

SJ's Address at Ceremony for the Admission of the New Senior Counsel (English only)

The following is the full text of an address by the Secretary for Justice, Mr Wong Yan Lung, SC, at the Ceremony for the Admission of the New Senior Counsel today (May 21):

Chief Justice, my Lords, my Ladies, and other members of the Judiciary:

As I was preparing this year's speech, I visited the Queen's Counsel Appointment website of England and Wales. Application for silk there is now described officially as the "Queen's Counsel Competition". This and related matters do provide some food for thought.

Taking silk is a mark of excellence, particularly excellence in oral advocacy. The notion and scope of "advocacy" continue to develop with the changing legal landscape and the expansion of the areas where advocacy is practised.

One such area is mediation. Oral advocacy in mediation has already become a relevant practice area to be considered in silk's application in England. However, exactly how one evaluates mediation advocacy for the purpose of appointment of senior counsel is an interesting question. For the oral advocacy in mediation is not necessarily the same as the oratorical excellence in court or arbitration, which we are more familiar with. Furthermore, it has sometimes been said that lawyers, because of their adversarial predisposition, are not necessarily the best mediators.

Another change to come is the emergence of solicitor advocates. The Higher Rights Assessment Board is now considering the draft rules for assessing applications for granting higher rights of audience to solicitors. Once the relevant rules are made and passed by the Legislative Council, hopefully by the end of this year, the new breed of solicitor

advocates will soon be appearing in our higher courts. In due course, there may be request to make the silk title available to worthwhile solicitor advocates. In fact, one of the 129 new silks appointed in England this year is a solicitor advocate.

But one trend, which certainly will not stir up any controversy, is the more frequent appointments of lady silks. With the appointments today including Miss Linda Chan, nine out of 86 Senior Counsel in Hong Kong are women. The pace of ladies joining the inner Bar will definitely pick up in due course. Why not? While I have not counted the number of lady barristers in Hong Kong, in my own Department, female lawyers already outnumbered their male counterparts. Currently the ladies account for 58% of the total lawyers' workforce.

Over in England, there are trends to do away with tradition, placing emphasis on commitment to equal opportunity, expressly stating women and ethnic minority group applicants are particularly welcome. All those are perfectly understandable.

However, to crudely describe the application for silk as the "Queen's Counsel Competition" does give me a feeling of unease. The name inevitably reminds one of a beauty pageant. If it has the unfortunate effect of encouraging barristers to consider other fellow barristers as mere "competitors", it will be very sad indeed.

There are many traditional and noble features of the barristers' profession which should be preserved in my view, and which may not sit well with the notion of competition in the pure commercial or utilitarian sense.

A favourite subject when older barristers get together reminiscing over a drink is to compare the length of the Bar Lists at the times when they were respectively called. But what they brag about is not so much the fact that he or she enjoyed a bigger slice of the pie because of the smaller Bar, but the fact that they knew many if not most of their

contemporaries at the Bar.

The personal touch and the sense of fraternity are what make the Bar unique: the pupil master being the paterfamilias figure; fellow pupils having a strong sense of affiliation with one another; seniors teaching juniors and giving them opportunities; chamber-mates helping one another out not just with work but with other problems in life; opponents being treated with true respect in and out of court, with a fierce court battle followed by a hearty lunch together.

Where barristers are brought up that way, they are more ready to look beyond themselves to the interests of the wider community, to do pro bono work, to serve on the Bar Council, public bodies, boards, committees, and the public at large. Qualities like these abound among the three new Silks this year.

Mr Graham Anthony Harris

Mr Graham Anthony Harris was called to the Bar of England and Wales in 1975 and practised on the Midland and Oxford Circuit until 1983. In the following year he took up appointment as Crown Counsel in Hong Kong in the then Attorney General's Chambers. His legal skills and eloquent advocacy were quickly recognised and he rose to the rank of Deputy Principal Crown Counsel, handling a myriad of criminal cases, both at trial and on appeal.

Mr Harris joined the private bar in 1995. He has extensive experience in both defending and prosecuting cases of serious and complex fraud, corruption and market misconduct. He has represented clients involved in some very high profile and complicated commercial crime cases.

Mr Harris is extraordinary in so many ways. Not only is he an extraordinary advocate but he is also an extraordinary person who is known for his caring and personable manner. He is well known for his unselfish contribution to the profession and regularly gives talks and provides assistance to junior

counsel. At his time at the Bar in England and Hong Kong, he has had a little over 100 pupils. Graham is one of the more endearing personalities at the Bar and the Bar Mess is not the same without him amusing us about the lighter side of our profession or cheering us up with his musical talents.

Mr Stewart Wong Kai-ming

Mr Stewart Wong Kai-ming obtained his Bachelor of Laws degree in Hong Kong and Master of Laws degree at the University of London. He was called to the Hong Kong Bar in 1987. He has a mixed civil practice comprising tax, intellectual property, commercial litigation and administrative law. Over the years, Mr Wong has contributed significantly to the jurisprudence in the area of revenue law, and has conducted a number of complex tax and judicial review cases for my Department.

Stewart is a loyal supporter of the Bar and the Bar Council. Apart from being the honorary secretary and the treasurer, he is also the chairman of the Special Committee on Admission and member of other special committees.

Miss Linda Chan Ching-fan

Miss Linda Chan Ching-fan studied business administration before switching to Law and was called to the Hong Kong Bar in 1996. Her practice comprises litigation and advisory work in commercial law, with forte on company and insolvency law. She has been invited to appear as amicus curiae in a number of cases in her fields of constitutional importance.

Linda devoted a lot of her time on a wide spectrum of public services, including being a member of the Special Committee on Civil Justice Reform, and an adjudicator in a number of appeal boards and tribunals. She has also served on the Bar Council and other Special Committees over the years.

So my warmest congratulations to the three new Silks. This is your day. And this is the day for your families, without whose sacrifice and support you probably would not be here

standing at the pinnacle of your professional achievements today.

Another reason for congratulating the new Silks is that the costs incurred in successfully applying for silk in Hong Kong are relatively modest. They basically cover the price you pay for your full-bottom wig and silk gown, together with the bill for the reception at the Hong Kong Club later on.

But over in England and Wales, the application fee for the 2011-12 Competition is £2,340 (£1,950 + VAT), which is already 11% cheaper than last year's fees. Upon appointments, the winners of the competition will have to pay another £3,500, and that's not including VAT.

There is a further note in the English application form which is interesting. It reads: "If you believe that you demonstrate the necessary competencies to a standard of excellence and were considering applying for silk this year, but have decided not to on the grounds that the level of the fees is prohibitive, the Selection Panel would very much like to hear from you to inform its preparations for future years."

Fortunately no processing fees are being charged in Hong Kong, otherwise in response to a note of that kind, I am sure there will be calls for the extension of legal aid to cover the application and appointment costs.

Chief Justice, on behalf of my Department, I wish the new Silks every success in their practice at the inner Bar.

Ends/Saturday, May 21, 2011