, Elsie Leung Oi-sie receives the Grand Bauhinia Medal from Tung Chee-hwa in October 2002.









Solicitors who attended the Law Society's gala dinner in June 2007 signed their names on a special centenary guest plaque.



The Law Society of Hong Kong celebrated its 100th anniversary with a gala dinner on June 7, 2007 at the Hong Kong Convention and Exhibition Centre.



# The Way Forward

*The history of the struggle over higher rights of audience for solicitors reaches right back to the first years of the establishment of Hong Kong as a Colony, with many twists and turns.*

As the Law Society enters its second century, it can justifiably be proud of the way it has stood by Hong Kong's legal profession, enforcing standards and ethics while firmly defending the integrity of the legal system.

The Law Society published a White Paper in the 1993 on "The Future of the Legal Profession in Hong Kong" because it was concerned with the growth and development of the legal profession to meet both domestic and international needs. Circumstances may have changed affecting the implementation of the specific proposals made in that paper, but the Society has not changed in its commitment to ensure that the legal service offered by its members to the public is ever more accessible, affordable, effective, efficient and just.

Some tangible issues remain unresolved, and one of them is the solicitor's fight for rights of audience in the higher courts. The

history of this struggle reaches right back to the first years of the establishment of Hong Kong as a Colony, with many twists and turns as the sometimes blurred division between barristers and solicitors shifted as necessity required.

In the 1980s, the fight took on renewed vigour with the decline of the conveyancing market from its heyday of the 1970s and the virtual abolition of scale fees in 1997. More and more solicitors turned to other areas such as litigation to make up the revenue shortfall but found it difficult to get ahead. Many in the profession harboured the hope that scale fees would return once it became clear that without them, lawyers would have a hard time. But others believed the profession had to bite the bullet and move on.

Anthony Chow Wing-kin, Law Society president from 1997-2000, recalls: "It was



# Bill paves way for solicitors to enter Supreme Court

By Annie Chen

SOLICITORS took a step closer, to being appointed to the Supreme Court after the Legislative Council passed the controversial Supreme Court (Amendment) Bill 1995 by a majority of 38-16 yesterday, with one abstention.

Controversy over the bill, which aims to enlarge the pool of eligible lawyers directly appointed to the Supreme Court, was focused on whether solicitors should be required to have 10 years of experience under their belts before being appointed.

However, legislator and barrister Martin Lee Chu-ming, in line with the Bar Association, insisted that solicitors must have worked as advocates for 10 years in order to be considered suitable.

Mr Lee remarked on "how odd" it would be if "solicitors under the bill need not prove a similar experience as an advocate, and yet, Judicial Services

**"Experienced lawyers who are suitable for appointment to the High Court should not be excluded by narrow eligibility requirement."**

Committee (JSC) will consider their appointment", while the criteria existed for barristers.

Attorney-General Jeremy Mathews said experience in advocacy was not a criterion of the JSC in selecting judges. There was no need to single out advocacy as a requirement for eligibility for judicial appointment, he said.

Summing up his speech, Mr Mathews said: "It's crucial for the administration of justice and the rule

of law in Hong Kong (that) experienced lawyers who are suitable for appointment to the High Court should not be excluded by narrow eligibility requirement".

Besides taking on the government, Mr Lee had to argue against a number of legislators who were practising solicitors.

Simon Ip Sik-on cited a paper written by the attorney-general of Australia, which said advocacy skills were equally relevant to the work of solicitors, academic lawyers and government lawyers.

The paper also pointed out that some skills necessary for success at the Bar might be counter-productive to judicial work.

He said the eligibility pool must be widened because there was an insufficient number of senior barristers of high calibre willing to accept judicial appointments.

Mr Ip's suggestion was echoed by Miriam Lau Kin-yeem, who said a lawyer experienced in arguing cases did not necessarily mean he would be a good judge. Mr Lee's amendment merely imposed discriminatory measures for solicitors, she said.

Eric Li Ka-cheung, representing the accountancy constituency, called Mr Lee's amendment "an act of excessive interference on the operation of the Judiciary as an independent branch of government".

However, Mr Lee fought back by saying his amendments only made it impossible to appoint those who were simply not qualified to sit on the High Court bench.

It was "irresponsible" to pass a bill which "opened the risk that inexperienced judges will serve on the Bench of our Supreme Court", he said.

Mr Lee's amendment to the bill was defeated by 39-17 votes.

As the *Hong Kong Standard* reported on July 6, 1995 solicitors finally won their battle for the right to be appointed as judges to the Supreme Court (now the High Court) putting them on a par with barristers.

## Legal row heats up as barristers vote to keep solicitors out of High Court

# Bar firm on exclusive role

By Glen Perkins

THE territory's barristers are again crossing swords with their solicitor colleagues after voting overwhelmingly against giving up barristers' exclusive rights to argue cases in the High Court and above.

Last night's Bar Association vote, which went 192 to 25 against allowing solicitors to appear in the higher courts, is expected to launch another war of words between the two feuding branches of the profession.

Yesterday's vote was in re-

sponse to parts of the recent discussion document launched by the government in a bid to revolutionise legal services in Hong Kong.

Attorney-General Jeremy Mathews has called for the profession's and the public's response to the wide-ranging document.

The biggest bone of contention between lawyers in the territory has been whether solicitors should be able to grab a chunk of the lucrative High Court advocacy market.

Last night barristers

roundly said "no". Barristers also threw out the suggestion that they and solicitors should be able to work on a contingency fee basis.

However, they returned a favourable pronouncement on the recommendation that senior barristers — Queen's Counsel — did not have to appear in court with a junior barrister in tow.

That is a move that should save litigants' money. However, the Bar chairman, Gladys Li, QC, said the QCs would be able to reject cases

where they were not sanctioned by clients to appear with an assistant barrister.

The extraordinary meeting of the Bar also gave the green light to increasing the minimum malpractice insurance carried by practitioners. That has been boosted from \$2.5 million maximum per claim to \$5 million.

The government released its proposals for revolutionising the territory's legal system in March this year. The recommended changes included moves to crush barriers divid-

ing solicitors and barristers and attempts to slash fees paid by those involved in property sale and purchase.

Heated debate was expected over the proposals.

It will be several more months before the recommendations complete their passage through the consultative and legislative wringer.

Notable barristers Ms Li and Barry Skeats yesterday defended the rejection of the broadening of solicitors' rights in court, pointing out that solicitors already had rights of

audience in Magistrates and District Courts and tribunals as well as in High Court chambers hearings.

They added that if solicitors really wanted to concentrate on advocacy in the High Court, they could easily swap to being full-time barristers.

Ms Li said there was a dwindling volume of work for barristers, and introducing hundreds more potential High Court operatives could result in the extinction of an independent Bar.

But as this report in the *Hong Kong Standard* on August 1, 1995 shows, barristers continued to oppose allowing solicitors the right to higher audience.

clear by 1999 that we would never be able to retrieve what we lost with the scale fees. Many members were still living in the past and saying that once things had died down, the government and people of Hong Kong would realise our hardship and be prepared to give us back scale fees. That was a forlorn hope, virtually an impossibility."

But without rights of audience to the higher courts, litigation work would always be limited. Law Society president Roderick Woo Bun pointed out in his president's message in April 1994 in *Hong Kong Lawyer* that "the Bar protects its exclusive right of audience in open court, in the High Court and the Court of Appeal. It argues that these courts should have the benefit of arguments delivered by specialised advo-

cates. The Law Society's reaction is that for 'specialised advocate' one should not read 'barrister' ... A solicitor is no less qualified and equipped to practise advocacy than a barrister who has just finished his pupillage."

Woo thought that there were two related issues: the non-eligibility of solicitors for direct appointment to the Supreme Court (now the High Court) and their not having the right of audience in the higher courts.

The first issue was resolved in July 1995 when, at the urging of the profession, the Supreme Court (Amendment) Bill was passed into law giving solicitors with at least 10 years' experience in private practice the right to be directly appointed to the Supreme Court, putting them on an equal footing with barristers.

But the fight for higher rights of audience continued.

The widely-anticipated end to conveyancing scale fees in 1997 and the subsequent effect this would have on the profession only increased the urgent need to be granted higher rights.

So there was disappointment in February 1996 when Attorney General Jeremy Mathews delayed making a firm decision on the matter in his plan to reform the legal profession, saying more consultation was needed.

In October 1996, following a survey that clearly showed public support for solicitors gaining higher rights, the Government announced it would amend the Legal Services Legislation (Miscellaneous Amendment) Bill that would finally give solicitors the right to argue on behalf





Chief Justice Andrew Li Kwok-nang made clear during the opening of the Legal Year in 2001 that it was "premature" to explore higher rights of audience for solicitors.



In a Chinese-language brochure produced by the English Bar for its first visit to mainland China barristers are described as "big lawyers" and solicitors are described as "little lawyers". After being told that the Chinese translation had been advised by a member of the Hong Kong Bar, Law Society president Roderick Woo commented: "But who can blame him? Surely if LegCo had decided to call barristers in Hong Kong 'big lawyers' in Chinese, then solicitors must be 'little lawyers'."

of clients at the High Court. In a newspaper article, a Law Society source rejoicing that the battle was nearly over said it was "a campaign we have been working on for two decades." Celebrations were premature, however, as the Bar Association successfully lobbied the Legislative Council to delay the amendment.

Over the next five years, as lower conveyancing charges and the economic crises bit into revenue, the fight for higher rights took a back seat as solicitors struggled to survive. Christopher Chan Cheuk, Law Society president from 1996-1997, said the abolition of the conveyancing scale charges was in some ways a necessary evil. "Before this, the profession had concentrated on conveyancing, and it had to swing around. In fact that was a good thing, it was a blessing in disguise because the profession now branched out into other areas – civil litigation, commercial law and other matters."

At the opening of the legal year in 2001 Law Society president Herbert Tsoi Hak-kong said in his speech "we

may be disheartened by those who say that until all solicitors have attained a high standard of advocacy, the issue will not be considered; but we will not be deterred by such rebuffs."

In his president's report that year, Tsoi made a more emotional appeal, "I believe we owe it to this generation and those yet to qualify that we pursue this issue to a satisfactory conclusion. What we are asking is not for the benefit of the 5,000 members of the Law Society but for the benefit of the users of legal services in Hong Kong."

Finally in 2004 Chief Justice Andrew Li Kwok-nang announced a proposal would be studied by a working party headed by Justice Kemal Bokhary of the Court of Final Appeal. In June 2006, a consultation paper was released and the Law Society once again stepped up the campaign by holding briefing sessions for its members and the media highlighting the benefits to the public that higher rights for solicitors would provide. As of late 2007, solicitors were still fighting for rights of higher audience.





The Young Solicitors' Group held a Rule of Law drama competition in April 2006. Pictured here is a prize being presented by Deputy Solicitor General Stephen Wong.

The Young Solicitors' Group organised a trip to Beijing in May 2006 to meet various Mainland officials. Here, the Group meets members of the Beijing Olympics Organizing Committee.



Another challenge facing Law Society members is the fundamental principle of solicitor-client confidentiality, an issue Lester G. Huang, who was elected president in 2007, firmly addressed in a speech to the Law Society's Centenary dinner. He expected that well-intentioned international moves to fight money laundering would have some impact on legal practice and the management of law firms.

"The costs of running a practice may increase, but that is a relatively lesser issue when we consider the increasing threat that new laws could pose to confidentiality that is the basis of the solicitor-client relationship which is the bedrock of the rule of law. We should very seriously consider the implications of extending strenuous requirements that include having solicitors blow the whistle on clients when they may suspect illicit conduct. I do not think this is a proper duty to impose on solicitors and when this comes up for consideration I shall certainly reflect this view."

Dieter Yih Lai-tak, chairman of the Law Society's Standards and Development Standing Committee that issues guidelines for conduct, said: "Money laundering laws are beginning to appear in a lot of international jurisdictions now and Hong Kong will follow suit. What they will require is to know your client better. To understand, for example, where money is coming from and to have some comfort that it is coming from legitimate sources. At the end of the day all these laws are there to protect the client and the public – those interests are paramount."

Yih believes one main area solicitors need to be wary of is information flow. "It is fundamental that solicitors have a duty to maintain confidentiality – so much so that old school solicitors like myself do not even tell our wives the interesting things we do during the day. The problem now is the information flow is more open and public and the fact that you are advising certain clients gets around. There obviously is a lot of temptation to market your services and

there is some scope within our rules to do that if the client agrees to let you use their names."

Law Society Council member Amirali Nasir, who sits on the same committee, said new information technology had also created new risks for solicitors. "It is easy to jeopardise your client's confidentiality these days (for example through misplaced emails). Which is why we have the risk management programme to highlight various areas such as confidentiality, privilege and conflict."

Yih added: "We have seen on a worldwide basis where law firm staff have forwarded inappropriate jokes or comments that have circulated quickly around the world usually to the embarrassment of all concerned. These are the things that new technology can allow. With email, for instance, when you type someone's name in the address bar, names automatically pop up. You may have three people with the same first name and if you are not careful you can send the email to the wrong person. It is





as easy as that to send documents to the wrong person and it's impossible to retrieve it."

As Hong Kong's legal profession looks to the future in a rapidly changing world, Law Society president Lester Huang wants to see solicitors doing more to prove their worth and value to clients.

"The transactional work which is perceived by clients to be merely 'filling in forms' is less appreciated. We need to impress upon clients the legal skills and experience we bring to their business, be it a commercial or a court case. In fact, solicitors with the highest pay in town are often the transactional lawyers who put deals together for their clients," he said.

Increasing competition will also drive up standards in the profession as it

continues to widen its horizons from purely local work to having a more international focus.

The closer relationship with China and the advent of more foreign law firms setting up base in Hong Kong as they follow their clients into the mainland, is just one aspect of this change.

Council member and Law Society president from 2005-2007, Peter C.L. Lo, notes that since 1997 Hong Kong has had to change from a predominantly individual existence to being strongly influenced by changes in China.

"A substantial amount of business is now China-related and we are also seeing more and more mainland firms setting up in Hong Kong which is another indication of the shift in emphasis," Lo said.

Law Society vice president, Wong Kwai Huen said Hong Kong law firms need to look beyond the mainland to attract new business.

"For the past 30 years since China's open-door policy began, the policy has been for firms to attract mainland business by using our international skills and experience.

"For the first 20 years that worked because mainland companies needed our help but for the past 10 years, mainland firms have acquired the experience and skills required to operate on a global stage and they no longer need us as before.

"The message is loud and clear – as Chief Executive Donald Tsang said in his policy address we need to face the world with China at our backs, rather than looking into China with the world behind us.





One of the things former Law Society president Christopher Chan Cheuk missed most after becoming a District Court judge was socialising with his solicitor friends. "You can't mix with them too much, and you feel you shouldn't be at a lot of places – definitely not karaoke bars in Causeway Bay!"

The Law Society celebrated its 100th anniversary with a gala dinner in June 2007. It was a lavish affair attended by thousands of the Society's members along with many of Hong Kong's VIPs.

"To co-incide with this I would encourage the younger generation to develop their international knowledge and skills and gain overseas experience and not just rely on mainland work."

On the other hand, Huang said he foresees an increase in the number of lawyers with both Hong Kong and China qualifications combined with international experience.

The Greater-China law firm idea was first raised in 1997 as "one firm, two laws" and this was recommended again by Chief Executive Tsang in 2007 as one of the action agendas of the China's 11th five-year plan and the development of Hong Kong.

"This will likely be the new mode of law practice in Hong Kong where

lawyers with dual qualifications will practise under one roof with an increasing flow of cross-boundary dealings.

"In the new era, there will be more opportunities for solicitors to diversify their services overseas. Hong Kong, as the generally accepted platform for doing business in the region, will continue to play a pivotal role in creating good opportunities for solicitors to develop their Hong Kong legal services."

Legal education is another area that Huang has been a strong advocate of over the years.

He agreed with the 2001 review on legal education and training in Hong Kong that broadly-based liberal education should be offered by law schools for graduates. Vocational training for gradu-

ates at the universities should also be skills oriented.

"Despite the fact that solicitors are trained as Hong Kong lawyers, a working knowledge of Chinese law is becoming more and more essential to a law practice as many cases they will be dealing with will involve the mainland," Huang added.

Law Society vice president Junius Ho Kwan-yiu believes that for the profession to move forward, it needs to become more cost effective so that it can serve clients better. It is a challenge he feels can be met by consolidating and using new technology.

"There are two main things affecting the profession – money and market share and obviously one affects the other. Hong Kong is a very small market





An aspiring solicitor poses as the real thing using a cardboard cutout during the opening ceremony of Law Week 2007.

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THE WAY FORWARD

but we have the geographical advantage of being the window to China. But we have to know how to attract business from there.

"The majority of Hong Kong law firms are still small to medium-sized and there is only a small handful of firms which can really tackle the China market. There are also foreign firms here from the United States and Europe that are taking a share."

Ho sees more consolidation occurring among small and medium-sized firms but he emphasised the need to maintain standards.

"The best way for the small and medium firms to tap into this market is to integrate and consolidate because we have to remember that head count matters. At the same time, we should not forget that being big is not necessarily better, being better is better."

His second concern is how to co-ordinate and allocate resources to produce a cost-effective service.

"The client market is like a triangle and while we would all love to have the top-notch clients, the reality is that it is not possible. We have to look at ways to

service the medium and small clients who make up the bulk of the work and are very important to the profession. They may not pay the large legal fees but the sheer size means we can't ignore their needs."

Some in the profession believe the way ahead is for small and medium-sized firms to pool their resources in a way that makes the most cost-effective use of new technology to serve the smaller clients.

The need for multi-jurisdictional expertise among local lawyers is also a major factor which will force the profession to change, according to Council member and Law Society president from 2002-2004, Ip Shing Hing.

"There are more and more foreign lawyers in Hong Kong and there is a market drift towards needing multi-jurisdictional expertise which law firms need to address.

"Before, the income came mainly from traditional locally-based work but as more of the income shifts to multi-jurisdictional work, individual firms need to be able to provide expertise in this area.

"Of course, we are also seeing

more foreign law firms opening in Hong Kong because they are following their clients into China and we have to understand and work with the market forces which are driving these changes."

As the Law Society prepares for the next 100 years it will look to its younger members to uphold its values of integrity and professional conduct.

But staying relevant to a younger generation is a challenge the Society itself needs to tackle.

"The challenge is to make sure it remains relevant," Huang said. "What I think members want is for the Law Society to help build their careers, expand the scope of work and open up new markets for them. For younger members, I think they look to the Society to help them with career building.

"The Law Society will continue to be a strong advocate of the rule of law and the interests of the solicitors' profession, steadfastly upholding the core values of the legal profession at all times."

Young Solicitors' Group committee member Vivienne Ng Wei-wun said she would like to see "the Law Society providing guidance to assist the younger solicitors to build up their career paths and be better equipped to become a legal figure with quality."

Fellow Young Solicitors' Group committee member Bonnie Chan Joying believes knowledge sharing will become more common among legal practitioners, as new technology makes this increasingly easier.

"The future will be about knowledge sharing and not just legal knowledge. Young solicitors today are familiar with things like blogs and YouTube and how they can be used to enhance your knowledge and understanding.

"In a way, the Law Society is a family of 6,000 people and we can do with more support and exchange. We should be promoting that culture."

Said Ip: "There is also the dilemma that we are supposed to be promoting the profession and the idea of fellowship but also acting as a disciplinary body for them. But we do need to



arouse the interest of the younger solicitors and see that they have a say at the Law Society and its future direction."

Young Solicitors' Group committee member Cindy Chiu Ching-sze thinks the Law Society should "let a new generation of solicitors sit on the different committees, so different voices are heard." She would like the Law Society to take more of a lead in "acknowledging the existence of this special 'strata' of legal professionals (young solicitors) and that they do have needs which are distinct from the more seasoned practitioners.

"I would expect more activities done by the Law Society on the level of PCLL graduate and also to have orientation for trainees. There should be professionals within the Law Society to help

trainees with problems relating to their career paths."

Past president Christopher Chan Cheuk agreed, saying there are several things the Law Society could do to help its younger members further their careers.

"The Society should try to assist its members to change their careers. At present we have the Continuing Professional Development courses, but sometimes these have been run rather commercially and this doesn't help the members as such, and to that extent CPD should be strengthened.

"And linked to that is legal education to help solicitors improve their knowledge, particularly at the smaller firms that lack resources, and so the Law Society should provide these. I also rec-

ommend some sort of mentor system where seniors give their time to helping the junior members."

As the Law Society of Hong Kong celebrates, then closes the chapter on its first hundred years, many will reflect on the long and eventful road it has travelled since its founding in 1907 when the territory was still a young Colony, through 1997 when Hong Kong became a Special Administrative Region of China, to 2007 as the city faces the challenges of the new century.

In many ways, the challenges Hong Kong faces will be the challenges the Law Society faces, for the history of the Law Society is intrinsically intertwined with the history of Hong Kong.



Events like the popular annual Law Week will help shape the Law Society as it charts its way forward. Picture shows the October 27 opening ceremony of Law Week 2007.



## The Law Society President

The president is the leader of the profession and must demonstrate to members of the Law Society that he will steer the profession in a direction which is in their best interests. No easy role since within the profession there are diverse interests, views and opinions. With the assistance of the Council the president must decide how to balance all legitimate interests in policy decisions.

By virtue of his position he is the figurehead of the solicitors' branch of the profession. This means that he is frequently on call to members of the profession, the media, the Government, the Judiciary and all other bodies and persons who have anything to say or ask of the profession and who believe that by going to the top representative they will get instant action.

No president can succeed unless he is a diplomat. In dealings with other professional bodies, the Judiciary, the Universities, the Government and his own members the president must exercise tact and diplomacy notwithstanding his own inclination at times to "call a spade, a spade".

A president must constantly listen to the views of other stakeholders and his own members. There may be times when he needs to remind himself that other members of the Law Society may not necessarily share the same views as his own and that they may not be privy to information that he has learned through confidential sources. He must be discreet, understanding and tolerant.

It almost goes without saying that a president must be articulate and persuasive since he is called upon to speak on innumerable occasions during his term of office and is regarded as the embodiment of a profession that prides itself on these virtues.

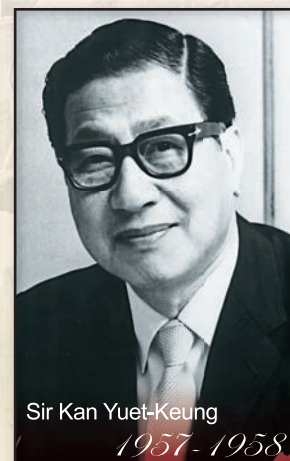
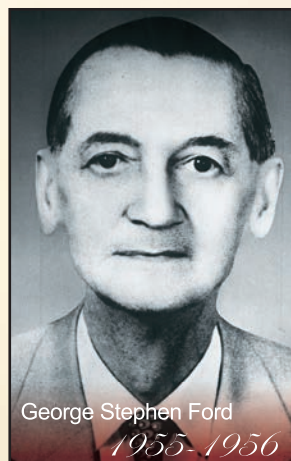
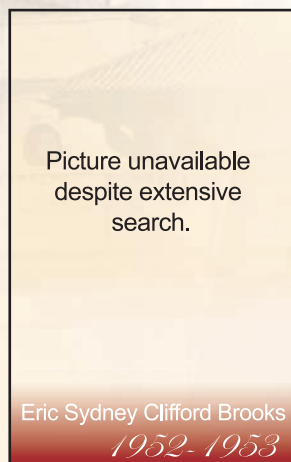
Above all, the role of the president is one of continued hard work and remaining in the public eye for long periods of time when often he would much rather be at home with his family. As chairman of many committees he must have read and gained a clear understanding of all the concerns of these committees, formed his own view as to the issues and then controlled the discussion so that the opinions of all are expressed before a democratic decision is reached which may not necessarily accord with his own views.

A succession of solicitors have over the years, freely devoted their time and dedication to the role of president. Since they often become president in the prime of their legal career, both they and their firms make considerable financial sacrifices. To them the profession owes a debt of profound gratitude.



# Law Society Presidents 1948-2007

Presidents 1948-1958

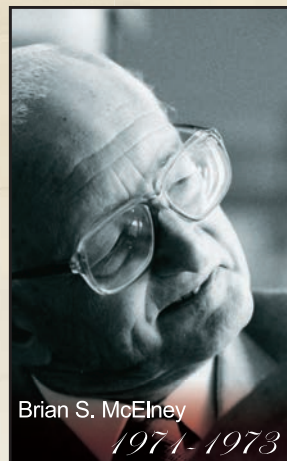
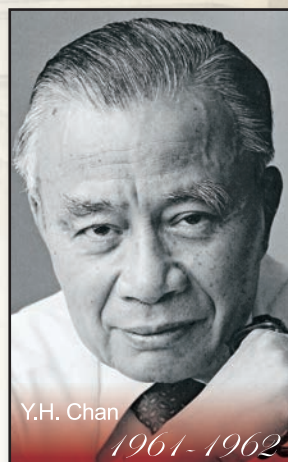




# Law Society

## 100th Anniversary

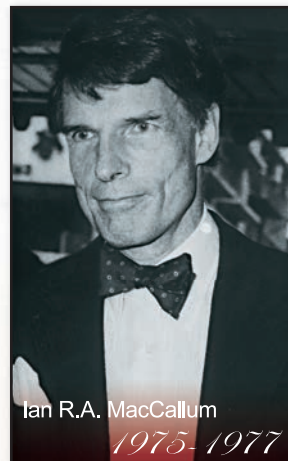
### Presidents 1958-1973



Law Society  
100th Anniversary



Presidents *1973-1992*





# Law Society

## 100th Anniversary

### Presidents 1992-2007



Law Society  
100th Anniversary





# Roll of Honour of The Law Society of Hong Kong

The following solicitors are on the Law Society Roll of Honour in recognition of their contributions and distinguished services to the Law Society, and to the development of the legal profession and the practice of law in Hong Kong.

Sir Yuet-Keung Kan, GBE, Hon. LLD, BA, JP	2001
P.A.L. Vine, OBE, VRD, LLB (Lond), Hon. LLD (Hong Kong), JP	2001
Dr. The Hon. P.C. Woo, LLB, PhD (Lond), JP	2001
W. I. Cheung	2002
Kenneth Lo	2002
Francis H.B. Wong	2002
Wong Wai Pat	2003
Ella S.K. Cheong, JP	2004
Brian S. McElney, OBE	2004
C. H. Wong, CBE, JP	2004

## Vice Presidents of The Law Society of Hong Kong (1964-2007)

The role of the Vice-President is to support the President in the performance of his duties during his term of office and to gain a greater insight into the functions of the Law Society in readiness for serving as President. Vice-Presidents serve on a number of Law Society Committees and are thus able to provide feedback and relay the concerns of members to the President. They stand in for the President at social and official functions and chair meetings of the Council in the absence of the President. The President and Vice-Presidents are elected annually by the Council. Since a complete list of vice-presidents dating back to the early years is unavailable, below is a list dating back to 1964.

Vice-President	Firm	Year	Vice-President	Firm	Year
G. H. H. Golby	Johnson Stokes & Master	1964	Patrick Philip Sherrington	Lovells	1995
George Egbert	Stewart & Co	1965	Christopher Chan Cheuk	Woo, Kwan, Lee & Lo	
Sinclair Stevenson			Vincent Liang Wan-sang	Lo & Lo	1996
Lo Tak-shing	Lo & Lo	1968	Richard Morris	Deacons	
M. P. K. Wong	Deacons	1969	Vincent Liang Wan-sang	Lo & Lo	1997
M. P. K. Wong	Deacons	1970	Herbert Tsoi Hak-kong	P. C. Woo & Co	
Peter C. Wong	Peter C. Wong & Co	1971 - 1972	Herbert Tsoi Hak-kong	P. C. Woo & Co	1998 - 1999
Ian MacCallum	Wilkinson & Grist	1973 - 1974	Ip Shing Hing	Yung, Yu & Yuen	
Wong Chung-hin	P. C. Woo & Co	1975 - 1976	Ip Shing Hing	Yung, Yu & Yuen	2000 - 2001
Edmund Y. S. Cheung	Edmund Cheung & Co	1977 - 1978	Paul C. Y. Tan	Baker & McKenzie	
John Wimbush	Deacons	1980 - 1981	Paul C. Y. Tan	Baker & McKenzie	2002
Tong Tin Sun	T. S. Tong & Co	1981 - 1982	Michael J. Lintern-Smith	Robertsons	
Frank C. Y. Cheung	F. Zimmern & Co	1983 - 1984	Anson Kan Kam-choy	Johnson Stokes & Master	2003
Simon Ip Sik-on	Johnson Stokes & Master	1985 - 1986	Michael J. Lintern-Smith	Robertsons	
P. H. Davies	Deacons	1987	Lester G. Huang	P. C. Woo & Co	2004
Donald Yap	Philip K. H. Wong & Co	1988	Peter C. L. Lo	Woo, Kwan, Lee & Lo	
Amy S. F. Ko	Slaughter & May	1989	Wong Kwai Huen	Simmons & Simmons	
Ambrose Lau Hon-chuen	Chu & Lau		Lester G. Huang	P. C. Woo & Co	2005 - 2006
Ambrose Lau Hon-chuen	Chu & Lau	1990 - 1991	Wong Kwai Huen	Simmons & Simmons	
William Tsui Hing-chuen	Lo, Wong & Tsui			Huen Wong & Co	
William Tsui Hing-chuen	Lo, Wong & Tsui	1992		(from Nov 2006)	
Roderick Woo Bun	F. Zimmern & Co		Junius Ho Kwan-yiu	K. C. Ho & Fong	
Tony Cheng Chi-tung	Woo & Woo	1993 - 1994	Wong Kwai Huen	Huen Wong & Co	2007
Patrick Philip Sherrington	Lovells		Junius Ho Kwan-yiu	K. C. Ho & Fong	



# Secretaries and Secretaries General of The Law Society of Hong Kong (1964-2007)

The position of Secretary, later renamed the Secretary-General, has always been an important one in the Law Society. The person holding the post has the crucial task of putting into effect the decisions of the Council and the Standing Committees, providing administrative support to the President and Council, ensuring the smooth day-to-day running of the Society and keeping members fully informed of important decisions affecting their profession. Before 1964 the post was an unofficial one filled by members on a voluntary basis. Starting in 1964 the Society hired from outside to fill the newly-created position of Secretary. From 1984 onwards the post changed to that of Secretary-General with a fully-staffed secretariat to help handle the increasing workload.

## SECRETARY

Shirley Woo	1964 - 1968	Celina Law	1969 - 1983
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## SECRETARY GENERAL

John E. Davies	1984 - 1985	John W. Miller	1986 - 1987
John Croxen	1988 - 1992	Patrick R. Moss	1993 - 2007

## DEPUTY SECRETARY GENERAL

K.C.Yeung	1986 - 1989	Raymond C.K.Ho	2006 - 2007
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