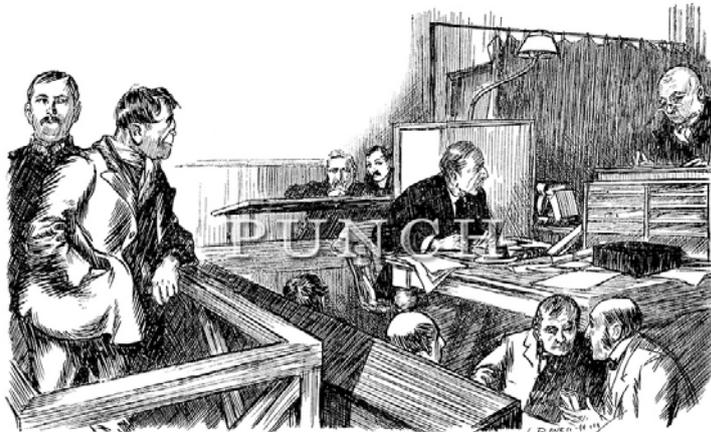


## Hong Kong Adjudicating House of Pain



QUITE UNNECESSARY QUESTION.  
*Newly-appointed Magistrate. "ANY PREVIOUS CONVICTIONS AGAINST THE PRISONER!"*



*"Any previous convictions against the defendant?"*

### "The Law"

From old English Lagu (something laid down or fixed)

In England eight hundred years ago the 'Magna Carta' limited the King's ability to use his feudal powers and even the sovereign was not above the law. No free man is to be arrested, imprisoned, enslaved, exiled otherwise proceeded against unless 'by legal judgement of his peers or by the law of the land'.

Lord Denning jurist in 1977 declared succinctly: 'Be you ever so high, the law is above you'.

The modern criminal justice system has evolved gradually over centuries. Adding new forms of punishment, rights for offenders and their victims, with police reforms. These changes were reflected by shifting customs, political policies and economic situations.

The purpose of the criminal law is to provide a specific definition of what constitutes a crime and to prescribe suitable punishments for committing such a crime. No criminal law can be valid unless it includes both of these factors.



The first contact a suspect becomes touched by the criminal justice system is usually with the police or law enforcement agent investigating an alleged wrongdoing and an arrest.

(St.Ives Villain 1858 in the stocks)



## Victorian Era Crime and Punishment Sentencing

Queen Victoria came to the throne in 1837 until her death in 1901, there were fewer hangings. Transportation was often used instead of hanging for serious crimes. Petty crime sentences became lighter.

New security deterrents were attempted. Gaols were re-designed to encourage recidivists from re-offending and allow the incarcerated an opportunity to turn over a new leaf.

Most forms of dehumanising physical punishment (e.g. stocks) decreased. However, the authorities still considered whipping to be a just and humane punishment.

In 1842, two boys, James Stevens, aged 12, and 16-year-old William Quick from the coastal town of St Ives, Cornwall my home county, appeared in court before J. King Letherbridge, accused of stealing a copper funnel. They had stolen it from a ship called the 'Agnes', which had been laid up for the winter in the town's harbour. The two boys confessed to the theft, and the jury found them guilty. As part of a week's gaol time, the two juveniles were ordered to be whipped in private in the gaol prior to release. Private whipping was not discontinued until 1848, over a decade after Victoria came to the throne.



Over the course of the 18th and early 19th centuries, the proportion of whippings carried out in public gradually declined in England, but the number of whippings in private increased. Other forms of punishment were more restricted. The public whipping of women was abolished in 1817 and men in the 1830s.

## British Empire Far Flung Flown Laws



In March 1839 Lin Tse-hsu (林則徐) received the Emperor's instructions to suppress the opium trade. Illegal opium dealing and smuggling was lucrative. The China authorities became concerned over the 'foreign mud'. It came to a head when the Chinese authorities threatened to expel British merchants selling opium in Canton with the harmful effects on Chinese society generally. Energetic Lin kept the foreign community in confinement until over 20,283 chests of opium were seized from foreign trader's opium. Lin acted summarily and destroyed the opium.

A naval expedition under Charles Elliot R.N. and cousin Rear Admiral George Elliot Plenipotentiaries were instructed by Foreign Secretary Palmerston to 'urge' the Chinese to negotiate to open further trade concessions and seek reparations for the loss of the opium.

## Treaty of Chuenpi

Captain Elliot's China armed belligerent incursions at China ports ended with the Treaty of Chuenpi and the ceding of Hong Kong. On 20 January 1841 Foreign Secretary Lord Palmerston offered Sir Henry Pottinger the post of Envoy and

Plenipotentiary in China as Superintendent of British Trade, replacing Capt. Charles Elliot's due to his lack of belligerent action against the Chinese ports. Palmerston expected a better reward for the costly action against China than just a Hong Kong 'barren rock'.



### **The 1st Hong Kong Governor Sir Henry Pottinger (June 1843-May 1844)**

On 10 August 1841, Sir Henry Pottinger (砵甸乍) succeeded Capt. Charles Elliot. The 52 year old Anglo-Irish soldier and colonial administrator as British Plenipotentiary and Superintendent of Trade together with Rear- Admiral Sir William Parker arrived in Macau by the overland route via Suez in about sixty-seven days on the frigate 'Sesostris' under a battery salute.

In 19 August 1841 Pottinger lost little time in ordering a naval armed expedition along the China coast on the steamer 'HMS Nemesis' to ginger up the China ports authorities to succumb.

On 20 August 1841 Pottinger landed in Hong Kong harbour on the steamer 'Queen'. He ordered instructions for the British troops to evacuate the guns on Kowloon and moved to Kellet Island and to construct a military road to Tai Tam Stanley Village and build a barrack.

On 22 August 1841 Pottinger spent only one day in the colony retaining Daniel Richard Johnston as his Deputy with instructions not to make changes over the disposal of land until decided by the home government.

On 29 August 1841 Pottinger was aboard 'HMS Cornwallis' anchored at Nanjing (Nanking). British representative Sir Henry Pottinger and Qing representatives, Keying, Elepo and Niukian, signed the Treaty of Nanjing ratified by Queen Victoria and the Daoguang Emperor nine months later. The Treaty marked the end of the First Opium War between the British and Qing Empires of 1839–42. The Qing government importantly agreed to make Hong Kong Island a Crown Colony ceding it to the British Queen "in perpetuity."

### **Settlement Progress Report**

In November 1841, Johnston sent Pottinger an account of the settlement's progress, the development of Queen's Road, the Magistracy, the Record Office, a prison, barracks built in Stanley and a bridle path laid out towards Aberdeen and some construction on illegal works. In December 1841 Pottinger returned to Macau and moved his headquarters as Superintendent of Trade to Hong Kong in February 1842.

The port of Hong Kong in its early years attracted profuse mainland triads, ruffians and pirates. Public safety was constantly under threat. Arrested Chinese were handed over to the Chinese Yamen to be tried under the law of the Qing imperial court. Later, as the crime rate soared, the British changed its attitude and began

conducting trials of Chinese defendants. On the 22nd of May, 1842, two Europeans were sentenced, by Court martial, to be transported for life.

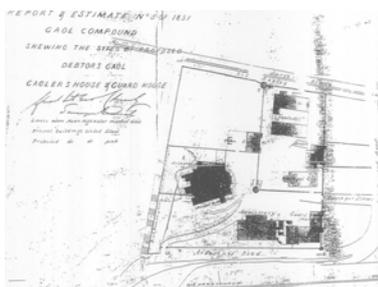
### The First Prison

Victoria first gaol was completed in 1845. The largest of these two buildings was divided into two apartments, one large and one small. Both occupied by the labouring prisoner chain gang during the night. The chain-gang was responsible for road-making and repair during the day. Four small rooms were provided in the gaol for prisoners committed for trial, and there were eleven cells for those sentenced to death, solitary confinement or for debtors. D Hall a 3-storey building, is located at the centre of the Victoria Prison and finally completed in 1858. West wing ground floor cells had hard granite flooring. The arched ceiling was brick built. The early prison cells follow a British design. Thick walls with small windows. The prison cells lined both sides of the corridor. The building was dark and poorly ventilated. Stone candleholders were set at high places along the walls for candles or oil lamps. *(D Hall & Old Bailey Street)*



### The First Adjudicating House of Pain

The first Magistracy was attached to Victoria Gaol in Old Bailey Street. In around 1847 a 2-storey Central Magistracy Building was built at Arbutnot Road. *(Magistracy 1847 to 1859. Magistracy Hong Kong 1846/7 from 1895 to 1899)*



## The First Magistrate



In 1839 as part of Captain Elliot's China expeditionary force Captain William Caine of the 26th Regiment of Scottish Infantry Cameronians was appointed a member of the Military Commission of Control of the Chusan Island and Chief Magistrate.

On 30 April 1841 Charles Elliot, one can say, the Founder of the colony appointed his first colonial government officer Captain William Caine as Magistrate of the infant colony of Hong Kong.

The operation of law and order nuts and bolts machinery was in an administrative vacuum. Caine's warrant of appointment dated 30 April 1841 his first task was to forge a police force within the budget of £1,400 that was used to cover his salary and payment for 32 man force, prison services and clerical assistance.

Early colonial forces adopted military characteristics alien to the English police system. They carried arms and were quartered in barracks. Today the Hong Kong Police remains a para-military force which is under the Government's control and is essentially a part of the government apparatus. The small force included European and Indians who could not speak Cantonese the local lingua franca. (*Pok Fu Lam Police Station 1861 & Chinese police*)



Caine, as first Chief Magistrate, in 1841 his first office and prison were simply matsheds located near the present-day Central Police Station at the corner of Bailey Street and Stanton Street. Later, as crime soared and the prison cells insufficient the temporary structures were demolished. Caine located a site on a slope on Old Bailey Street with granite and bricks to build the first solid prison completed on 9 August 1841 known as 'Victoria Gaol'. A few months later, while three temporary police stations were constructed one located at Queen's Road near Pottinger Street; tenders were called for the construction of four stations including one at Stanley 12 August 1844.

## Magistrate Caine's Judicial Powers

A Legislative Council had yet to be appointed. Caine as the first magistrate was given wide judicial powers to maintain peace and order in the community over all non-Chinese and Chinese inhabitants according to the customs and usages of British police law and Daqing Luli 大清律例 (Qing Code) respectively as there was an absence of local legislation. The penalties imposed on Chinese were not to exceed three months imprisonment or fine of \$40 or, in the case of corporal punishment one hundred lashes with the rattan.

Many prisoners sentenced to hard labour were employed mainly on the roads. Marched out at 6.00 a.m. in the morning to return at 5.00 p.m. in the afternoon with



the exception of Sundays. Labouring convicts and those in confinement were kept in leg irons. For serious crimes heavier sentences had to be referred to the head of government. Caine and his Assistant Magistrate is known to patrol the town three nights a week alternatively. Caine served thirty-five years without intermission but alleged to have speculated in land.

In 1843, the British relocated its criminal and admiralty court of justice from Canton (Guangzhou) to Hong Kong, which became responsible for trying criminal cases involving British nationals on Hong Kong Island and in China. At the time, Henry Pottinger, the first Governor of Hong Kong and Chief Superintendent of the Trade became the Chief Magistrate. Major-General George Charles D'Aguilar became the Deputy Magistrate. Courts were conducted according to British Martial Law.

Crime was rife so Caine resorted arbitrarily to the lash to assert his authority in preference to fines. Consequently he was feared. Flogging was considered the most effective method to deter crime in the early days of the Hong Kong Colony.

There was a difficulty over the treatment of European and Chinese offenders. Harsh floggings became increasingly common. The majority of Chinese offenders were flogged. The number of blows varied from twenty to a hundred. A convicted Chinese criminal had his offence written in Chinese characters on placards and taken to the public whipping stand.



Wednesday was flogging day. Crowds would congregate in the square opposite the Harbour Master's office to witness the lash

being dreadfully applied onto the prisoner's bared flesh. There was a growing concern both in Hong Kong and in England over the extent of public floggings.



### **The Rule of Law Hong Kong**

Law and order is the main function of the state. The rule of law begins with the right of individuals to seek protection through the courts in which justice is administered by unbiased judges. It protects the freedom of individuals to manage their affairs without fear of arbitrary interference by the government or the improper influence from the rich and powerful.

On 26 January 1844 an Ordinance was enacted by the Legislative Council of Hong Kong to introduce English law and jurisdiction for British people resident in Hong Kong, Macau and the domains of the Chinese Emperor. Caine's harsh policy was given legal sanction, an alien system of law, forced on an indigenous population. Two ordinances were passed in 1844, giving the Supreme Court and the Magistrates the power to punish Chinese subjects.

On 1 May 1844 to tackle the high crime rate in Hong Kong the Colonial Government passed Ordinance No. 12, which provided for the establishment of a police force and a reorganized judicial system. William Caine was appointed Police Magistrate and Sheriff & Provost Marshal. The first few police recruits European and Indian green uniformed troops were first known as the 'luk yee' conversed in pidgin

English. By China's standards, colonial Hong Kong's code of punishment was considered lenient compared with that meted out by the Chinese Magistrates. (See below)



## The 2nd Hong Kong Governor Sir John Francis Davis Bart. (May 1844 - March 1848)

### Hong Kong Law and Order Established

In August 1844, the High Court of Hong Kong was formally established. British Judge J. W. Hulme was appointed first Chief Justice. The first session of the Supreme Court was held on 1 October 1844. Justice Hulme was appointed to the Legislative Council contrary to the principle the judiciary should be independent of the legislature. In 2 October in the same year, courts were opened and cases were tried according to British Law and the independence of the judiciary system in Hong Kong from the executive organs.

As rampant crime continued Governor Davis simply increased heavy penalties. He recommended criminals should be transported to other colonies. On 25 April 1846, fifty-four men were flogged and had their queues cut off for little reason. Leaders of the Chinese community protested. The colonial authorities continued to assert great faith in the deterrent value of the rattan.

### Punitive Treatment

Besides the lash another favourite sentence was transportation. European convicts were deported to Van Diemen's Land, also known as Tasmania, and later to South Africa. Chinese prisoners were sent to Labuan, a small island established by the Royal Navy off the coast of Borneo. The Chinese community again protested against transportation of Chinese and should be judged by Chinese officials. Davies reply was, "no one was compelled to live in Hong Kong and Chinese committing crimes here they must expect the same treatment!"

In England, transportation declined in the 1840s to be entirely abolished in 1867 and replaced by imprisonment in Hong Kong,

### The First Criminal Case

On 2 October, 1844, Laong Awa and his wife Laong Kwok-shi were prosecuted as the first criminal case in the Supreme Court for kidnapping two boat women and imprisoning them near Canton to sell them into prostitution. The Laongs were convicted and found guilty by the jury. The husband was sentenced to 18 months imprisonment with hard labour, while the wife received the same sentence without hard labour but with a punishment to be exhibited once a month in the market in the cangue with a placard explaining her crime.

In 20 October 1845 Ordinance No.12 amended No.1 of 1845 passed that a triad on second conviction to be branded on the right cheek



amended to branding on the inside of the arm and those convicted expelled.

### **The First Execution & Punishments**

In the early years of the colonial government convicted prisoners sentenced to death were hanged by the neck. The first recorded hanging was carried out on 4 November 1844, a Chinese criminal who murdered a European Police Officer. Another capital execution took place on 3 July 1845, directed by Governor Davis. The condemned was a robber Chun Afoon 陳阿寬, who wounded an Indian guard and an English blacksmith during an attack on Jardine Matheson's premises at East Point. Also hanged was an English murderer Charles Ingwood, to demonstrate the 'impartiality' of British law. The early Colonial authorities carried out the death penalty by hanging in Kennedy Town and conducted in public as a deterrent.

The first anti-piracy legislation was passed on 25 March 1847 Ordinance No.3 of 1847. In January 1847, Davis directed the execution of pirate Chun Teen-soong, a 'black Chinaman' of Indian father and Chinese mother, convicted of murder of a European. On that occasion, all prisoners were led out to watch the grisly execution. A police station was erected at Queen's Road East designated No. 3 remarkably which is still standing today.



### **The 3rd Hong Kong Governor Sir John George Bonham (March 1848-April 1854)**

The new Governor commuted the sentences of nine Chinese condemned to death for murder and piracy on unsupported evidence of an informer to transportation.

As transportation declined, the colony gaol received increasingly large numbers of prisoners. Overcrowding prison conditions deteriorated and judged to be 'vile'. Imprisonment was thought to protect the community and a deterrent. Hard labour, was emphasised by the prison authorities, whether productive or non-productive.

In the summer of 1850 the treadmill was recommended as a form of hard labour. A Justice of Peace requested that the machinery be sent from England to Hong Kong. A report by Colonel Jebb on the 'benefits' of the treadmill was forwarded the following year, as well as information on Fillary's hard labour machine. In 1853, the Government called for tenders for the erection of a treadmill in the prison. Twelve cranks were ordered later to tighten discipline within the prisons. Treadmills for punishment were used in prisons in Britain from 1818. The contraption were like 20-foot paddle wheels with 24 steps around a six-foot cylinder. (*Tread mill*)

Prisoners had to work six or more hours a day, climbing 5,000 to 14,000 vertical feet. While the purpose was mainly punitive, the mill could grind grain, pump water, or ventilate. The Penal Servitude Act 1853 (16 & 17 Vict. c 99) substituted penal servitude for transportation, except in cases where a person could be sentenced to transportation for life or for a term not less than fourteen years.



## Police Stations and New Buildings



In 1853 a police station was constructed located at the beginning of Percival Street near Happy Valley designated No.1 ( *i.e. the present site of the Eastern Exchange Tower at the junction of Percival Street and Leighton Road*) The station was demolished in the mid-1930s. Also in 1853 a Police Station was constructed on Caine Road, across the road from the bottom of Shelley Street, Central designated No.9.

## The 4th Hong Kong Governor Sir John Bowring (April 1854-May 1859)

### Rot on the Barren Rock

Governor Bowring had many reforms in mind and more control over gambling. He instituted an enquiry into extortion and payment of illicit fees (squeeze) in government departments.

A report by Magistrate Hillier in 1855 described the severe congestion in prison cells. In one case, 103 people were crammed into the same room, with only one light hung in the centre during the night. This was said to have encouraged 'unnatural crime' in dark quarters.

Incarceration, however, was never the preferred mode of punishment in Hong Kong. There was a view Victoria Gaol did not inspire much fear. The substitution of imprisonment for flogging, it was argued, rather than checking crime it encouraged it by 'holding out the prospect of rent free room, regular meals, and light labour for idle rogues and vagabonds'.



In 1856, Thomas Chisholm Anstey was appointed Attorney General of Hong Kong and served in that capacity until 1859. Fearless and outspoken to clear up the immoral and insalubrious state of the rot on the Barren Rock.

In 1856, public executions were carried out at the open plaza outside the Magistracy beside Arbutnot Road. In 1856 it was recorded that the police force consisted of 26 Europeans, 207 Indians and 19 Chinese.



## **British Navy Action at the Pearl River**

The British Navy, acting in British merchant's interests trying to sell opium to China blockaded the Pearl River and bombarded what is now Guangzhou. Out gunned and unable to attack the European settlement, the Qing Emperor's Viceroy for Guangxi and Guangdong uncompromising Yeh Mingchen, retaliated with a 'terrorist' campaign. Yeh's militia beheaded eleven Europeans found on the captured steamer 'Thistle', and there was a 'proliferation of unexplained fires around Hong Kong'. Yeh had placed a bounty on the heads of Europeans, and severed ones (alleging included some stolen from the cemetery in Happy Valley) were displayed in Guangzhou.

## **Talkee that Blead Got Spilum Conspiracy**

In January 1857, meanwhile in Hong Kong, some Chinese were encouraged to hit back in the struggle against the 'enemy' by poisoning foreigners in the colony by placing arsenic in the breakfast bread supplied by E-Sing bakery in Wanchai.

Four hundred foreigners including Governor Bowring and his 'fan gwei lo waifoo' Lady Bowring 'muchee spilum by olo blead, hai yah! Savvy?' The British community howled for the perpetrators all to be immediately hanged. He resisted the demands and argued the process of law be observed.

The bakery owner Cheung Alum slipped back from Macau to Hong Kong. Governor Bowring issued the arrest of 51 persons connected with the bakery and were detained in a room 15 square feet by 12 feet high in a police station. The trial was held in Hong Kong with Anstey the prosecutor and barrister W.T. Bridges for the defence. When tried in Hong Kong the baker was acquitted and ten were tried but 42 remained in detention from January 1857 to until 3 February and until their final release in July. Attempts were made to call upon the services of volunteers. In December 1857, it was stated that the police strength would be increased by 20 Europeans and 50 Indians and that an auxiliary force of 40 Europeans, consisting of imprisoned seamen.

Another police station designated No.5 was constructed at Queen's Road and Wellington Street later used as a fire station. In 1958 another police station No.7 located at Queen's Road and Pokfulam Road was opened until vacated in 1902.



## **The Oldest Profession**

By the 1850s, Hong Kong was a known centre for prostitution and venereal disease, especially syphilis. Venereal disease was already an acute problem for the garrison. Especially during the Second Opium War (1856-1861) both among naval and military. Syphilis invalidated amount nearly twenty-five percent of the garrison. Under the 24 November 1857 Ordinance, prostitutes were required by law to undertake a regular medical examination. The naming of 'Lock' hospital is believed

to be a reference to the practice of locking up the prostitutes who were found to be suffering from a venereal disease.

### The 5th Hong Kong Governor Sir Hercules Robinson (September 1859-March 1865)

In March 1859, two British sailors were hanged for murdering a Chinese waiter who reported their theft of money from the captain.

Caine retired in 1859, and Chief Justice Hulme left in the spring of 1860. Lawyer Anstey had been dismissed following his suspension in 1858. Magistrate W.H. Mitchell also resigned. Two senior officials were still under suspicion, Charles May and D.R. Caldwell the Registrar-General as both Caldwell and May's reputations were clearly tainted. Colonial Secretary Mercer managed to avoid the Caldwell police gambling corruption scandal.

### Ceding of Kowloon



The Convention of Peking 24 October 1860 ceded the area, cancelling the lease. was met with local resistance. (N.C.O.s NT)

### Perennial Security Problems.

Robinson was still faced with the perennial problem of police inefficiency tackling crime and piracy. Shau Kei Wan 1860 Harbour Master's station controlling legislation for registration of native craft was enacted in the late 1860s until the station was vacated in 1872. Pokfulam police station was commissioned in 1861 still in use after WW II, since demolished.



The serving Indian Infantry and former sailors or troops were considered not successful as police. Robinson introduced a Police Ordinance in 1862. Pay was improved with more grades; all served for five years and could retire on pension after ten. The Water Police force was increased and the harbour patrolled yet crime continued. A constable was murdered in Wanchai and the assailant was arrested and sentenced to death. C.B. Plunkett the lawyer for the defendant was appointed on 21 December 1880 but died two years later leaving only a road to his name.



Charles May arrived in Hong Kong in 1845 appointed Captain of Police and acting assistant Magistrate 1853 then appointed Chief Magistrate in 1861. In July 1862 two equal Police Magistrates were appointed. May was the longest British resident with thirty-four years of Hong Kong police experience and twenty-six years as a magistrate on his death on 25 April 1879.

A Stone Cutters gaol earlier authorized by Bowring was ready in 1863 using prison labour. The demand was great so Robinson purchased an old rampant diseased convict hulk the 'Royal Saxon' moored near the island to hold 280 prisoners to accommodate the inmates who participated in the construction work. In July 1863 thirty-eight convicts were drowned while transferring to the hulk. The following year in 1863 police station No. 4 was located at the eastern end of the Naval Yard. Later the Colonial Office gave tribute to Robinson's stand by providing allocations of land for public development against the military excessive demands.

### Central Police Station Construction



Further important public works were constructed especially Central Police Station (中區警署) still popularly known as 'Tai Kwun' in the vernacular 'big station' by former and serving police officers today. The oldest structure within the police station was built in 1864 a three-storey barrack block constructed adjacent to Victoria Prison. There are eight buildings in the Central Police Station compound buildings featuring tiled pyramidal roofs and protruding chimneys. Visible from Hollywood Road is the Headquarters Block, and the Dormitory Blocks A to D. Through the gate at the top of the ramp is the Parade Ground and Barrack Block. In the rear between the Barrack Block and Victoria Prison there were two or three small structures, being the coolie quarters and kitchen. The red-brick structure on the west side of the parade ground is the armoury and store.

Further storeys were later added to the block in June 1905. Other blocks were added between 1910 and 1925. In 1919, Headquarters Block facing Hollywood Road was constructed. Subsequently in 1925, the two-storey Stable Block was constructed at the north-west end of the parade ground and later used as an armoury.



### Criminals Scarper

in April 1864 100 convicts escaped from the 'Royal Saxon' hulk after disabling the guards and were not recaptured. The famous 'Drains Gang' making use of the drainage system successfully raided the Central Bank of India in 1865 carrying away \$100,000 in gold and notes. Two of the robbers were caught but piracy continued resorting to planned attacks rather than waiting like a mantis for their prey to come along.

The 2nd Bn. of the 9th Regiment of Foot (Royal Scots) (around 500-strong) saw action in the Second Opium War, fighting at the capture of the Taku Forts (1858) and Peking (1860). In 1865, 103 men were court-martialled, ordered 200 lashes and 4,882 days of imprisonment before returning home.

The public continued to consider imprisonment was an insufficient deterrent effect on criminals. The inability of the police to deal with the 1865 crime wave renewed demands for the return to the strong deterrent tarpeian measures used by Caine in the early days of the colony. In July 1866, an ordinance was passed allowing for the branding and flogging of any person who returned to Hong Kong from deportation before the expiration of his sentence. The Stonecutters Island Prison was completed in 1866.

The Colonial Secretary in charge of administering the government until the arrival of Sir Richard MacDonnell (1866-72) in March 1866 also used his authority to pass a new ordinance giving courts the power to flog those convicted of assault with violence. An Ordinance of 1865 prescribed flogging and solitary confinement for those convicted of armed robbery and crimes of violence. Europeans were not exempt to public floggings. In 1865 the last European one John Thompson endured public flogging and humiliation at the Harbour Master's whipping post. He was convicted of larceny and sentenced to three years imprisonment and three floggings of fifty strokes each. Flogging of convicted Chinese criminals continued until the 1880s.

### **The Sixth Governor Sir Richard Greaves Macdonnell (March 1866-April 1872)**

Governor MacDonnell was a hard man. In 1866 when facing a mainland crime wave he thought the only policy will work was Roman style deterrents! He reduced the diet of prisoners and ordered the use of cat-o-nine-tails and solitary confinement. In 1876, the prison introduced a form of punishment whereby the inmates were given limited sustenance. Offending Chinese inmates were given only one bowl of rice with one cup of water for each meal. European or Indian inmates were given bread or pita, and also a cup of water. This form of punishment was abolished only in 1881.

Catch 'em and thrash 'em boys! Take them to the HK Harbour Master's public flogging post.

Besides imprisonment and monetary fines, criminals were punished by caning, public display in shackles, exiling, branding and the cutting of the queue. Some criminals died in prison, unable to withstand the severe punishment.



Convicts sentenced to terms of one year or more with hard labour were fettered with three pound weights, secured to an iron ring on each ankle with a chain suspended by a hook from the waist belt. Chinese prisoners were generally obliged to work in chain-gangs. Many of them suffered from potentially lethal ulcers of the feet and legs. In 1866, sixteen prisoners died out of a total of 281 who were admitted into the Gaol Hospital for the treatment of ulcers (4,572 Chinese prisoners were incarcerated in gaol during the year). According to the Colonial Surgeon, those who died had refused to submit to amputation so simply died.

MacDonnell simply replaced the rattan cane by the 'cat' and strengthened the earlier ordinance. Where more than two floggings were ordered within six months, the second whipping could, at the discretion of the surgeon, be inflicted within the gaol on the buttocks instead of the back and shoulders. Many prisoners were illegally flogged with the regulation cat, and given the greater number of lashes than sentenced.

Sir Richard MacDonnell also deported a number of prisoners, on condition that they voluntarily have the lobe of the left ear branded. Branded criminals who returned to the colony were flogged and imprisoned.

During MacDonnell's tough tenure the following police stations were in operation. Designated No. 2 at Wanchai Road and Johnston Road Praya East 1868; No.6 at Victoria Gap 1869 near the Peak Tram replaced by Mt. Gough station in 1886; No.8 at Hospital Road Tai Ping Shan 1870 replaced by Upper Levels Police station in 1928 now a heritage listed building.

### **Seventh HK Governor Sir Arthur Kennedy (April1872-March1877)**

'Don't rock the boat' became a cornerstone of his Hong Kong's political philosophy. Contrary to his predecessors, he emphasised the need for reformation in the treatment of criminals.

In July 1872 the Police Commission set up by Macdonnell reported but the views were not unanimous. General Whitfield's proposal of recruiting 400 West Indians was dropped but the Sikhs were retained as jail guards. Bilingual communication was seen to be more important in the growing Anglo-Chinese police service. Kennedy established a board of examiners to test government officers and offered an allowance and certificates of proficiency to European and Indian officers. By the end of 1872 attendance included about a half of the total strength of land force. A separate school was established for the Water Police. The force Chinese section was commanded by Cantonese speaking cadet officer H.E.Wodehouse originally recruited as an interpreter who lived at The Homestead on the Peak.

In November Ordinance No. 6 of 1875 the Magistrates Ordinance was passed amending to consolidate the laws relating to the jurisdiction of Magistrates over indictable offences for which a magistrate was obliged to commit the alleged defender for trial to the Supreme Court. Such as offences with punishable with death or penal servitude for life. The magistrate had the power to convict and sentence other offenders to a maximum of six months imprisonment with or without hard labour and to pay a fine. He could also direct the offender be kept in solitary confinement for common assault. Public or private whipping not exceeding thirty-six strokes with a rattan. In 1874, the old prison hulk overturned in a typhoon.

Kennedy followed Macdonnell's Roman style 'Tarpeian Rock deterrent' much to the delight of the European community and deportation and branding was back in favour. The steamer fares from Canton were so low that it encouraged and influx of vagabonds and undesirables and gambling popped up in Kowloon City. Piracy cases dropped from twenty-six in1866 to five in 1876.

A Gaol Committee completed a review of Victoria Gaol in 1876. In its report, submitted to the Governor Arthur Kennedy, the committee spelt out that 'the primary object of punishment is to deter crime'. The committee recommended more use of the crank as a form of punishment. The inmate may be required to turn the crank up to 10,000 times each day. Those who failed to meet the target, the inmates were given limited sustenance. The crank itself came with an adjustment function to increase its resistance, so that inmates needed to spend greater effort turning it. Hence prison staff were called the 'screws'. Meals came to depend on a required number of turns being performed. The use of monotonous shot drill moving cannon-balls with precision from one pile to another, oakum picking, stone carrying, and stone breaking for its deterrent effect on prisoner's will continued.(Crank right )



Hung Hom police station was established in Kowloon in 1872 and In1873 the badly needed Yau Ma Tei police station was commissioned.(*Hung Hom PS*)



Kennedy departed in March 1877 to become Governor of Queensland. On his resignation as Governor of Queensland, Kennedy boarded the 'S.S.Orient' with the intention of returning to England. On 3 June 1883, when the 'Orient' was off Aden Kennedy died and was buried at sea.

### **The 8th Hong Kong Governor Sir John Pope Hennessy (April 1877-March1882)**

Hennessy had served several years as governor of Labuan, the Gold Coast and the Windward Islands. He apparently held different views from his colonial communities. Soon after arriving on the island, he tackled the question of corporal punishment and ordered an investigation into the administration of the prison. Contrary to his predecessors, he emphasised the need for reformation over the treatment of criminals.

There was a shift from punitive punishment towards a more redemptive approach signalled by Pope Hennessy with the support of the Colonial Office despite encountered widespread opposition in Hong Kong.

In 1877, Governor Hennessy proposed to then Colonial Secretary Earl of Carnarvon the abolition of caning and the reduction of the number of strokes inflicted; that the area of caning be restricted to the bottom rather than to the back, and that the "cat o' nine tails" be replaced by rattan canes. These suggestions did not gain the favour of the Earl, who feared that criminals might not be deterred by lighter punishment.

Hennessy argued, before the Legislative Council, a system of repeated short sentences on recidivists merely created a criminal class. The most fundamental penal principles, (1) the separation of young offenders from adult criminals by placing the former in a reformatory establishment; (2) the enforcement of a separate system among adults; (3) the establishment of penal labour by treadmill, crank, shot drill, or similar means; (4) and the moral and industrial training of those prisoners whose sentences were long enough to have an effect on their 'future disposition and mode of life'. He encountered widespread opposition in Hong Kong. The expatriate community still wanted a revival of the earlier 'tough' mentality old days.

Hennessy also pressed for a change of local ordinances prescribing the rattan and abolishing the 'cat'. Due the governor's inclination toward the suspension of public flogging, the substitution of the rattan on the breech in lieu of the cat-o'-nine-tails and less use of deportation it engendered unease among the European community. It provoked a public meeting convened on 7 October 1878 to discuss criminal activity in general. On 28 May 1879, a public execution was carried out in the courtyard of the Victoria Gaol. In1879, it was decided prisons were no longer to be managed by the police force. In 1899, the Prison Ordinance was amended and in the following year Victoria Gaol was renamed Victoria Prison, in memory of Queen Victoria.

In July 1880, the Secretary of State approved the governor's recommendations related to the treatment of criminals in Hong Kong. The Earl of Kimberly specifically noted that he 'entertained grave objections on general grounds to the infliction of the punishment in question and especially to that of flogging for ordinary offences'.



Surprisingly, Hennessy cut down the dietary scale and introduced a different diet for Europeans as part of a deterrent policy. To justify reduced portions of food prisoners 'should not live and work in better conditions than those prevalent outside the prison walls'. It called for remunerative hard labour, a fundamental aspect of prison discipline as a deterrent against crime.

Physical punishment, hard labour and solitary confinement continued to dominate penal practice well until the end of the nineteenth century. The lash and the rattan in Hong Kong were used far more frequently than in any other part of the world. The custodial sentence became more common only during the last third of the nineteenth century and never entirely superseded corporal punishment.

### Softening Up

In 1880, during the tenure of Governor George Bowen, such forms of inhumane punishment as branding and exiling were abolished. In the early years, the Chief Justice was also a member of the Legislative Council. In 1889, the Hong Kong Government decided that the Chief Justice should no longer be involved in the legislative process, hence the current formation of the political system.

Under Governor Robinson responding to opposition in society, on 4 May 1894 the last public execution by hanging was held, and subsequent death penalties were carried out in the witness of jailers. Caning and public display in shackles were abolished successively in 1903 and 1909.

### Fast Forward In Time

In 1965, the United Kingdom abolished the death penalty. The last inmate to receive the death penalty in Hong Kong was named Wong Kai-kee, a Vietnamese. He was sentenced to death by hanging of the neck for robbing and murdering a Chinese security guard in Shum Shui Po. He was hanged on 16 November 1966. The death penalty was suspended afterwards. On 23 April 1993, the Hong Kong Government passed the Crimes (Amendment) Ordinance and formally replaced the death penalty by life-term imprisonment.

The High Court remained the judiciary organization of the highest order in Hong Kong for trying all major local cases. The Magistracies remain in operation, trying minor criminal cases.

### The Second Adjudicating House of Pain



The first magistracy building was probably erected in 1847 but was later demolished to make way for the present Magistracy located at 1, Arbutnot Road, Central, Hong Kong.

#### Public Works 1912 Return of all Public Works Civil Roads, Canals, Bridges, Buildings

Construction 38,000.00 1912

PUBLIC WORKS, EXTRAORDINARY :—				
BUILDINGS :—				
Law Courts, (Superstructure), .....	Do.	{ 10,000.00 1,000.00 11,051.00	{ 1 No. 2 in 2795 of No. 2795 of }	Do. 1902.
New Magistracy, .....	Do.	38,000.00	2	1912.



The provision of an extensive basement with cells in the new magistracy delayed the construction work from 1913 to 1914. The second generation Magistracy was finally completed in 1914 and named 'Central Magistracy'.

The pedestal of the Central Magistracy housed cells to hold defendants awaiting trial. Prison staff escort defendants allowing passage connecting the basement to court one via a stairway to the court. After the Magistracy was decommissioned, the passages were closed.

The plan of the building takes the shape of a homocentric square. The pyramid shaped roof is covered by two layers of Chinese tiles. Multiple chimneys protrude from the roof. It was a common colonial architectural practice amalgamating Chinese with western styles of architecture. The front entrance is behind the court building facing the Barrack Block.

A covered hanging bridge connects the Magistracy to the Barrack Block. It is used to transfer prisoners to the courts for trial. The Magistracy on decommissioning the hanging bridge has not been used.



### Second Central Magistracy Opens

The first case was tried at the Central Magistracy on 24 April 1915.

Two Magistrates were responsible for trying cases on Hong Kong Island. During the Japanese Occupation the Japanese turned the Magistracy into a civil court. Part of the building received some war damage. In the early post-war years, the British tried Japanese war criminals here and many Japanese military officers were convicted of various offences.

From about the 1960s, the Criminal Investigation Department of the Police Force, mainly prosecuted cases involving homicides, commercial crime, and crimes related to drugs and triad activities at the Central Magistracy.

Immediately after entering the Magistracy from the front entrance is the atrium, on both sides there are two law courts. The ceilings are two storeys high. The court on the south is larger and three arched doors are opened on the south walls. The ceiling of the court was arched. The side walls were decorated by wall columns. On the top are circular windows decorated by elaborate clay sculptures. A veranda connects two courts from where one can see the parade ground. On the sides of the veranda are rooms for magistrates and court staff. Beneath was a small doorway originally giving access to judges and staff.



The doorway is framed by fine granite blocks, topped by a royal family emblem and a carving of the year 1914. On the side of the pedestal is a large arch door, beyond which a long granite staircase leads to the public entrance of the court.



## 1967 Riots Manufacturing Illegal Weapons Case



Following intelligence, it was discovered that there was a large illegal manufacturing process of crude weapons on the roof top of a leftwing communist building at Fortress Road and Kings Road.

The 27 storey building was cordoned off. On 4 August 1967 a Wessex helicopter from the British aircraft carrier 'HMS Hermes' in the harbour lifted some Hong Kong police officers in the helicopter to hover over the building to allow the police officers to slip down onto the rooftop. There were hundreds of rudely manufactured weapons stacked on the rooftop for communist inspired armed rioter's use to openly attack and confront the

police force officers and civilians.



The police worked their way down floor by floor. In the search the police discovered a concealed door. Inside the room was a full medical operating theatre where wounded left wingers could seek medical treatment.

A large number of persons inside the building were arrested. See photo of some of the suspects under arrest at the ground floor of the building.

Several of the arrested persons were later charged of criminal offences and appeared in Central Magistracy Court One.

As prosecutor a large number of examples of the heavy crude and ugly weapons were presented in evidence. Long metal sharpened pipes, some with six inch nails driven through them similar to medieval maces. The prosecution witnesses came up to proof and the evidence strong.

South China Morning Post Reporter: "When I got back to the Post, I was called into the editor's office and told to go to court the next day. Corfe had called".

"The next morning, he sentenced 23 rioters to six years imprisonment each. There was pandemonium in the court. Up to then, riot cases had fetched maximum sentences of two years. The following Wednesday, the Legislative Council plugged a loophole in the law, and restricted magistrates to handing down maximum sentences of two years. The court knew it was going to happen and pre-empted the lawmakers".

Dignified Mr. Paul Corfe was the Principal Magistrate in Central Magistracy Court One in 1967. The writer was the Hong Kong Police prosecutor in Court One prosecuting this case before him described above. One among many other 1967 disturbances cases.

Being present at Mr. Corfe's judgement on conviction and sentencing of the twenty six defendants to six years imprisonment was like a bombshell and panic among the packed leftist court public gallery. There was much wringing of tears and chagrin and voluble 'kong yi' protests from among the defendant's relatives!



In court number one the dock was in the centre facing the magistrate's bench with the public gallery to the rear. In court there was a series of steps. On conviction and those sentenced to imprisonment or remand the defendants were led down the steps below to the

cells. Following their conviction and sentence to imprisonment, the twenty - six defendants were being taken down the steps by accompanied uniformed police staff.

### Injudicious Remarks

The last defendant was just going down the top of the steps when he volubly swore in well known filthy Cantonese cursing Mr. Corfe and his mother.



The constable dragging the defendant down the steps said to me, 'Do you know what the last defendant said to the the magistrate?' Every police officer Chinese and expatriate officers know all the undignified and canny Cantonese swear words. I said to the constable. "Of course I know what he said now bring him up and place him before the magistrate." Addressing Mr. Corfe, "Your worship might wish to know what the last defendant actually said to you?" I asked the interpreter to translate what the defendant said in Cantonese and English confirmed by the constable and myself. Mr. Corfe calmly said to the defendant before the packed court, "That is contempt of court, I sentence you summarily to an additional further three months imprisonment."

### Contempt of Court

*'Alleged Contempt of Court by an infant.'*



There has been a degree of uncertainty as to the meaning and operation of contempt of court in law. The Common law has traditionally divided contempt of court into two categories - civil and criminal.

### Criminal Contempt Misbehaviour in Court

It is generally accepted that courts of law must possess adequate powers to check and prevent misbehaviour during judicial proceedings so that an atmosphere conducive to the orderly administration of justice is maintained.

Lord Denning in *Balogh v. Crown Court* (1974 13 All E.R.283 at 288) summarises the modern approach to the exercise of summary powers :

"This power of summary punishment is a great power. It is given to maintain the dignity and authority of the judge to ensure a fair trial. It is to be exercised by the judge of his own motion only when it is imperative to act immediately - so as to maintain the authority of the court - to prevent disorder."

Contempt of Court is not fully defined by statute in Hong Kong but over the years left to the common law or case law. It has been formulated in England now.

A magistrates' court may summarily impose a sentence of up to \$2,000 fine or 2 months' imprisonment on a person who behaves in an insulting manner or uses any threatening or insulting expression to or concerning or in the presence of a magistrate when performing any magisterial duty (s.99 of the Magistrates Ordinance (Cap 227) Section 99 power to sentence a person using insulting language to or concerning a magistrate.



## More Examples of Contempt of Court

**(12 Feb 2011 SCMP) Foul Language Brings Jail Term.**

An engineer who wrote multiple letters using foul language about a High Court registrar was jailed for four months after he was found to be in contempt of court. The Court of First Instance said the actions of the defendant were serious.

In March 2015 there was some criticism of magistrates over handling of public protests cases. Was this contempt of court or just 'free speech'.

The examples quoted above may explain why no attempt has been made to legislate for every contempt eventuality in Hong Kong.

## 1967 Contempt Case Revisited

Was the magistrate in the 1967 case and the defendant using verbal foul language at the magistrate and for writing offensive language about a court official justified in sentencing the defendant's imprisonment? Was a warning, a reprimand or, in appropriate cases, the removal of the offender from court, suffice to restore order and allow the case to proceed?

If a defendant who used foul expletives appearing before Chief Magistrate Caine in 1841 would Captain William Caine regard it as 'free speech' or 'contempt of court' and serious enough to get 100 lashings with the cat, three months of imprisonment with hard labour and branded and exiled to Labuan?

## The Law Reform Commission of HK Report Contempt of Court 1986

A contempt of court can occur when an act or writing is calculated to bring a judge, magistrate into contempt or lower their authority known as scandalising the court. It is being argued scandalising the court is an antiquated and ineffective offence and should be abolished as in England & Wales.

### Proposals for Reform:

The Commission considered it to be unsatisfactory that misbehaviour in court is dealt with, as it is at present. We recommend that a specific offence should be created, preferably in a comprehensive Contempt of Court Ordinance, to cover all forms of conduct with intentionally or recklessly disrupt a judicial proceeding.

To cover the worst cases, the maximum penalty, we feel, ought to be a fine of \$50,000 or two years' imprisonment in the High Court or the Court of Appeal. Where the contempt is committed in the District Court, we think that a maximum of a fine of \$20,000 or one year's imprisonment would be adequate.

We also think that a magistrates' court or a tribunal with power to punish for contempt should have power to impose a maximum penalty of a fine of \$5,000 or 3 months imprisonment.

## Central Magistracy Decommissioning

The Central Magistracy was decommissioned on 30 January 1979. The location was used successively by the Hong Kong International Arbitration Centre, the International Police Association Hong Kong, the Junior Police Officers Association, and the Hong Kong Police Philatelic Club. The fine facade of the building with its imposing pillars and other features in the Greek-revival style and massive retaining granite walls together with the adjacent Central Police Station and the Victoria Prison is categorized as Central Police Station

Compound and were declared monuments in 1995 under the Antiquities and Monuments Ordinance.(Cap 53)

The writer's 1967 old prosecuting office facing the parade ground.



Central Magistracy Magistrate's Chambers



Asia 's Finest Articles

During the 1967 communist inspired terrorism, 51 persons killed and 15 were the result of bomb attacks including police officers and children. Remember lest they are not forgotten. Some feelings simply do not melt away including the diminishing band of police officers with first hand memories of the events.

1. The Boys in Blue: Finest Hour- MacIntosh Cathedrals.
2. The Boys in Blue: A HKP Chief Inspector & A P.I.
3. HK Frontier Men & Macintosh Forts.
4. Central Cop Shop HK.



The Adjudicating House of Pain Rises Like a Phoenix



At the meeting of the Executive Council on 15 July 2008, the Council ADVISED and the Chief Executive ORDERED that Government should enter into a partnership with the Hong Kong Jockey Club (HKJC) in the form of an agreement (or agreements) to take forward the conservation and revitalization of the Central Police Station (CPS) Compound project.

This longest-standing Magistracy building in Hong Kong is being given a new lease of heritage life together with the 'Tai Kwun' and the prison.



**Restoration work to the best international standards has been taking place across the sixteen heritage buildings, with extensive works being undertaken on the roofs, facades and interiors across the 3.37 acre site, facades of the Police Headquarters Block, the Single Inspectors' Quarters and the Married Sergeants' Quarters.**



**Two buildings, the ‘Old Bailey Galleries’ and ‘Arbuthnot Auditorium’, designed by leading architects Herzog & de Meuron when complete, the new art galleries will provide over 1,500 square meters of international standard art gallery space.**

**The new Arbuthnot Auditorium will become a destination for film screenings, performances, lectures and conferences in Hong Kong. Both buildings will be clad in a unique recycled aluminium unit design, and it is expect the Arbuthnot Auditorium to unveil its facade relevant to the group of buildings at the Central Police Station site.**

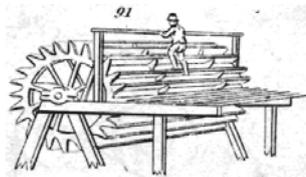
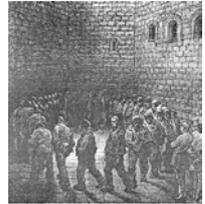
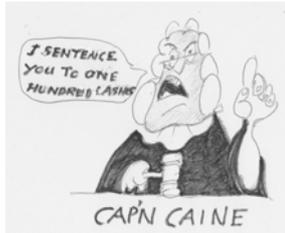




# Adjudicating House of Pain Ghosts



Here come the judge.....



The Kernowkid

Email: [briancoak@gmail.com](mailto:briancoak@gmail.com)

Website ([kernowkid.com](http://kernowkid.com)) Hong Kong Articles

