

**THE CHAIRMAN'S SPEECH AT  
THE CEREMONY OF APPOINTMENT OF SENIOR COUNSEL 2019  
(22 JUNE 2019)**

Chief Justice, Secretary for Justice, the assembled members of the Judiciary, President of the Law Society, Honourable Guests, Ladies and Gentlemen.

There are four neophyte senior counsel before the court.

It is a great day for each of them, their families and friends. The four of them have attained a mark of high distinction that is recognised by every kind of lawyer, solicitors, barristers and judges too. You are all, of course, here today to bear witness to that achievement.

The letters “S.C.” constitute a cachet recognized by the wider public, who see the postnominal as a mark that guarantees integrity, good advocacy and first-rate legal skills if it does not always bring about the desired result in litigation, as very many of my former clients will tell you.

It is a professional rank that has its origins in England & Wales in the last days of the sixteenth century.

Then Sir Francis Bacon, a future Lord Chancellor, persuaded Queen Elizabeth I that she should create a new class of barristers to serve the monarch of the day.

These new lawyers would take precedence over all other attorneys, barristers and the members of that other ancient legal profession, now extinct, the Serjeants-at-Law, who had won pre-eminence in the common law courts in the Fourteenth Century.

The Serjeants-at-Law were outmanoeuvred by the more nimble K.C.'s and Q.C.'s and they shrank in numbers over the next 250 years until, they were euthanized by the Supreme Court Judicature Act 1875 which did away with the rather crazy and antiquated courts system where they had once flourished.

The last Serjeant-at-Law, Lord Lindley, retired from the bench in 1905 and their former home, Serjeants Inn, is now the site of a modern hotel on Fleet Street.

The fate of the Serjeants-at-Law nearly 150 years ago should be a reminder to the new senior counsel and to all of us that professional success should not be taken for granted. Times change and the profession must adapt to those changes.

Having achieved the rank and distinction of "S.C." it is now the time to build on that new reputation not just for themselves but for the benefit of the Bar and, more importantly, the wider public.

I would urge the new senior counsel to devote some of their time to Bar matters to make sure that the profession thrives and continues to serve the needs of our treasured justice system under the Basic Law.

I would ask them also look further afield and make sure our legal system, sometimes something of a mystery to foreign lawyers and others who take an interest in Hong Kong affairs, is better understood and is appreciated for its underlying strengths. A lack of understanding of our system has been apparent to all of us in these last few months.

Lastly, I would also ask you to follow the example of the that extinct race of lawyers I have just mentioned, the Serjeants-at-Law.

In return for the many perquisites of office they had, including the privilege that no judicial office in the common law courts might be conferred on anyone who was not a serjeant, there was an obligation on them to act without remuneration if the court directed that they should assist persons without means.

That obligation may have been a part of the common law but a statute from 1495 called “*An Act to Admit Such Persons as Are Poor to Sue in Forma Pauperis*” put the matter on a firm statutory basis by allowing the Lord Chancellor to direct serjeants to act for free:

*“Counsel learned by their discretions .....shall give their Counsels nothing taking for the same, and in likewise the same Justices shall appoint attorney and attorneys for the same poor person and persons and all other officers requisite and necessary to be had for the speed of the said suits to be had and made which shall do their duties without any rewards for their Counsels’ help and business in the same .”*

Whether acting *pro bono publico* or acting on the instructions of the Director of Legal Aid, all senior counsel, new or old, should follow the example of the Serjeants-at-Law and provide assistance to those that cannot afford it, even if it means entering into legal areas that are not familiar to them or, if already familiar, approaching them from a different direction in terms of their usual representation.

I beg you to do this lest an ingenious judge should inquire into whether it was a forgotten part of the common law brought to HK nearly 180 years ago and transmitted under BL 8 that judges really could direct that legal assistance be provided to poor litigants by senior counsel at their own expense.

I turn now to speak about the new senior counsel.

The first is Eva Sit. She attended the Diocesan Girls School until 1997 when she obtained a place at Oxford University to read P.P.E. She switched to read Jurisprudence after a year and completed that degree in 2001.

She returned home and did the PCLL at HKU but her thirst for law had not been slaked and she returned to Oxford to study for a bachelor's degree in Civil Law-a B.C.L.- which she obtained in 2002.

Her practice includes Commercial and Company Law, Civil Fraud and Asset Recovery, Planning Law and Judicial Review.

She is very busy and hard-working. I am told that she relaxes by pursuing the therapeutic hobby of luxury shopping in Pacific Place and that she also enjoys another innocent pastime which is frightening pupil barristers out of their wits.

Next up is Jenkin Suen. A product of the Diocesan Boy's School. He did not attend Oxford University after his secondary schooling. He went to HKU and took a law degree there in 1999. The next year saw him pass his PCLL at the same place.

Like Eva Sit, he was attracted to 'that sweet City with her dreaming spires that needs not June for beauty's heightening'-Oxford-to do a B.C.L.

He pitched up there in 2001 and went to Lincoln College which probably does not have the same exacting standards as Eva Sit's Wadham College because they let me in there many years before.

Jenkin practises in many fields: Land and Planning; Constitutional and Administrative Law; Companies Law; Insolvency/Bankruptcy; Banking and Trusts; Commercial Law; Immigration Law and Disciplinary Inquiries.

Jenkin relaxes by studying. In 2013 he obtained a “MALCS” with Distinction from HKU. In case you are wondering what the letters “MALCS” stand for, I will tell you. It is a ‘Master of Arts in Literary and Cultural Studies’.

The HKU faculty website describes the course as follows:

*An interdisciplinary approach is adopted in the programme; all our courses are largely shaped by critical and cultural theory, and look at texts, for example film and literature, through the perspectives of post-structuralism, deconstruction, psychoanalysis, phenomenology, feminism, postmodernism, Marxist, post-colonial, and eco-criticism. At the end of their studies, students are expected to complete a capstone experience which contribute to the body of knowledge in liberal studies and humanistic inquiry.*

Rumours that his study topic was deconstructing the texts of CFA decisions with a view to identifying a sub-text of neo-Marxist thought in the CJ’s judgments are just that: rumours only and not proven-at least not yet.

Rachel Lam is the third new senior counsel. She was admitted to the Bar fifteen years ago, in 2004.

Her route to the Bar was, predictably, via Oxford University where she attended Pembroke College.

She obtained her undergraduate degree and went on to acquire a Master of Studies Degree in International Human Rights Law at Oxford.

This master's degree proves that you are really quite clever and worked to get the degree. It shows that you do not need to pay the £10 fee less academically gifted types pay to Oxford University seven years after matriculation to be given the specious postnominal, "M.A. (Oxon.)", thus falsely giving the impression that you have actually passed a rigorous academic examination.

All that said, I see from the string of qualifications that follow her name that Rachel is also a "M.A. (Oxon.)".

Rachel went next to Harvard Law School where she obtained another master's degree, an LL.M.

Rachel has had a stellar career at the Bar. Her specialization is in Company Law, Commercial Law and the Law of Trusts where I do not expect she comes across many legal indigents needing her assistance.

Rachel does, however, lend a hand to people with other needs. I am told that she takes breaks from practice from time to time to do volunteer work in developing countries.

Her preferred relaxation is skiing which I never took to because what is it really but the art of catching a cold, spending wads of cash whilst going downhill fast to nowhere in particular, but at great personal risk.

Last, I come to Laurence Li. Unlike the three others he did not have the advantage of going to Oxford University.

He slumped it academically by first going to Yale University where he graduated in 1994 on dangerous drugs because his c.v. says he graduated "cum laudandum" or

something like that. He then went onto Harvard University and he graduated from that place on drugs again in 1997 with a Juris Doctor degree.

He then worked as a tax-lawyer in New York for a couple of years, a branch of the profession, that is much-maligned, but probably deservedly so.

I say that because there is surely some basic truth in this cruel joke which I feel constrained to tell you:

*If a lawyer and an Inland Revenue official were both drowning, and you could only save one of them, would you go to lunch or read a newspaper?*

Laurence came to HK and was admitted in 2006. His practice is primarily commercial litigation with a focus on the financial markets, financial services and just about all other things financial.

He is the author of that page turner “Securities and Futures Ordinances: Commentary and Annotations” which is now in its third edition.

He is also consulting editor for the O.U.P. publication “Financial Markets: Law and Practice” which people assure me is a rattling good read though I will wait for the film version to come out rather than buy it.

That ends introduction to the four new senior counsel. On behalf of the Bar I wish them well in their new rank and status.

Philip Dykes SC

Chairman

Hong Kong Bar Association

