

Speech of the Chairman of the Hong Kong Bar Association

At the Farewell Sitting in Honour of

The Honourable Mr Justice Patrick Chan PJ

On 18th October 2013 (Friday)

1. Friday afternoons have always had a special place in the hearts of lawyers and judges.

2. In *Davies (Inspector of Taxes) v Davies Jenkins & Co Ltd* [1966] 2 All ER 930, Diplock LJ said:-

“Stamp J in his judgment sets out the reasons for arriving at this view in terms much more felicitous than I could achieve and lengthier than I need attempt on **Friday afternoon**. I would dismiss the appeal for the reasons which Stamp J, gave.”

3. In *Re Land and Property Trust Co plc (No 2)* [1991] BCLC 849, Harman J said:-

“There are a series of other points taken but, given that this is **Friday afternoon** ... I do not propose to deliver judgment upon those further points.”

4. Therefore references to “Friday afternoon” have become a euphemism for saying that “we are desperate to finish the hearings so that we can rush to do whatever we usually do on a Friday evening.”
5. It is therefore most heartwarming that today, on a Friday afternoon, this Court is packed with so many of our colleagues and friends from the Judiciary and the profession who have gathered here to pay tribute to one of the kindest and most humane judges of our time, the Honourable Mr Justice Chan PJ on his final sitting.
6. According to the official programme for today, I shall be preceded by the CJ and the SJ and followed by the President of the Law Society. Chances are, therefore, that the research mechanism at the disposal of one or more of them would have gone through wikipedia or the HKGIS website to locate the official biography of Mr. Justice Chan. I will therefore speak about something else.

7. I first came across Mr. Justice Patrick Chan in 1991. He was then Master Patrick Chan. I was barely out of my pupillage. It was a specific discovery application. I had a relatively unmeritorious case. I was young and inexperienced and fumbling with my papers. What struck me in particular was his kindness and patience. He was one of the few Masters who would allow me, as part of my “learning on the job” process, to read out chunks of the White Book on discovery to him even though he must have known them by heart.
8. Since then I have had the good fortune of appearing before him reasonably regularly, and that continued after his elevation to the High Court bench and then as Chief Judge of the High Court. A particularly memorable case was when Ronny Tong led me against Martin Lee leading Warren Chan. It was memorable firstly because it was a case of Chan Chi Hoi appearing before Chan SiuOi and when I first started practice I often had difficulty remembering who’s who, until someone told me that Chan Chi Hoi printed money but Chan SiuOi had the power to say to Chan Chi Hoi that despite the amount of money he printed he was still talking nonsense. But on a more serious note, the case was memorable because both Martin and Ronny were banging on the table a lot and there had been a few explosive scenes. I

suspect partly because the clients were in court watching them. But Chan J stood firm, and handled the case with exemplary fairness and firmness, and managed to control both Ronny and Martin, a rare feat for any judicial officer. Eventually he even managed to persuade Martin Lee to advise his clients to settle with us, which brought a happy conclusion to an otherwise acrimonious case.

9. Ever since his elevation to the Court of Final Appeal I have the privilege of serving with Mr. Justice Chan on the Law Reform Commission where I learned that if Mr. Justice Chan frowns at you, it is not because he does not understand what you are saying, but is because he has spotted a point and was troubled by it. Those were invariably good points which required a meticulous eye to spot, one of which was unfortunately in a report which I was responsible for, and which I had to go back to the drawing board as a result of his input.

10. In terms of judicial decisions, apart from those that the Chief Justice had mentioned, one decision worth mentioning is that of *Chen Li Hung v Ting Lei Miao*, in which in a judgment handed down shortly before the handover, Mr. Justice Chan had to grapple with the vexed question of recognition of a

judgment from Taiwan. His decision was eventually upheld on appeal, albeit under a different legal order after the resumption of sovereignty.

11. Mr. Justice Chan is also a man of principle and he would not shy away from dissenting if he believes it right to do so. Apart from the decision in *W* which the Chief Justice had just mentioned, another instance which I can recall is the case of *ML v YJ*, dealing with recognition of a decree of divorce from the Shenzhen Courts. Mr. Justice Chan wrote the leading dissent, with which Mr Justice Bokhary associated.

12. So, we now have a snapshot of Mr Justice Chan as a judge and as a person:- courteous, fair, meticulous and judicious. But what made him so special, popular and respected are, I would respectfully suggest, two additional key points:-

13. First, his wholehearted and tireless work towards bilingualism in Hong Kong. In a speech that he gave on the occasion of conferment of the title of Honorary Fellow on him by the Department of Social Work of Chinese University of Hong Kong, he said:-

“The Rule of Law cannot be maintained without the citizens’ respect for the law and their confidence in our legal system”.

Respect for the law and confidence in our legal system is of course the result of years of hard work by our predecessors. That respect and confidence cannot be taken for granted, and we need to maintain it with vigilance. One way in which it is to be maintained, and which Mr. Justice Chan is a strong advocate of, is to ensure that the laws are administered and promulgated in a language which is readily understandable by the ordinary public. Mr Justice Chan’s pioneering work in this area is well documented.

14. Second, his genuine care and concern over the well being of others especially the less fortunate and young people. It could well be due to the influence of the Jesuits, who ran Wah Yan College, Hong Kong at which Mr Justice Chan received his secondary school education and spent his formative years. A glance at his CV will show that apart from law related work, he has participated – on a voluntary basis – in the activities and organization of a number of social work, charitable and educational bodies such as the Caritas, Catholic Diocese Commission on Education, Boys & Girls Clubs Association of Hong Kong, Scout Association of Hong Kong

as well as the Department of Social Work at Chinese University of Hong Kong.

15. In recent years the Bar has been reaching out to impart the concept of the Rule of Law to young people and secondary school students, and we will soon reach out our tentacles to invite Mr Justice Chan to join us in what we regard to be a worthwhile endeavor. And I can assure him that listening to or speaking to students could well be more enjoyable to listening to Counsel.

16. Last but not least, 陳法官一向致力推廣在法院使用中文，在今天這場合假如我不用中文終結我的致辭，未免會有點辜負了陳法官的心血。

17. 退任常任法官後希望你可以享受較悠閒的生活，或者找李國能前首席法官學打麻雀，如果你選擇退而不休，將你的智慧繼續造福香港社會，也是香港的福份。

18. 時光荏苒，物轉星移，天下無不散之筵席，在今日告別聆訊這場合，我謹代表香港大律師公會向陳法官作萬二分的謝意和敬意，感謝你對香港法律制度和秉行公義的貢獻。

19.最後，無論你做什麼也好，祝你健康愉快.

20.Good luck and good health, judge, we shall miss you.

Paul Shieh SC

Chairman

Hong Kong Bar Association