

**Discriminatory Zoning in Colonial Hong Kong:
A review of the post-war literature and
some further evidence for an economic theory of discrimination**

Abstract

TYPE OF PAPER: RESEARCH PAPER

STRUCTURED ABSTRACT

Purpose: This paper argues that racially discriminatory zoning in Colonial Hong Kong could have been a form of protectionism driven by economic considerations.

Design/Methodology/Approach: This paper was based on a review of the relevant ordinances, literature, and public information, notably data obtained from the Land Registry and telephone directories.

Findings: This paper reveals that many writings on racial matters in Hong Kong were not a correct interpretation or presentation of facts. It shows that after the repeal of the discriminatory laws in 1946, an increasing number of people, both Chinese and European, were living in the Peak district. Besides, Chinese were found to be acquiring land even under the discriminatory law for Barker Road during the mid-1920s and became, after 1946, the majority landlords by the mid-1970s. This testifies to the argument that the Chinese could compete economically with Europeans for prime residential premises in Hong Kong.

Research Implications: This paper lends further support to the Lawrence-Marco proposition raised in *Environment and Planning B: Planning and Design* by Lai and Yu (2001), which regards segregation zoning as a means to reduce the effective demand of an economically resourceful social group.

Practical Implications: This paper shows how title documents for land and telephone directories can be used to measure the degree of racial segregation.

Originality/Value: This paper is the first attempt to systematically re-interpret English literature on racially discriminatory zoning in Hong Kong's Peak area using reliable public information from Crown Leases and telephone directories.

KEY WORDS: racial discrimination, theory of price control, zoning, telephone directories, Crown Leases

This paper is a textual analysis of post World War II material in the English language, mainly by native speakers, on or about racially based statutory residential segregation in pre-war colonial Hong Kong. Authors of such material take for granted several reasons for the creation and destruction of the racially segregation discrimination. Without substantiating their opinion by any fact, these authors seek to corroborate their views by recourse to a few official sources. They tacitly subscribe to the arguments that the emergence of segregation was based on certain key characteristics or behaviour of the Chinese people of Hong Kong and the late Victorian reaction and interpretation of such characteristics. They also seem to believe that the destruction of discrimination was due to a change in opinion of the colonial rulers per se. By reference to documentary evidence from public literature and public documents, this paper provides further support to the arguments of Lawrence-Marco proposition (Lai and Yu 2001) that the formation and destruction of residential racial segregation was, at least partly, driven by economic considerations.

Preamble

The establishment of a University (the University of Hong Kong) must, I think, inevitably promote a good understanding between the British and Chinese and add to the friendship between the two nations. In particular it will promote the knowledge of English which is useful alike to those who adopt official and commercial careers (Extracted from “Reason for a University” in a despatch to the Secretary of State dated 12 January 1909 by Sir Frederick Lugard, as quoted in Mellor 1993: 72).

The words of Sir Lugard in 1909 still hold true for the people of Hong Kong today. However, material written in English on the history of Hong Kong may not always have given a full picture of what happened and why in the not too distant past.

Introduction

This paper critically analyses the rise and fall of racially-based residential segregation by zoning legislation in Hong Kong; presents the arguments as found in post-war English literature on law, planning and development and social commentary in Hong Kong on or about such racially discriminatory zoning; and adduces further evidence to support the idea of Lai and Yu (2001)¹ that the history of segregation in Hong Kong was heavily driven by economic considerations rather than mere racial prejudice or a change in public opinion per se. We call this the Lawrence-Marco proposition, after the last names of the authors.

The British Crown Colony of Hong Kong was a war-borne product implanted onto Chinese soil by a series of “unequal treaties” (Wesley-Smith 1998) in the nineteenth century.² After a century’s rule of Hong Kong thus obtained from China, the British colonial administration supported China in its resistance of the Japanese invaders in 1941 (Lai 2001). Furthermore, it created and left a way of life governed by the rule of law, and an economic system, a free market economy, which are honoured by China under both an equal treaty and a written constitution. However, many facts associated with colonialism that once affected or are still affecting the physical manifestation of the built forms and pattern of settlements of Hong Kong have been systematically neglected by researchers of different political persuasions.

Though the expressly discriminatory laws discussed in this paper were repealed in 1946, many latent and “ancillary” laws with the intended effects of ousting Chinese from certain “reservations” or districts have remained black letter laws. Two specific

¹ Given that Wesley-Smith’s legal analysis of various discriminatory laws in Hong Kong (Wesley-Smith 1987) has not been published, the said paper of Lai and Yu (2001), which addresses the racially discriminatory zoning law of Hong Kong for Victoria Peak (or the Peak) from an economic perspective, becomes probably the first published work on racism and development in Hong Kong in the English language. The leading work of Shulman and Shulman (2001) also reveals that none of the almost 2,395 doctoral dissertations produced in 417 universities over the world from 1900 to 1999 has ever been written on the subject. Nor, for reasons unknown, are the discriminatory laws referred to in the works of Tsai (1993, 2001).

² The war was fought over the free export of goods by a western country into China and one of the goods was opium. Before the war, the Governor General of Kwangtung and Kwangshi, Lin, wrote a passionate and courteous letter to Queen Victoria requesting her to prevent her subjects from smuggling opium into China. The content of this letter was criticised for failing to appreciate that the monarch of Great Britain, though on the throne, did not rule, in the sense of being responsible for the foreign policy of her government.

examples are the restrictive covenant specifying the building type permitted on a certain land lot to be that of an “European type house” or one “detached or semi-detached residence (or dwelling) of European type” in the Crown Lease (Government Lease); and the statutory ground for refusing to grant permission for constructing the building that would be incongruent with the “immediate neighbourhood” under the *Buildings Ordinance*. The former example pertains to an interpretation and enforcement of land leases, whereas the latter is a statutory interpretation of a building code. They are still in force, respectively as a matter of contract and legislation, and pose powerful constraints over the physical form of development. Though they can no longer be used to deny access to any person of any race to any particular site or area of Hong Kong, they should be removed from the legislation because they are no longer socially relevant.³

A proper understanding of the history of racially-based residential segregation does not only serve purely academic and development purposes. The value of historical inquiry should not be limited to any local policy or legal reform for tackling the said “European type house” or “immediate neighbourhood” concepts. It is also highly relevant for a local discussion of the development of “small houses” in the New Territories of Hong Kong under a policy that discriminates against women (Lai 2000). The reason is that a discussion of these developmental issues involves two overarching sets of laws for Hong Kong. These laws are the *Basic Law for the Hong Kong Special Administrative Region of the People’s Republic of China* (the Basic Law), which became effective on 1 July 1997, the written constitution for Hong Kong, and the *Hong Kong Bill of Rights*

³ As regards the “European type house” clause, the view of Robert and Siu is as follows: “It is probable that the intention of this restriction was to prohibit the erection of anything but a single dwelling house, the type of which is customarily seen in Europe. However, under the law as it evolved under common law jurisdictions, a “house” does not mean a single dwelling. It can include a building containing several dwellings (a house in multiple occupation), a public house (a building containing one or more bars for the sale and consumption of liquor), or a house for the storage of goods (a warehouse or godown). Consequently, unless it is coupled with a restriction on the use of the house or a limitation to the height or size of the building, it would not operate to prohibit the erection of a building of any size or for any purpose.” (Robert and Siu 2001:17) The court has avoided ruling on the concept of “European”. In *Wong Bei-wei v. Attorney-General* [1973] HKLR 582, it was ruled that flats were not a “detached or semi-detached residence of European type”. The more recent case *Glory Duty Investment Limited v. Secretary for Justice* HCMP001968/1998 does not clarify the meaning of “European”, as the judge only stated that this kind of covenant “does not refer to the building generally; only to the design of the external elevations and disposition of it. The covenant is concerned with design, size and layout; nothing else.” It seems, therefore, that “race” is not relevant at law any more.

Ordinance (the Bill of Rights), which was enacted in 1991. These two written laws clearly uphold the principle that no discrimination on the basis of “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth sex, or other status”⁴ is lawful in respect of civil and criminal liberty and justice. The ownership and use of private property are thus protected by the Basic Law and the Bill of Rights. From a wider theoretical point of view, the idea of market restriction or protectionism as the foundation of racial segregation and the specific methods of analysis used in this paper should be of interest to economic and sociological researchers in the field of residential segregation.

History of Racially-Based Residential Segregation in Hong Kong: 1841 to 1946

The rise and fall of racial discrimination law in Hong Kong testifies to the power of the laws of supply and demand. In the very beginning, as we shall see, Chinese people were subsidised in their land purchases and Europeans were prohibited from competing with them in the purchase of land in designated areas. Then, the exclusion of the Chinese from other districts became a reality but that was still a matter of the freedom of the land market as such exclusions were purely contractual. Gradually, exclusion became a matter of outright statutory law. Such statutory exclusion was initially, as in the case of land contracts, denominated in architectural terms. Eventually, it became expressly worded in terms of ethnicity per se.

*Segregation by Executive Orders: 1841 to the Relocation of the Chinese to Tai Ping Shan and Tacit Segregation by Contract*⁵

As soon as it was formed, the British Colony of Hong Kong had a population problem in the sense that there was insufficient quality housing for all its residents and visitors. A squatter population began to emerge from the early 1840s, even before the Treaty of Nanking that officially ended the Opium War was ratified on 26 June 1842 (Pryor 1983).

⁴ Article 1, the Bill of Rights Ordinance.

⁵ The information is based on Smith (1995).

The *de facto* areas of Chinese settlement were called “Bazaars”. The Chinese and the European communities settled initially in separate areas that were close together on the Island of Hong Kong. Both communities were symbiotic and, in the very beginning, the colonial government had a positive policy to attract the inflow of Chinese people into this hilly sub-tropical island, incorrectly described by Lord Palmerston as a “barren rock with hardly a house on it” (Endacott 1964b, 1982:18; McGurn and Simon 1990: 29).

On 31 August, 1841, the acting administrator of the Colony, A.R. Johnston, issues regulations regarding the Bazaar for the guidance of the Chief Magistrate and the newly appointed Land Officer. These provided for lots for “those person who against every obstacle settled down at Hong Kong and have on various occasions supplied the Fleet when it could not otherwise obtain provisions.” It was intended that they should have their land at a somewhat cheaper rate than others...(Smith 1995: 45).

However, as soon as the colonialists gained a stable foothold and competition for scarce land resources became more acute due to the growth in the population of both communities, the initial grateful attitude to “collaborators” was replaced by an apartheid policy. The colonial government, however, did consult with the Chinese people who made several petitions in opposition to executive orders requiring their resettlement from the Bazaars to a place in Sheung Wan called Tai Ping Shan. As a compromise, cash relief was granted to the displaced Chinese. Furthermore, in November 1844, the Executive Council passed a resolution that land lots within the Tai Ping Shan area should be sold at public auction and “none but Chinese be allowed to bid – or rather that lots be sold exclusively for Chinese occupancy whoever the purchasers might be” (Smith 1995: 47). Two lots were sold in this way on 2 December 1844.

Segregation by Contract: 1844 to 1888

The history of urban development in racial terms between December 1844 and April 1888 is an area requiring further research. However, it is certain that during these 44 years, an evolutionary process occurred in which the colonial government sought to prevent the Chinese from “intruding” into areas occupied by Europeans by inserting

certain exclusionary terms into the Crown lease that governed leasehold interests sold to individuals. This formative period of the British colony of Hong Kong Island (or Victoria) also witnessed the annexation by Britain of Kowloon Peninsula. Lying on the northern side of Victoria Harbour, this peninsula has much more flat land and indigenous Chinese settlers. The aforesaid “European type house” restriction, the so-called “rate and range” clause⁶ and the type of clause which is now known as the “design, disposition and height” clause,⁷ were introduced as a means to conserve the character preferred by the ruling European class. The implementation of such segregation was contractual in the sense that it was carried out by mutual agreement between the Crown and the land purchaser according to the Crown Lease, a specific form of contract (Lai 1998). Such contractual restrictions were later reinforced by statutory zoning that, directly or indirectly, excluded the Chinese people from living in certain designated housing areas. Such statutory zoning initially sporadically applied to public places such as the exclusion of “Chinese and dogs” from “public gardens” by gazette of 1864.⁸ Eventually, statutory zoning became an outright exclusion of the Chinese from private housing districts.

*Overt Segregation by Legislation in 3 Steps: 1888-1946*⁹

The period 1888 to 1946 witnessed the rise and decline of the British Empire and two world wars. The year 1889 saw the acquisition by the Britain of a lease of a much bigger land mass called the New Territories to the north of Kowloon Peninsula. The indigenous Chinese settlers thereon had migrated from China proper in the Twelfth Century, fleeing the Mongols. Post-war excavation for public housing development exposed an Eastern Han Dynasty tomb built here in the Second Century AD.¹⁰ The more land space the British government assembled and more prosperous was the British Crown Colony of

⁶ The typical “rate and range” clause for a building reads: “shall be of the same rate of building, elevation, character and description, and shall not front and range in a uniform manner with the buildings (if any) immediately adjoining in the same street.”

⁷ This effectively requires the lessee to obtain the consent of government, as landlord, to the design of a building. This consent is independent of the permission of the Building Authority.

⁸ *Government Gazette*, August 1864 Vol. 10, no. 33, p.299.

⁹ The material in this section is partly based on Lai and Yu (2001). For details of discriminatory laws against the Chinese, see Wesley-Smith (1987).

¹⁰ Discovered in 1955, this tomb was built in the period 200 AD to 225 AD.

Hong Kong, the more its colonial administrators sought to segregate the Chinese from European residents in Hong Kong.

In 1895, the *Light and Pass Ordinance* was passed. This required only the Chinese to carry a lamp and a written pass at night. In a public meeting held on 22 December 1895, Robert Tung Ho (known to the Chinese as “Mr. Ho Tung” and the European as “Mr. Robert Ho Tung”) complained that the Chinese theatre had to be closed at 11:00 p.m. Tsai (1993) gave this description of Mr. Ho’s speech:

In the City Hall, however, they [Europeans] are allowed to go on until one in the morning....We pay more taxes than the Europeans,” he charged, “and derive the least advantage...I condemn the Ordinance simply because it is against the Chinese only...(Tsai 1993: 100).

It is under this social atmosphere that laws against the housing rights of the Chinese were legislated.

Step 1: The European District Reservation Ordinance of 1888

On 27 April 1888, the Legislative Council of Hong Kong passed the *European District Reservation Ordinance* (Ordinance No. 16 of 1888). The Governor of Hong Kong at the time was Sir George William Des Voeux. The *European District Reservation Ordinance* prohibited the building of any ‘Chinese tenement’ within the so-called “European District”. It also prohibited the division of residential buildings in the European District by more than one person to every one thousand cubic feet of clear internal space.¹¹ The Ordinance defined a “Chinese tenement” as “any tenement of the type usually designed for habitation by Chinese other than domestic servants”. The so-called “European

¹¹ Section 3 of the *European District Reservation Ordinance* of 1888 stated: ‘After the passing of this Ordinance it shall not be lawful to build any Chinese tenement within the European District, and no non-Chinese tenement whether now built or hereafter to be built within such European District shall be divided with the object of providing for its occupation by more than one person to every one thousand cubic feet of clear internal space, nor shall such non-Chinese tenement be at any time occupied by more than one person to every one thousand cubic feet of clear internal space.’

District” referred to a zone in which most hilly residential areas on the Island of Hong Kong were located. It includes the areas called the Mid-levels.¹²

On 12 November 1888, the Legislative Council passed the *European District Reservation (Amendment) Ordinance* (Ordinance No. 26 of 1888) to include Hill District¹³ as part of the European District. The preamble of this ordinance reads:

Whereas the health and comfort of Europeans in a tropical climate demand conditions which are inconsistent with the neighbourhood of houses crowded with occupants and otherwise used after the manner customary with the Chinese inhabitants, and whereas the influx of Chinese (from mainland China) into the Colony tends constantly to narrow the area of the City of Victoria where such conditions are attainable, and it is desirable to reserve by law a district wherein such conditions may be secured (Author’s brackets).

The racially discriminatory tone of the ordinance is apparently watered down by section 6 in the same Ordinance, which appears to object to only the architectural form of building favoured by the Chinese:

...nor shall anything in this Ordinance be held to preclude any Chinese or other person from owning or occupying or residing in, any lawful tenement in the European District” (Emphasis author’s).

¹² Section two of the Ordinance defined the meaning of European District as follows: “The words European District shall mean that portion of the City (Hong Kong) which is situated on the Southern or South Eastern side of a dividing line beginning from a point on the Pokfoolum (now Pokfulam) Road at No. 1 Bridge and passing along the Pokfoolum Road, High Street and Bonham Road, as far as Ladder Street, thence along the Northern boundaries of Inland Lots Nos. 573 and 574 and bisecting Inland Lots Nos. 523, 423, 157 and 94, thence along the Northern boundaries of Inland Lots Nos. 100, 1086, 122 and 123, thence along Shelley Street and along the Northern boundary of Inland lot No. 125, thence along Chancery Lane, Arbuthnot steps, Wyndham Street, Ice House Lane, Battery Path, Beaconsfield steps and the North boundary of the Military Parade Ground, thence along the Western, Southern, and Eastern boundaries of the same, thence along Queen’s Road East as far as Inland Lot No. 73, thence along the Western, Southern, and Eastern boundaries of the same, thence along Queen’s Road East as far as the West boundary of Inland Lots Nos. 47A and 47, thence along a line parallel with and 200 feet to the North of Kennedy Road as far as the Wantsai (now Wanchai) Nullah and thence along Kennedy Road to its junction with Queen’s Road East, and which dividing line is more specially set forth and denoted in the Official map of the City of Victoria to be signed by the Governor and to be registered in the Land Office of the Colony” (Brackets author’s).

¹³ The *European District Reservation (Amendment) Ordinance* stated: “The words Hill District shall mean the district bounded on the East by the Wantsai and Aberdeen Valleys, on the West and South by the Carriage road from the City of Victoria to Pokfulam Police Station and thence by a line passing over the Pokfulam Reservoir Dam along the 600 feet Contour level as far as the Aberdeen Valley, and on the North by the European District of the city of Victoria as defined in this section.” Wantsai refers to Wanchai.

In effect, the “Chinese tenements”, the typical architectural form favoured by the Chinese, were not lawful tenements. It was hard for Chinese people to argue that the building they sought to build was a non-Chinese tenement. The reason is that a ‘Chinese tenement’ was legally defined, circularly, by reference to race as “the tenement of the type usually designed for habitation by Chinese”.

Step 2: The Hill District Reservation Ordinance of 1904

The core of the European or Hill District was the highest mountain on Hong Kong Island, Victoria Peak or the Peak. The Peak has since its opening up been a famous tourist attraction, with excellent views over the natural harbour of Hong Kong, Victoria Harbour. The Peak gained its *de jure* status as a zone expressly excluding Chinese inhabitants on 26 April 1904, when the *Hill District Reservation Ordinance*¹⁴ (Ordinance No. 4 of 1904) was enacted. This new Ordinance was promulgated during the interlude of the terms of governors Sir Henry Arthur Blake and Sir Matthew Nathan. It was a successor to the *European District Reservation Ordinance* that had been repealed by the *Public Health and Building Ordinance of 1903*.¹⁵ The “Hill District” regulated by this *Hill District Reservation Ordinance* was not exactly the same area governed by the *European District Reservation Ordinance*, though both pieces of law covered the Peak area.

The *Hill District Reservation Ordinance* defined the Hill District as an “area in the Island of Hong Kong situated above the 788 feet contour and to the west of a line drawn in a north and south direction through Middle or Cemetery Gap including the hills known as

¹⁴ According to the original ordinance, section one stated that the short title might be cited as *Hill District Reservation Ordinance* and the full title was *an Ordinance for the Reservation of a Residential Area in the Hill District*. However, some historians, such as Lethbridge (1969, p89), called it *Peak District Reservation Ordinance 1904* probably because the ordinance was mysteriously called the *Peak District Reservation Ordinance, 1904* when it was repealed by *Law Revision Ordinance* (Ordinance No. 25 of 1930).

¹⁵ Subsection one in section two of the ordinance stated: “The several Ordinances and parts of Ordinances mentioned in Schedule A. to this Ordinance are hereby repealed.” The *European District Reservation Ordinance* was in Schedule A and thereby repealed. It was not until the enactment of the *General Revision Ordinance* (Ordinance No. 8 of 1912) on 16th April 1912, the *European District Reservation Amendment Ordinance*, which included Hill district for regulation, was repealed. The repeal of *European District Reservation Ordinance* in 1903 made this amendment useless anyway.

Mount Cameron, Mount Gough, Mount Kellett and Victoria Peak.” Figure 1, obtained from the Public Records Office, shows the area referred to.

Figure 1 Here or about

The *Hill District Reservation Ordinance* explicitly and unambiguously prohibited the Chinese from residing in the Hill District zone. Section 3 of the ordinance read:

It shall not be lawful (save in accordance with the provisions of this Ordinance) for any owner, lessee, tenant or occupier of any land or building within the Hill District to let such land or building or any part thereof for the purpose of residence by any but non-Chinese or to permit any but non-Chinese to reside on or in such land or building.

Section 4 of this ordinance enabled the Governor in Council to exempt any Chinese from the operation of this law on such terms as he thought fit. The Governor in Council thus became the first statutory planning authority for the Hill District.

Just like the philosopher king in Plato’s Republic requires support of auxiliaries and artisans, the European residents living in the hill needed some other people to make their exclusive living comfortable. Thus Section 5 of the same ordinance exempted certain categories of people, which naturally were mostly Chinese, from the operation of the law. They were tolerated, in modern planning language, as “ancillary” or “temporary” uses. It reads:

This Ordinance shall not apply to servants of the residents on the Hill District living on the premises of their employers, to licensed chair coolies and jinricksha coolies plying for hire in such District, to contractors or labourers temporarily residing and actually employed in such District, to inmates of hotels or hospitals in such District, or to visitors at the house of any resident in the said District.

The ordinance does not prevent hotels or hospitals run by European people from excluding non-Europeans. In a codicil of the will of Mr. Granville Sharp, owner of the “Matilda Hospital”, a hospital in the Peak area of the Hill District, race is an important matter. The will reads:

I desire that the hospital shall, in all things, be considered to be established as an absolutely religious and evangelistic institution...That it be for the benefit, care, and happiness of patients primarily who are helpless...and emphatically that the hospital be for the poor, the helpless, the forsaken and for him who is alone and desolate...I wish that different classes be provided for and that the hospital be reserved for British, American and European patients, with some very limited discretion for the directors, but excluding Chinese, Portuguese and Japanese (Author's emphasis).

It seems that Mr. Sharp did not anticipate the potential legal problems posed by the concepts of Chinese or Japanese Americans.¹⁶ However, it must be added that Chinese people were allowed to visit the Peak as tourists, as revealed in old postcards (Oriental Library 1988).

Figure 2 shows a map of the Peak area in 1912 obtained from the Public Records Office.

Figure 2 Here or about

Step 3: The Peak District (Residence) Ordinance of 1918 and the Cheung Chau (Residence) Ordinance of 1919

The First World War spared Hong Kong as a battlefield. In the same year this mainly European hostility came to a halt and the racially directed 1904 ordinance was removed. This had nothing to do with the fact that China had joined the Allied forces by sending a large number of nameless labourers to dig trenches in Europe or the conclusion of the Anglo-Japanese Treaty of Commerce and Navigation in 1911.

On 30 May 1918, during the governorship of Sir Francis Henry May, the *Peak District (Residence) Ordinance* (Ordinance Number 8 of 1918) was enacted to replace the *Hill District Reservation Ordinance*. Sub-section 1 of Section 3 of the Peak District (Residence) Ordinance stated:

¹⁶ The content of this will become public knowledge when the court decided the case *Alexander Gordon Stephen and Others versus the Attorney General of the Colony of Hong Kong and Others* [1922] (HKL 32-41).

Subject to the provisions of section 4 of this Ordinance, it shall not be lawful for any person whatsoever to reside within the Peak District without the consent of the Governor in Council.

On 29 August 1919, a similar ordinance to restrict the hilly part of Cheung Chau, an island in the New Territories, for consented persons was passed. This was known as the *Cheung Chau (Residence) Ordinance* (Ordinance No. 14 of 1919). The purpose was for the benefit of vacationing British and American missionaries.¹⁷ Though the Chinese members of the Legislative Council were silent during the reading of the bill for the *Peak District (Residence) Ordinance*, they objected and voted against the bill for Cheung Chau. Mr. Lau Chu-pak said that he could not believe that “of all people, they could have made such a request – preachers and teacher of equality and fraternity that they are.” (Hong Kong Hansard 1919: 63-64) Mr. Fok Ho (known to Chinese people as Mr. Ho Fok), another brother of Mr. Ho Tung, was more explicit. He said:

In view of the fact that the war had been won by all races in the Empire I cannot be a party to the passing of this Bill which, in my opinion, is nothing more or less than racial legislation (Hong Kong Hansard 1919: 64).

The general requirement for all to obtain consent appeared to be based on physical or town planning considerations, as a literal interpretation of the 1918 and 1919 ordinances may seem to suggest. The intent was rather to ensure that no Chinese people might purchase property in the reserves. Governor May was prepared to give his assent to these ordinances because he was surprised that section 3 of the older law, the *Hill District Reservation Ordinance*, “did not in law prevent a Chinese from acquiring his own house in the district and living in it.” (Wesley-Smith 1987: 22) Indeed, by 1917, the aforesaid Mr. Robert Tung Ho, now Sir Robert Ho Tung, had owned three houses in the Peak District, and his brother, Mr. Kam Tong Ho (known to the Chinese people as Mr. Ho Kam Tong), had bought another.

¹⁷ There was no record of attacks by local Chinese people on foreign missionaries in Cheung Chau or other parts of Hong Kong. Indeed, missionaries were generally respected for their charity and education endeavours. The local Chinese Christian population (Catholics and Protestants) has been growing since missionaries came to Hong Kong.

Sir Ho, reportedly to have been described by the founder of the University of Hong Kong, Sir Frederick Lugard,¹⁸ as “an illegitimate half-caste whose wives and concubines numbered four”, was a Eurasian. Ho first bought a house at the Peak and lived in it in 1906. Lugard’s remarks about Ho were made during a constitutional row in 1908 “when the Chief Justice, Sir Francis Piggott, a tenant of the Eyrie which overlooked the Governor’s summer retreat Mountain Lodge, proposed to let the house to Mr. Ho Tung.” (Wesley-Smith 1987: 21) The Governor in Council regarded Ho as a Chinese and ignored Sir Piggott’s vehement objection to the refusal of the council to grant Ho exemption under section 4 of the *Hill District Reservation Ordinance*.¹⁹ The colonial government also swiftly re-purchased the property from the younger Ho, who donated the gain to charity (Wesley-Smith 1987).

After the sagas of the two Hos, no Chinese person attempted to obtain permission of the Governor in Council to reside in the reserves. However, Chinese ownership or acquisition of land in the Peak was unaffected, as the law did not actually forbid this, and a comprehensive study of land ownership of lots along Barker Road from 1898 to 1990 by the author, as we shall examine, revealed that Chinese owners of land on Barker Road actually increased during the 1920s (as we shall discuss later), as they probably speculated that the law would be repealed. In any case, they had to lease their properties to Europeans, if only to not allow them to sit vacant and waste away. They had to wait a long period of time till 1946 for this speculation. No one at the time foresaw that in the centennial year of the establishment of the Crown Colony, almost all European people inside and outside the reserves would be taken away and kept in a reserve guarded by Japanese.

¹⁸ Sir Lugard was the prime mover in the founding of the University of Hong Kong and Sir Ho was a benevolent donor to the University (Mellor 1992). The best known example that reminds students of the University Sir Ho’s generosity is the Lady Ho Tung Hall, a dormitory initially for female undergraduates.

¹⁹ It is uncertain if Sir Robert Ho had to leave the Peak. As we shall see, Miners’ (1987: 293) thought he did, but Courtauld and Holdsworth (1997: 46) thought otherwise. In any event, Sir Ho was a Eurasian and not fully Chinese. The author thinks that the latter were correct because a veteran recalled that during the Battle of Hong Kong, Sir Robert’s residence was used as an artillery headquarters. Charles Barman, a Quartermaster Sergeant in the Hong Kong/Singapore Royal Artillery, commandeered the “residence of Sir Robert Ho Tung” near Magazine Gap Bridge (2009: 11) in the ‘Peak District’ (p.3) and used it as the “West Administrative Pool” for the artillery of the defenders on 9 December 1941. Barman migrated to Australia after the war.

In the same year Poland was invaded, the *Town Planning Ordinance* was enacted in Hong Kong. Provision for the establishment of a Town Planning Board in Hong Kong under this ordinance was made. But Hong Kong was not totally unprepared for war. A static system of defence, the Gin Drinker's Line (Lai et al, 2009), had been constructed when London was bombed. In the wake of a major crisis, a multi-national and multi-cultural defence force was assembled in Hong Kong. In the words of Stokes, "These men- English, Chinese, Eurasians, Portuguese and others – whose homes were in Hong Kong, prepared to defend the Colony from attack." (Stokes 1965: 89). The "others" category in fact included Scottish, Welsh, Irish, Canadian and Indian soldiers and civilians of both sexes. The anticipated invasion eventually came on 8 December 1941, the same day Pearl Harbour was attacked. On Christmas Day 1941, after 17 days of ferocious fighting, inflicting a disproportional rate of casualty on a much better equipped and battle-seasoned²⁰ adversary three times larger in size, the Hong Kong garrison surrendered (Lai 2001). This surrender was ordered by the Governor Sir Mark Young, who was later interned in Japan in Manchuria, northeastern China.

While Sir Mark Young was imprisoned in China, his British and allied European subjects were confined to prisoners-of-war and civilian camps on the Stanley Peninsular in the southern most part of the Island of Hong Kong. Indian, Eurasian and other European prisoners of war were kept separately in the Shamshuipo barracks in Kowloon. His local Chinese subjects outside the camps were forcibly extradited to China to relieve pressure on local food and water supplies, killed, molested, or extracted for labour and money at the pleasure of the new ruler. Life inside and outside the camps in this new mode of residential segregation was poor, nasty, brutish and short if not solitary.²¹ This kind of completely segregated but equally miserable life lasted for three years and eight months until 14 August 1945. Meanwhile, the work of termites, looters hunting for valuables and firewood and the sub-tropical humid climate of Hong Kong ruined the European houses that survived the Battle of Hong Kong and the inaccuracy of the Allied bombings.

²⁰ The invading army had the infamous reputation for the Nanking rape and massacre, an event reported by western, including German, reporters but which many learned Japanese scholars have denied as a fake.

²¹ This is not to say that Irish, Portuguese or Italian priests or nuns were able to live a comfortable life as they were often victimised for being found to be uncooperative or to have aided and abetted the enemies of the Japanese military government.

According to the *Annual Report on Hong Kong for the Year 1946*, the first post World War II annual report of the colonial administration, “tenement-type buildings for 160,000 persons and European-type housing for 7,000 persons had been destroyed or seriously damaged” (Government of Hong Kong 1947: 56).

More importantly, as reported by Wesley-Smith, a secret draft²² prepared by the Colonial Office (of Britain) pointed towards a change in governance in post-war Hong Kong. This draft was a directive that demanded that there should be no discrimination, statutory or otherwise, on racial grounds in post-war Hong Kong and that every public servant should be required to qualify in Cantonese, the dialect of most Chinese people in Hong Kong. The progressive nature of this draft should be viewed in the light of the fact that during the Second World War, Britain and the United States had promised the Nationalist Chinese Government that after the defeat of Japan, all foreign concessions in the so-called “treaty ports” would be surrendered to the Chinese authority. The Nationalist Government’s interpretation was that this promise extended to the return of Hong Kong as a colony. The fact was that Admiral Harcourt’s navy travelled much faster than the Chinese forces despatched to accept the surrender of the Japanese garrison in Hong Kong. The Nationalist Chinese Government simply accepted the continued British possession of Hong Kong by default. From this moment onwards, the net inflow of people from the rest of China has always been positive and Hong Kong’s local population has grown by a million or so per decade.

Step 4: Peak District (Residence) Repeal Ordinance and the Cheung Chau (Residence) Repeal Ordinance

The *Annual Report on Hong Kong for the Year 1946* has a short paragraph on the removal of racial discrimination in housing choice:

Two ordinances were repealed during the year, the Peak District (Residence) Ordinance and the Cheung Chau (Residence) Ordinance. These two ordinances had provided that no person should reside in the Peak area of Hong Kong or in

²² CO129/591, p.26ff as quoted in Wesley-Smith (1987).

certain areas of Cheung Chau Island without the permission of the Governor-in-Council (Government of Hong Kong 1947: 67).

During the first reading of the bill to repeal the *Peak District (Residence) Ordinance*, the Attorney-General provided two reasons for the law reform, namely to encourage rebuilding and to respect the new spirit of the times.

As Honourable members are aware, Government desires to do what it can to encourage the rebuilding and reconstruction of the Peak district. Under the Ordinance, which will be repealed by the Bill, it is unlawful to reside on the Peak without the consent of the Governor-in-Council. There are certain exemptions. Government considers that the repeal of this measure would tend or might tend to encourage rebuilding and reconstruction and that it would be out of harmony with the spirit of the times to retain it (Hong Kong Hansard 1946: 63).

The Attorney-General choice of words are enlightened and a reader without any background knowledge of the origin of the ordinance to repeal might well think that this was merely a kind of pro-market zoning reform. Permission for a change in use or development on the Peak is no longer required and such change or development would be governed by the terms of the Crown Lease. A Chinese member of the Legislative Council, Mr. Man-kam Lo, put the repeal in its racial context:

...after the enactment [of the *Peak District (Residence) Ordinance*] there was very strong and bitter opposition to this measure on the part of the Chinese Community, and in this opposition the Chinese Chamber of Commerce took the leading part..... this ordinance has been a source of resentment to the Chinese ever since its enactment and I feel sure the repeal of this Ordinance, which is being effected by this Bill [Peak District (Residence) Repeal Bill], will give universal satisfaction to the Chinese...(Hong Kong Hansard 1946: p.88) (Author's square brackets).

Post-war Representation and Interpretation of Residential Segregation

Formal racial segregation has disappeared from Hong Kong for more than half a century and few who were actually affected by the repealed ordinances have ever written on the subject. It is therefore interesting to note how the evolution in post-war academic work

and journalism helps fill in the gaps in the description of the history of discriminatory zoning.

From 14 August 1945 to 30 June 1997 was a period of continuous population and per capita income growth of Hong Kong. In 1949, China became communist. There was a communist uprising in colonial Hong Kong in 1967 as a spill over of the Cultural Revolution that happened in China. The Chinese Communist Party later admitted that this “revolution” resulted in “a decade of disaster”. The period also saw the gradual normalisation of international relations between China and the western world. In 1983, China made known to Britain that she would resume sovereign rights over Hong Kong in 1997. China has never acknowledged the legitimacy of the treaties that ceded or leased parts of China to Britain. From China’s perspective, there has never been any valid assignment, disposition or leasing²³ either. There might have been a mere licence for Britain to operate a government in Hong Kong and Chinese law or morality has never acknowledged any concept of adverse possession. From 1984 to 1997, Hong Kong was in the so-called “transition period” during which the colonial administration made preparations for all those who would remain in Hong Kong after handing over its power to China. In diplomatic exchanges between China and Britain, embarrassment about the constitutional origin of Hong Kong and the “unequal treaties”, was saved by the standard expression “the question of Hong Kong, which is left over from the past” in the preamble of Sino-British Agreement of 1984.²⁴ The preamble also states that the “negotiated settlement” of this “problem of the past” was agreed upon by Britain and China, after

²³ It was reported that Mrs. Thatcher was proceeding to make a statement in Beijing that the treaties were valid regarding the ceded Island of Hong Kong and Kowloon Peninsula, and hence negotiation had to be restricted to the leased New Territories when she was interrupted by Mr. Deng Xiaoping. Deng stated in his characteristic short and decisive way: should Britain not accept the Chinese request to take back Hong Kong en bloc by the date China had decided, the People’s Liberation Army would march on Hong Kong in the afternoon. At that time, both sovereign states had just finished some military exercises. Britain had won a war in Falklands and China just pulled out from the northern part of Vietnam after a “punitive action”. When departing the conference hall in Beijing, Mrs. Thatcher had a fall on the steps. To some Chinese people, this fall, presented to the world by television, was equivalent to having Britain to say sorry for selling opium in the distant past. This “apology” was expensive. Stock and housing prices in Hong Kong also fell together with her currency almost immediately.

²⁴ *Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Peoples Republic of China on the Question of Hong Kong*. 19 December 1984.

both sovereign countries had “reviewed with satisfaction the friendly relations existing between the two Governments and peoples in recent years.”

SOME HISTORICAL WRITINGS

Let us first look at how history might be reconstructed in the writings of the historian.

Nothing can be found about the spatial politics involved in housing in the scholarly work of Christopher Munn’s *Anglo China: Chinese People and British Rule in Hong Kong, 1841-1880*, which covers the period during which the building covenants restricting development of certain areas to “European type house” emerged in Crown Leases.

G.B. Endacott’s work, *Government and People in Hong Kong 1841-1962* published in 1964 has a passing reference to the “Peak Reservation” and the “Hill District Reservation of Residential Area Ordinance” at page 145 (Endacott 1964a). There was no reference to any other segregation ordinances or their historical context.

However, Endacott’s *A History of Hong Kong* published in the same year has several references to the Peak, including the recommendation of Dr. Morrison for “residence on the Peak for health reasons” in the late 1840s at page 85; the encouragement of the development of the Peak and the repair of the “Mountain Lodge” by Governor Sir Arthur E. Kennedy (April 1872 – March 1877) at pages 164 to 165; the opening of the Peak Tramway in 1888 when Sir William Des Voeux was Governor at page 259; the purchase by the military of a hotel at the Peak and movement of troops there at page 226 when Sir William Robinson was Governor (December 1891 – January 1898); and the formation of the Peak Residents’ Association in 1922 when Sir Reginald E. Stubbs was Governor at page 294. In two other places, however, Endacott throws light on the purpose of racial segregation.

The Chinese and foreign communities still lived apart and the unpopularity of the pro-Chinese Hennessy tended to widen the gulf. Hennessy had allowed the Chinese to move into Queen’s Road Central and adjoining districts, which up to

that time had been reserved for Europeans by restricting the type of houses that could be built there. Land for Chinese houses was more valuable than that reserved for European dwellings, because, on the former, houses could be more crowded together, and it was thus an economic proposition to pull down European houses to replace them by Chinese. The increased Chinese population, too, restricted the space available for Europeans who demanded that the Peak should be reserved for them. A European Reservation Ordinance, in 1888, created a European reservation in the Caine Road District. No discrimination was technically involved, and Chinese were free to reside in the area, in which only the type of housing was restricted to comply with certain standards. Legislation directed against the Chinese as such continued to be contrary to Imperial policy and the home government was vigilant (Endacott 1964b: 243; author's emphasis).

The discovery of the spread of malaria by mosquitoes had one unexpected social result. It brought about a renewed demand for exclusive areas to be set apart for Europeans on the ground that the Chinese were not trusted to take the proper precautions...when Sir Frederick Lugard was Governor (Endacott 1964b: 284; author's emphasis).

From Endacott's report, there is a perception of a homogenous class of poor, unclean, unhealthy, disease spreading and crowding people who forced the European to take refuge to the higher and cooler grounds of the colony. That refuge, above all, was not discriminatory on the basis of race but on physical health standards.

Historian Geoffrey Robley Sayer's *Hong Kong 1862-1919*, published in 1975, does not add much to the description of Endacott, save adducing the concept of reverse discrimination by reference to the factory system in Canton (Guangzhou) that had disappeared after the Opium War (Sayer 1975).

It is a considerable development to have taken place in a brief fifty years, and parallel with it is to be found also a progressive change in the relationship of the Chinese to the English community. We need not describe it in all its aspects. The history of the residential reservations, real and so-called, sufficiently illustrates the point. Originally without part or lot in the centre of the town, for the simple reason that Elliot's original land sales were (not unnaturally) open only to Europeans, the Chinese in their turn soon allotted sites in contiguous areas. In fact the old factory system so familiar in Canton by which the visitor from overseas was strictly confined without the gate was closely reproduced (excepting the physical barrier) in Hong Kong, with this difference, of course, that in the Colony it was the English who occupied the centre of the stage, the Chinese who took the wings. A generation or so later, in the consulship of Hennessy, the hard

and fast line drawn around this *de facto* European reserve was in part relaxed, the business section of the Central District being officially pronounced accessible to Chinese purchasers and Chinese occupants.

Ten years later, the European main body having meantime retired to the hills, the position of the residential section on the mid-levels was in turn reviewed by Governor Des Voeux and a 'European reservation' was created – a reservation which, so far from excluding Chinese, expressly admitted them on terms (namely acceptance of European conditions) – to territory hitherto closed to them. In 1904, Nathan's first year in office, the exclusively European retreat on the Peak was in turn accorded *de jure* recognition as such. But in 1918 Sir Francis Henry May reversed the step, substituting for the Peak Reservation Ordinance a new Ordinance of the same name which demanded of all who desired to reside in the old European reserve that they submit their claim to do so to the Governor's decision.

Here indeed is a striking change, but in these fourteen years, and notably in the years following the Chinese revolution, many new things have occurred and among them is to be detected a palpable rapprochement in the relationship of the two communities. The blind instinct to exclude, the blind resentment at exclusiveness, yields to a conscious desire to find common ground, and from that desire springs naturally a mutual respect for privacy and a sensitive disinclination to intrude (Sayer 1975: 128-129) (Author's emphasis).

The general tenor of Sayer is the same as that found in Wood (2000).

One must appreciate the social and political context in which learned scholars in Hong Kong history were writing. Hong Kong was then a British Colony immediately outside the "bamboo curtain" of a communist regime during a Cold War in the world and a war in the region – Vietnam. There was a conscious tendency for authors to self-censor expressions that might embarrass the colonial administration or stir up anti-British feeling. It was not politically correct to re-open old wounds such as the opium war fought more than a century before or the past racial discrimination in the hills. The *Civil Service Regulations* forbade publication by government employees of opinion or any other matters that might embarrass the colonial government.²⁵ Though not being civil servants,

²⁵ Plate 8 in Pryor's work on housing in Hong Kong, an old photograph, has this caption: "Development in the Peak District on Hong Kong Island was restricted by statute to European-type dwelling houses. Whilst the views from the Peak were imposing and the summer climate was less rigorous, the slopes were very barren. Subsequent afforestation established the fine cover of trees now to be found on the steep slopes." Dr. Pryor from Zealand was the prime mover in the planning for the Chek Lap Kok Airport and retired in 1998 from government as Principal Government Town Planner of Planning Department.

university academics were part and parcel of the status quo and not many of them were Chinese at the time. The absence of any reference to the then recent history of the repeal of the discriminatory zoning laws from the works of Hopkins (1971) and Miners (1975), the standard “EPA” references for those attempting recruitment examinations for Administrative Officers lends support to this argument.

The excellent sketch book (un-paginated) on Hong Kong architecture, with sketches by Rom Briggs and text written by historian Colin Crisswell, makes this passing and highly imprecise reference to housing in the Peak:

Express permission from Government was needed to live on the Peak and for many years it remained a European preserve. Jean Gittins, daughter of Sir Robert Ho Tung, who was born in 1908, claimed to be the first born Chinese baby to be born on the Peak (Briggs and Crisswell 1977: fifth text page) (Emphasis author’s).

Crisswell does not mention that such permission had to be made, as specifically required under the exclusionary law, by the governor, thus leaving the uninformed reader unaware that there is something peculiar about the permission – race – as, after all, many things in life require government permission: getting a driving licence, building licence, etc. The expression, “European preserve,” and even the reference to Miss Gittins as a *Chinese* person born in the Peak and later interned in Stanley Camp as a *European* during the Japanese occupation before migrating to Australia after the liberation (Gittins 1982), conceal the fact that this “preserve” was created and protected by legislation rather than by the freedom of contract that underlies natural neighbourhood segregation, which is not objectionable. It is apparent that Crisswell seeks to paint the picture that the Peak was not really that attractive to live in even for Europeans:

Even at the time of her (Miss Gittins’) childhood, conditions on the Peak were primary with few proper roads, no piped water, shops or modern sanitation. The Ho Tung family kept its own cows because of the difficulty of obtaining and keeping fresh food (Briggs and Crisswell 1977: fifth text page).

That the Governor of Hong Kong had a summer lodge up on the Peak is not mentioned. We shall visit another work of Criswell later in connection with the Royal Hong Kong Police.

Norman Miners' work, published during the "transitional period" between 1984 and 1997 (a long period of preparation for the reunion of Hong Kong with China), *Hong Kong under Imperial Rule: 1912-1941* (Miners 1987), does mention such discrimination. Miners points out that the proposals for the law of 1904 (the *Hill District Reservation Ordinance* of 1904) about a European reservation on the Peak and that of 1919 about Cheung Chau (the *Cheung Chau (Residence) Ordinance of 1919*) were not referred to the Secretary of State. Nor was the minister informed of the setting up of a similar European reservation at Tai Po in 1913 (Miners 1987: 290). In a footnote, Miners gives this description of the 1904 and 1918 laws:

The ordinance of 1904 had forbidden the leasing of property on the Peak to Asians, but did not prevent Chinese from buying houses and living there themselves. Another reason for the 1918 ordinance was the fact that Hong Kong had adhered to the Anglo-Japanese Treaty of 1906 which protected Japanese from any discriminatory treatment. Mme Chiang Kai-shek was permitted to reside on the Peak by an Executive Council decision of 14 April 1936 (Miners 1987: 293).

Miners has this to say about the *Peak District (Residence) Ordinance* of 1918 in the text of *Hong Kong under Imperial Rule*:

From 1918 the Executive Council decided all applications to live on the Peak. This was a requirement introduced by the *Peak District Residents Ordinance* of 1918, and it was used as a device to exclude Chinese and other Asians without writing this discrimination into the law. Only one Chinese was granted permission to live on the Peak between 1918 and 1941: Mme Chiang Kai-shek. A similar system was set up to create a European reservation in part of Cheung Chau in 1919, but a few Chinese were permitted by the Executive Council to live there in the 1930s (Miners 1987: 54-55) (Author's emphasis).

Reference to the reservation of the Peak (but not other areas) by various laws is made by John Flowerdew in *The Final Years of British Hong Kong: The Discourse of Colonial*

*Withdrawal*²⁶) published after the hand-over of Hong Kong to China (Flowerdew 1998: 18-19). Stability and prosperity were the key principles that bound law-abiding residents, European and Chinese alike, in Hong Kong. And the Hong Kong economy did prosper, especially because the Chinese government did not want to politicise Hong Kong and ordered the local communists not to upset the status quo until further notice. This concern of the colonial government for political stability was so prudent that the civil service would only admit Commonwealth degree-holders to posts requiring university qualifications. Those Hong Kong Chinese returning to Hong Kong from the United States (nationalised as Americans or otherwise) with degrees, even from the so-called “Ivy-League” colleges, would not be easily admitted to the civil service or professional bodies due to qualification barriers. They might try applying for positions to the two universities, however. Journalist Richard Hughes succeeded in creating a famous social image of Hong Kong which reverses that often presented in popular media:

A borrowed place living on borrowed time, Hong Kong is an impudent capitalist survival on China’s communist derriere, an anachronic mixture of British colonialism and the Chinese way of life, a jumble of millionaire’s mansions and horrible slums, a teeming mass of hard-working humans, a well-ordered autocracy (Hughes:13).

As regards opium, Mr. Hughes made this submission:

One or two points should be clarified here. The British did not force opium on the Chinese, who grew few poppies themselves when they picked a liking for the pipe from the Javanese Dutch through Formosa. Chinese demand always exceeded foreign supply at the curious foreign settlement which the Chinese tolerated on the Canton waterfront...(Hughes 1976: 100-101).

Imagine how a judge in an English court would respond to a plea in mitigation of this kind submitted by a Chinese drug trafficker who swapped the words “Chinese” with “British” in the quoted passage. As regards racial segregation, Mr. Hughes’s journalism is efficient:

²⁶ The first reference to the question of opium was that its trade was legalised by the Treaty of Nanking. (Flowerdew 1998: 16) Another good reference for opium trade in Hong Kong from 1914 to 1941 is the work of Miners (1983).

...early governors differed erratically on policy and gave little hope of today's close union between Government and Business. Its Sir Hercules Robinson tried to segregate Chinese and Westerners in order to 'protect the European and United States communities from injury and inconvenience of intermixture with the Chinese.' Sir John Pope Hennessy (in the late 1880's) went to the opposite extreme: he selected Chinese for government jobs and even wanted to give them the right to visit the public library. He was finally sent to Mauritius, where he was again fired for his desegregation heresies...(Hughes 1976: 125-126).

There is no better modern devil's advocate for Sir Robinson as a sensible man of principle person than Mr. Hughes. Mr. Hughes's short exposition of racism is more explicit than the stance of John M. Carroll, writing after the reunion of Hong Kong with her motherland, which is comparative but not too helpful to the lay person.

...although brute force was not used as extensively in Hong Kong as in other European colonies, coercion and military strength were used to wrest the island (Hong Kong Island) from China. The Hong Kong government did not enforce separate residential, occupational and legal status for Chinese and foreigners as rigidly, for example, as the Spanish government did in colonial Mexico (a reference to John H. Coatsworth on colonialism in Mexico)...Racial or ethnic segregation and discrimination were by no means unique to European colonialism (a reference to the work of Anthony D. King on colonial cities in general), but in Hong Kong they were both tolerated and encouraged to a much greater extent than a government that prided itself on administering impartial British justice would care to admit (Carroll 1999:14) (Author's brackets and emphasis).

Nor is Nigel Cameron's *An Illustrated History of Hong Kong* published in the "transitional period" too informative on racial segregation as law per se (Cameron 1991).

...Chamberlain in London agreed that a reservation was needed 'where people of clean habits will be safe from malaria'. But he objected to the exclusion of Chinese of good standing so that Europeans could enjoy low rentals. He wanted the reservation open to all persons approved by the Governor. The peak came to be reserved on similar conditions under the Hill District Reservation Ordinance of 1904 (Cameron 1991:215) (Authors' brackets).

Nor does Alan Birch's (1991) *Hong Kong: the Colony that Never Was* explicitly acknowledge the existence of racially discriminatory laws in Hong Kong, although it examines the seamen's strike of the 1920s. However, it mentions this:

Again events in Guangzhou (Canton) overflowed into Hong Kong and a Hong Kong Labour Commission emerged from its Hoi Yuen (seamen) chrysalis to put an ultimatum to the government. Six demands were made, including an eight-hour working day, the right for the Chinese to reside in the Peak, and Chinese representation by popular ballot on the Legislative Council (1991: 46) (Emphasis author's).

What the “Commission” should have asked for was the removal of the restrictions on the Chinese or any ethnic group from owning property or residing on the Peak. They previously had the rights to do so.

Recall the racially discriminatory will of the founder of Maltida Hospital. Autobiographer Joyce Stevens Smith's (1993) historical account of the Maltida Hospital has a lot to say about the contribution, philanthropy, and evangelical intent of its benefactor, Mr. Granville: “Granville stipulated that the hospital should be reserved for British, American and European patients, saying that other communities were able to establish hospital accommodation on the hills if they saw fit” (p.89). Smith follows up with a list of hospitals for the Chinese below the Peak. What has been obscured from the discussion is, as already reported above, the will of Mr. Granville, which became part of a probate case. Why did the Chinese, Portuguese, and Japanese have to be excluded from the Peak for a supposedly universalist religion of its benefactor? In fact, even the *Hill District Ordinance* did not apply to “inmates of hotels or hospitals”. The year the first Chinese nurse appeared in this hospital was 1951, when “from now on, patients of any nationality could be admitted” (Smith 1993: p.132). Interestingly, there was one prominent non-European, Ho Chi Minh, the father of the Vietnamese Communist revolution, who resided in another hospital on the Peak, the Bowen Road Military Hospital, for 18 months during the early 1930s with the assistance of lawyers (Birch 1991: 40).

By contrast, published shortly before Hong Kong lost its colonial status, *The Hong Kong Story* by Courtauld and Holdsworth (1997) sheds some light on the reality of racial segregation on the Peak:

Hotung (Sir Robert Ho Tung) was the only non-European to live on the Peak before 1945...A son of Sir Robert's remembers vividly the segregation in practice before the Second World War. The Hotung nanny (English, of course) was not allowed by the neighbours to bring her charges to play with their children. Here on the Peak was a 'little England'...(1977: 46) (Author's).

The following statement in *The Heritage of Hong Kong*, published two years after the Union Jack ceased to be hoisted on government buildings of Hong Kong, is more informative though entirely incorrect regards the openness of the Peak during the late Nineteenth and early Twentieth Century.

Formal localisation of power was still agonisingly slow, however, and it remained a common jest that Hong Kong was run by the Jockey Club, Jardine Matheson, the Hong Kong and Shanghai Bank, and the Governor, in that order. Social life for the rich expatriates centred on Victoria Peak, from which Chinese were effectively – though never officially – excluded. A correspondent known simply as “Betty” noted in 1903 that “The Peak looks down on everything and everybody. The lower levels look up to the Peak, while Kowloon is supremely indifferent to both.” Jardine Matheson may have stopped work daily to fire off the “noonday gun”, a symbol of the external British presence in Asia, but the Chinese never stopped working (Owen and Roberts 1999: 18) (Author's emphasis).

Similarly, Jan Morris's description of the social climate for exclusion during the same period, as a historian, is also vivid.

Victoria, Hong Kong (like Malaya with the Cameron Heights, Ceylon with Nurwara Eliya and Penang), also had a mountain at its back door, and successive Governors had toyed with the idea of creating a hill station on the Peak. Despite the thick mist and the pervasive damp (only occasionally in spring and autumn), it would provide healthy relief from the humidity down below, in summer the temperatures up there being five to six degrees lower than the temperatures at sea-level. It would also offer Europeans a retreat from the pushing Chinese community with its queer tastes and unhygienic habits – the hill station always was an epitome of imperial separateness (Morris 1988: 138-139) (Author's brackets).

Morris goes on to give a detailed description of the physical and social status of the Peak Community and uses the expression “racial segregation”:

...Paths had been cut up the mountainside, the white speckles of villas appeared more frequently in the water-colours of each successive year, and in 1887 one of those ordinances reserved the whole of the Peak for European residence (Chinese were not excluded in so many words, but were effectively kept out by a combination of building regulations and innuendo.)...(Morris 1988: 139) (Author's emphasis).

...The arrival of so many prosperous new households, though, and the promulgation of the Peak Residence Ordinance, led to the opening in 1888 of the steam-powered High Level Tramway...(Morris 1988: 139).

...Peakites, as they were known, looked down not upon those with houses on lower contour lines (those below the 788-foot contour)...(Morris 1988: 190).

...Racial segregation was as absolute as the Europeans could make it. Chinese were not only barred from the Peak, they were also kept out of most central residential districts, and they were freely insulted by the crudeness of the European colonists (Morris 1988: 141) (Author's emphasis).

A formidable Resident's Association kept up the tone of this Elysium, vetting even European governesses before they were allowed to accept employment (though it was up to the Governor himself, under the Peak Preservation Order of 1918, to decide who might be householders). In 1921, a compassionate clergyman discovered that one small labourer, aged six, spent twelve hours a day, six days a week, carrying fifty-eight-pounds loads of coal from the waterfront to a house of lofty eminence (Morris 1988: 191).

While being vivid, Morris's characterisation of racism Hong Kong leaves several professional land use-transport or logistic questions unanswered:

- (a) Was there any traffic management scheme that prohibited vehicles carrying Chinese or Chinese-like persons up the Peak?
- (b) How frequently did Chinese people walk up or drive up the hills for sightseeing purposes?
- (c) Was there a bus service up the Peak before the Second World War?

Morris gave this grim picture of the housing of the "Chinaman" in the year 1882, before the *European District Reservation Ordinance* of 1888 was enacted:

Hong Kong's Chinatown, said the British traveller Henry Norman, was 'probably about as insanitary as any place in the globe under civilised rule'. Those public lavatories, for example, were uniformly nauseating, while most Chinese households drained their effluence into open cesspools – if it was drained at all, for much of it, too, was bought for re-sale by freelance scavengers. Living conditions in the poor quarters were fearful. An officially commissioned report in 1882 [the Chadwick Report by Osbert Chadwick (Pryor 1983: 8-13)] – in effect the first Hong Kong social survey – showed that Chinese houses were generally divided by partitions into many cabins, each a dwelling about ten feet square. In one row of eight such houses 428 people were living. Hardly any house had running water...(Morris 1997: 140) (Author's square brackets).

All in all, setting aside such empirically verifiable questions, one may say that, taken out of context, it is easy to jump from this generalisation to the idea that the European people had a good case for encircling and retreating to some breathing spaces in the hilly areas. This point we shall return to below. Contrast such an image with that projected by Welsh in *A History of Hong Kong* published in the “transitional period”:

(Governor) May immediately took advantage of his new position to undo some of the late Governor's work (that of Sir Henry Blake) by pushing through the Peak Reservation Ordinance, which was designed to exclude non-Europeans from that favoured area. The ordinance was, in deference to liberal opinion at home, put a little less badly than that, since it included the sop: “It shall be lawful for the Governor-General in Council to exempt any Chinese from this Ordinance.” In fact the Governor-General in Council thought fit to do so on only one occasion...the Anglo-Chinese knight Sir Robert Hotung (Ho Tung)...(Welsh 1993: 342) (Author's brackets).

British Hong Kong had no Governor-General, but governors. Yet, this quibble should not compromise the contribution of Welsh for, like Morris, in acknowledging the presence of “racial segregation”.

...The racial segregation begun with the creation of the Peak reservation was continued with an ordinance in 1902 setting aside twenty thousand acres of Kowloon for European occupation, on special grounds of health (the Chinese could not be trusted to keep down mosquitoes). Attitudes had undergone a change since the earliest days, comparable to that which had occurred in India. The first colonists had seen the Chinese they met as exotic, fascinating, often difficult, sometimes admirable characters, but at least as individual fellow-humans...(Welsh 1993: 378).

The uniqueness of Welsh's imaging of the Chinese that they could have individual characters. Welsh goes on:

But these Chinese were high officers of the (Manchu) Empire, men of great power, which always exercises considerable attraction. Once the colony was settled, the only Chinese coming into contact with the Westerners were in very subordinate positions – servants, shopkeepers, at best a comprador or merchant. Social discrimination was added to racial attitudes. Nor were the Westerners from the top drawer; the Civil Service, with few exceptions, was shuffled together from third-rates; the great taipans, who had commanded fleets and influenced governments, had retired, leaving commercial gentlemen to run their businesses, often extremely successfully, but rarely with the same panache (Welsh 1993: 379).

Now we had the new image of a lowly British class discriminating against its Chinese counterpart. This view is apparently not inconsistent with the description by Carl T. Smith's *A Sense of History: Studies in the Social and Urban History of Hong Kong*, published in the very late "transitional period". Among other things that inform on the interaction of Chinese and Europeans, Smith shows the usefulness of customary Chinese wills as a source for anthropological, economic, social, legal and religious inquiry. He also gives a detailed description of the Chinese settlement of early Hong Kong Island in the mid 1980s.

...with the arrival in June 1839, of the British fleet and merchant shipping, those (Chinese people) who could furnish provisions and other services were attracted to the harbour (of Victoria). These were mostly adventurers who were willing to risk the displeasure of the local Mandarins (Chinese officials) if they could turn over a few cash through their trade with the "foreign barbarians". In general, the lowest elements of the Chinese society responded to the attractions of Hong Kong (Smith 1995: 38).

However, this picture of the Chinese, even if accurate, was about what happened in the 1830s. By the time the first statutory discrimination ordinance was in place in 1888, British Hong Kong had already a history of almost half a century. Furthermore, the extremely successful business people in Hong Kong referred to by Welsh were in fact not limited to Europeans. Many Chinese and Jews were also highly successful, and like their

European counterparts, some of them were active in charitable activities. There is no better evidence for this fact than that produced by Smith's *A Sense of History*. The following description from a section in Smith's work, entitled "The Gradual Emergence of Substantial Chinese Land Owners", should set Welsh's imaging of subordinate positions in context:

The first Chinese settlers (of the 1840s) did not have the capital to engage in extensive business activities. They did reap a quick profit, however. The Government rewarded their defiance of the orders of the Chinese officials prohibiting Chinese to have dealings with the English. For their willingness to provide the needs of the foreign community, they were granted land. Most of the original holders of the land certificates sold their rights after a few years. Some, however, retained their original allotments and with the capital acquired through business activities bought up the lots of others. It was this group that formed the backbone of the Chinese community in Hong Kong. Their possession of landed property was a symbol of their intention to make Hong Kong their home (Smith 1995: 47-48; author's brackets).

Like Cameron, Morris's work also reveals an idea about *a reason* for segregation: the security of low rentals for Europeans.

...It was said that 90 percent of the colony's revenue was contributed by Chinese; in 1885 eight-three British property-owners were rich enough to pay property tax, 647 Chinese, and seventeen Chinese were among the eighteen richest of all (the eighteenth was Jardine, Matheson). There were many scoundrels still, but many Chinese professional men and craftsmen worked in the colony now....In 1884 there were seven Chinese Justices of the Peace, and a barrister of Lincoln's Inn named Ng Choy had been appointed the first Chinese member of the Legislative Council (Morris 1997: 141).

Trea Wiltshire in the second of the three-volume *The Old Hong Kong* published in 1995 gives another description of racial segregation in Hong Kong:

The Peak Reservation Ordinance of 1904 did in fact succeed in restricting residence on the Peak to Europeans, although the Governor in Council had the power to exempt any Chinese from its clearly racist intent. However, he did so only one occasion – to permit the millionaire comprador Sir Robert Ho Tung to build a Peak mansion for his large family.

While the ordinance (which survived until 1930) exercised a racial restriction, the cost of constructing dwellings on hillside perches effectively excluded all but top officials and the wealthy...(Wiltshire 1995b) (Author's emphasis).

Wiltshire's work is probably the only post-war English material that uses the expressions that candidly expose racism in pre-war colonial Hong Kong. However, the above description, by describing the economic status of Sir Robert Ho Tung and the high costs of construction, may well reinforce the impression that the Chinese could not be rich enough to build on the Peak irrespective of the way the law was written. This impression must be a delusion. Consider another post-war account published before Mr. Deng told Mrs. Thatcher to hand over Hong Kong.

Evidence from a criminal enforcement perspective also reveals the financial ability of Chinese subjects in British Hong Kong, Colin Crisswell and Mike Watson (1982) state in *The Royal Hong Kong Police 1841-1941*, (a misnomer²⁷):

(Governor) Hennessy had further alarmed the Europeans by permitting the Chinese to expand into the European quarter in Central. The original segregation into separate quarters had been maintained by regulations forbidding the building of Chinese-style houses in certain areas. In practice the Chinese had been infiltrating into Central for some years, the better-off Chinese buying up European-style warehouses and residences. Hennessy, unlike Sir Hercules Robinson (governor from September 1859 to March 1865), welcomed this development and in 1877 ruled that 'permits be freely granted for native structures along any part of Queen's Road and business streets immediately adjoining'...He (Hennessy) ignored complaints from the Europeans who thought that such measures would open the floodgates to crime and disease. The Colonial Office backed him. The Secretary of State for the Colonies, Lord Kimberley, summed up its view in a different context, when he noted with disdainful aristocratic impartiality that 'garlic-eating rate payers must be endured by those who use their money'. Chinese businessmen began replacing European-style buildings in Central with more profitable Chinese tenements, obliging the Europeans to move their residences out of Central to the Mid-levels and the Peak. In 1888 an ordinance reserved these areas for European-type buildings (Crisswell and Watson 1982: 63) (Author's brackets and underline).

²⁷ The Hong Kong Police received royal title after the communist riot of 1967.

Had the Commissioner of Police at the time the manuscript was written seen these paragraphs when they were submitted for approval, he would have censored certain words or, as a matter of prudence, the entire paragraph for being politically too sensitive to be written by a commissioned police officer. Note also that these authors do not address Sir John Pope Hennessy²⁸ in the same way as they do Sir William Robinson (governor from December 1891 to January 1898). The authors, who elsewhere in the book passed a condescending comment on the reliability of the local police constable during the Battle of Hong Kong, did not mention an important public interest issue of the “infiltration” of the Hong Kong Chinese. In order to change the building covenant from “European type house” to the “more profitable tenements”, the developer (the ethnicity of whom is an interesting research question) had to pay the colonial government a lease modification premium, a kind of land tax. The paragraph puts stress on the Chinese buyer and evades the role or mentality played by the European seller.

As racial segregation has a spatial manifestation and in the case of Hong Kong, segregation was implemented by land lease and statute (ordinance), one might think that this historical fact would be documented in publications on Hong Kong’s town planning and development. The reality is that few works on planning in Hong Kong have any straight forward discussion about racial segregation until the most comprehensive but unpublished treatise on discriminatory legislation by Wesley-Smith (1987), Professor of Law at the University of Hong Kong appears. One of his predecessors, Professor Evans, stated:

So far from ensuring that all the buildings in a particular street or area were erected to predetermined standards, the government failed completely to implement any sort of policy of urban development. As early as 1843, it had been decided to keep the Chinese and the European towns apart. This failed, probably because many Europeans could not afford the high prices asked for property in the European part of town. Towards the end of the last century, however, certain areas were almost exclusively Chinese apart from the interests of a few absent English “rentiers”. Two attempts were subsequently made along the same lines,

²⁸ It is said that when the governor departed Hong Kong with his wife for another colonial posting, a transfer that happened after he beat a prominent British barrister with his umbrella near the Peak summer lodge, they “were farewelled by many Chinese residents but not a single foreign merchant” (Wiltshire1995a: 49).

one unsuccessful, the other successful for a time. In the eighteen-eighties, government introduced a measure to ensure that in certain areas only “European” style houses were built. It failed. But the Peak area was made into a European enclave by introducing a clause to the effect that land in the defined area could only be transferred to a ‘non-Chinese’ (footnote 15 here). That, of course, is no longer the case (Evans 1971: 26-27) (Author’s emphasis).

Evans, though being a lawyer, is vague regarding the expression “clause” and there is no annotation of this statutory provision in terms of the relevant ordinances. The footnote 15 refers not to any of the relevant ordinances, which indeed lasted for quite some time, but to the situation of Cheung Chau. This note reads: “The ‘Peak’ on the New Territories island of Cheung Chau was probably named somewhat ironically after the Peak on Hong Kong Island and similarly reserved for non-Chinese habitation only.” (Evans 1971: 27) However, one must view Evans’ description within the aforesaid political context of Hong Kong in the early 1970s. Evans’ description exposes an interesting idea, namely the affordability of Europeans. Wesley-Smith’s manuscript mentions two sources that throw light on the idea of economic protectionism in favour of the European. The first is a footnote that refers to the objection of a clerk to *The Hill District Reservation Ordinance* of 1904 on the ground that it was “to cheapen rents by excluding the competition of a large and wealthy section of the community.” This community was the Chinese. The second was the report that two speakers in the Legislative Council raised the point that Mr. Ho Fook’s criticism of the *Cheung Chau (Residence) Bill* of 1919 involved not a racial but an economic issue. Wesley-Smith, however, does not dwell on this idea.

The first authoritative text on town planning in Hong Kong by Bristow, *Landuse Planning in Hong Kong: History, Policies and Procedures* (Bristow 1984) published in the year of the Sino-British Agreement concerning the future of Hong Kong does not give much space to the history of racial segregation ordinances that zoned parts of Hong Kong for exclusive European residence.

The year 1877 also witnessed another innovation. Up until that time segregation of the communities was normal in the social life of the Colony. A clause in the leases restricted the building of houses to those in keeping with the

neighbourhood [[The rate and range clause]]. Initially no difficulty had arisen, because the Chinese built to the east and west, leaving the central district to the Europeans; but the subsequent taking over of European property meant that the Chinese could no longer be confined to their own areas. Governor Hennessy supported them and in 1877 it was agreed that ‘permits be freely granted for native structures along any part of Queen’s Road, and business streets immediately adjoining up to a line drawn along Upper Wyndham Street, Hollywood Road, Aberdeen Road and [to the] back of the lots facing Caine Road, Bonham Road and High Street.’ Henceforth, where Europeans desired exclusive control, residential reservations were required, as for the European Reservation (Caine Road) of 1888 (also reinforced by building and site controls), the Peak (Hill District) (1904 and 1918) and Cheung Chau (1919). The result of this policy was a Chinese property speculation boom in 1881, followed by the inevitable crash in 1882 (Bristow 1984: 30) (Author’s underline and double-brackets].

Quoting from Lethbridge, Bristow also has this to say:

Thus, for Hong Kong, before 1941, the Crown lease requirement for ‘European-type houses’ springs to mind, and it has been noted that ‘Europeans in Hong Kong saw themselves as members of an elite – as an upper-class elite in the English sense – sharply distinguished from a European petty bourgeoisie and a Chinese ‘lumpen-proletariat’ and “working class.’ ‘Throughout the nineteenth century there was constant fear of Chinese standards penetrating the European central business district.’ The ‘peak mentality’, so often referred to by commentators on pre-war Hong Kong, merely epitomised such fears, together with a certain air of aloofness, and found formal expression in the Peak District Reservation Ordinance of 1904. ‘Whatever the merits were of this Ordinance and the cogency of the arguments in its favour, Chinese took it to be an example of racial discrimination and the residential segregation practised in other parts of the British Empire, notably India.’ Thus, in certain respects, early Hong Kong reflected the general cultural impact of imperial Britain’s much as any other British colonial territory, and this was reflected in its land-use pattern (Bristow 1984:258) (Author’s emphasis).

The expression “racial discrimination” is not indexed in Bristow’s work. In the very year Britain gave up a Crown Colony, Home’s work, *Of Planting and Planning: The Making of British Colonial Histories*, (Home 1997) appeared. In Home’s book, racial segregation and zoning in the British Empire is given express discussion.

Segregation served different purposes in the British Empire over its history.....Throughout its history the inherent difficulty of laying down racial categories was recognised by the architects of racial segregation, and dressed up

as something else. Raffles used the word ‘respectable’, for anyone of whatever race which had adopted western ways and achieved commercial success. Lugard said that ‘what is aimed at is a segregation of social standards, and not a segregation of races’ (Home 1997: 118).

However, there is no reference to the Peak or Cheung Chau in Hong Kong. But it is interesting to note that Sir Lugard as Governor of Hong Kong did not appear to be as keen on segregation as he was in Nigeria. Lugard was keen to build a good relationship with China and founded the University of Hong Kong as a bridge between the East and West.

Lai and Yu (2001) argue that the formation of statutory racial segregation in Hong Kong was due to a desire to create a protected housing market for the European community. Racial prejudice might have been a factor but economic protectionism was more decisive. Its removal, according to the Lawrence-Marco proposition, was also based on economic consideration in an immediate post-war situation where maintaining the exclusionary law would prevent the now deprived European landowners of the chance of realising their landed property. The evidence they produced was documentary. As regards the formation of the laws, one of the sources they relied on was the content of the confidential despatch dated 5 September 1917 from Governor Air Francis Henry May to Member of Parliament the Right Honourable Walter Long. This despatch states the worry that the “wealthy Chinese” would buy properties on the Peak at “fancy prices”. As regards the post-war destruction of the discriminatory laws, they adduce a sample of the records of the assignment of European land parcels in the Peak area to Chinese persons or companies after the applicable law was repealed in 1946.

Further Evidence for the Argument of Economic Protectionism: Research Methods and some Preliminary Findings from a Study of Post-War Telephone Directories and Crown Leases.

Wesley-Smith concludes his survey of discriminatory laws by referring to both Lethbridge (1969: 50) and Endacott (1978: 313) regarding post-war Hong Kong. After

1945, belief in “the white man’s mission to rule” declined. And “there was little racial segregation in Hong Kong and little anti-Chinese prejudice, possibly because so few of the old colonists returned and so many new European came to take their places.” (Wesley-Smith 1987) The author would not dispute the wisdom of such opinion about post-war social development in Hong Kong, particularly in the light of the fact that Roosevelt the President of the United States of America, as an emerging world power, had in 1943 abolished the discriminatory immigration law against Chinese made in 1882 in the USA.²⁹ However, there is a danger in characterising discrimination as a mere phenomenon of prejudice or public opinion, or even something a wartime policy commitment can justify. The danger is that this would leave the unfair and inaccurate representation of the victims of discrimination in Hong Kong untouched. This representation is that the Chinese people were as a whole a poor, disease spreading and threatening (plotting and murdering)³⁰ class, which by virtue of its “culture” or “civilisation” is incapable of sharing universal spiritual or secular beliefs (such as Christianity, humanism and so forth). One of the political driving forces of racism, exploited by politicians for self-serving interest, is over simplification and a reduction of individuals with diverse characters into a class of faceless beings (or more accurately, to generalise the image of an entire race by reference to a stereotype face that generates contempt). Post-war English material, often written by people without the capability or interest in learning the written Chinese language or love or respect for the local Chinese,³¹ is not immune to this criticism of simplification. Post-war photo albums about pre-war Hong Kong Chinese typically exhibit poor and shabby beggars, chained criminals or “typical Mandarin faces” with pigtailed men and women in “oriental dresses.” This helps create the false impression on the uncritical mind that there were no

²⁹ *Chinese Exclusion Act 1882.*

³⁰ In examining the origin of the legislation concerning law and order, Wesley-Smith (1987) came to the view that in early colonial Hong Kong, the immediate threat to life and property came largely from persons of Chinese race. Indeed, there were instances where plots on the life of European people as a class or the lives of governors by bread poisoning and firearm, including Sir Francis Henry May (Miners 1982), did happen. It is more appropriate to categorise such acts as those of “resistance” rather than ordinary crimes. And this is not to say that European persons in Hong Kong had not committed any crime against property or persons during the colonial period when the discriminatory criminal or zoning laws were present.

³¹ This is not to say that there were few Europeans who have sincerely dedicated their efforts and lives to the Chinese people in Hong Kong. The most unfortunate fact is that the works [reviewed](#) have little to say about the Chinese people and are so [restrictive](#) that they also hide many lasting good works that Westerners have done for the Chinese people.

Chinese middle class people, no Chinese scholars who could excel in western arts or sciences; no Chinese Christians or Catholics who could be as devoted as anyone else; and no possibility of trade or real friendship among people of different ethnic origins. Above all, in the context of this paper, the social and hygiene habits of the Chinese were independent of their social or economic status. This assumption is wrong. Living standards surely rise with higher incomes and education. Once it is established that the Chinese people could be as well off as, if not better than, the European in economic terms, we can conclude that the express legislative concern about health was an excuse, concealing another ulterior motive – economic protectionism. In any event, that there was pre-war contempt towards the Chinese and post-war enlightenment of public opinion is not inconsistent with the proposition that discriminatory zoning is conditioned by economic factors.

It is true that the documentation of the economic achievement of the Hong Kong Chinese in the Chinese (such as Fung (1997)) and English (such as Tsai (1993, 2001)) languages is a recent academic phenomenon. The reference to the tax paying contribution of the Chinese citizens of Hong Kong by Sir Ho Tung mentioned earlier in this paper is a case in point. Yet, it is untrue that there is no contemporary English material that pointed out the economic ability of the local Chinese. The problem is that many modern English writers appear to have no idea, or chose not to demonstrate, that the Chinese could be economically powerful, notwithstanding massive evidence from land sale records and archive materials. Their perception of the past has been arrested by the stereotypical appearance of selected Chinese individuals who appear in old postcards, such as those shown in *Postcards of Old Hong Kong* (Oriental Library 1988).³² We have reviewed some Nineteenth Century official (i.e., English) sources that suggested that the Chinese subjects in Hong Kong were a source of economic threats. The very fact that the European “reserves” had been retreating uphill (the Mid-levels were abandoned in 1904 for the ultimate enclave above the 788-foot contour, at which the Peak stands), is a significant reflection of the economic status of the Chinese people. This retreat meant that the economic pressures for yielding such land parcels, including all those above 600-foot

³² Compare this work with that of Ching and Cheng (2001).

contour previously protected by the *European District Reservation Ordinance* and the *European District Reservation (Amendment) Ordinance* of 1888, to the “infiltration” of the Chinese were irresistible.

It is not too difficult to further verify the argument of protectionism as a motivating factor when the discriminatory laws were created or removed through a study of the “bid rent” ability of the Chinese. Though income and employment status statistics in Hong Kong are post-1960s’ products, there is one reliable research method that can substantiate the expressed concerns of the colonial administrators, such as Sir Francis Henry May, about the rent-paying ability of the Chinese. This method is to compare the prices of landed properties of similar and different types (in terms of location, use and building restrictions) paid by the Chinese and European purchasers at the relevant time. Such information can be obtained by a search of the title documents, which are public documents, kept by the Land Registry. The basic source document for this study is the Crown Lease, which can be purchased on request from the Lands Registry. Resource limitations at the time of this writing only permitted the acquisition of the title documents for the housing lots along Barker Road, which were only partially analysed in terms of years by Lai and Yu (2001). All Crown Leases and assignments of the 32 land parcels from 1898 to 1990 were purchased. Twenty-eight of these lots were rural building lots and four were garden lots. The history of the transaction for each lot is presented in Figure 3(a), showing the ethnicity of the first owners and subsequent purchasers. As shown in the Figure 3(b), which summarises the key facts revealed in the data based for Figure 3(a), the percentage of land lots held by European started to decrease in 1923 – when the law against Chinese residence was still in force. After 1946, more Chinese emerged as owners, and from 1977, they became the majority owners. Mixed ownership by Chinese and European between 1971 and 1973 can be found in one lot.

Figures 3 (a) and 3(b) Here or about

Another method that is particularly useful to give an accurate picture of the economic capability of the Chinese people at the time as a factor for the destruction of the discriminatory laws is to examine the telephone directories of the immediate post-war years. Like street and trade directories, telephone directories generally contain major

demographic and commercial information by location, but have been undervalued as a source of information by researchers. They have been used in urban economic research in the “direct measurement”³³ of office or trade decentralisation (Lai 1997; Han 2000; Han, *et al.* 2002).

In this paper, the oldest four post-war telephone directories compiled by the Hong Kong Telephone Company and found in the Main Library of the University of Hong Kong, namely those for the years 1946, 1947, and 1949 are consulted using that for the year 1965³⁴ as a control. The objective of this exercise is to throw light on the immediate ability of the Chinese to “invade” the Peak once the relevant segregation law was repealed. The findings should give further support to the evidence contained in the sample of land sale records of land on the Peak adduced by Lai and Yu (2001).

Our examination of entries in the three telephone directories reveals the following facts:

- (a) Sir Robert Ho Tung no longer lived on the Peak after the war. Instead, he had his post-war residence (in years) at Seymour Road at the Mid-levels. (His residence, used as the Western Administrative Pool by the artillery during the Battle of Hong Kong, was devastated by Japanese bombs dropped from planes on 21 December 1941 (Barman: 54-56))
- (b) The main text of the three earliest telephone directories, with addenda, (for private residential and commercial phones) for the years 1946, 1947 and 1949 have, respectively, 239, 288, 350 pages.
- (c) In the year 1946, there were 47 persons with their phones installed on the Peak area (compared to 4,392 [561 European] in the territory). One person/family (**2.1%**) was Chinese (0.026 % of the territorial Chinese total). Others were all European (8.37 % of the territory’s European total), based on a reading of the names appearing in the telephone directories. (If a European adopted a Chinese name during this era, it would have been well-known to the local population.)
- (d) In 1947, there were 181 persons with their phones installed in the Peak area (compared to 4148 [1,071 European] in the territory). A total of 3 persons/families (**1.7%**) were Chinese (0.097 % of the territory’s Chinese total). Others were mostly Europeans (10.27 % of the territory’s European total).

³³ As a “direct measurement” alternative to the rent gradient or employment share method in office decentralisation research.

³⁴ This is the next post 1949 English telephone directory that the author can locate.

- (e) In the year 1947, there were 265 persons/families with their phones installed in the Peak area (compared to 4,468 [1,408 European] in the territory). A total of 14 persons/families/companies/government bodies (**5.3%**) were Chinese (0.46 % of the territory's Chinese total). Others were mostly European (18.82 % of the territory's European total).
- (f) In all three years (1946, 1947 and 1949), all the Chinese person(s) found in the directory for one year is (are) also found in those for the subsequent years.
- (g) In all three years (1946, 1947 and 1949), most European people lived in apartment units on the Peak or elsewhere and then moved into houses on the Peak. However, some later migrated to the Southern District, notably Shouson Hill and Shek O.
- (h) In all three years (1946, 1947 and 1949), the names of the Chinese persons who purchased property on the Peak as found by Lai and Yu (2001) are not associated with phone numbers assigned to the Peak areas. (Thus, they could well be absentee-landlords.)
- (i) In time (from 1946 to 1949), more and more British companies had residences for their directors and senior managers on the Peak (and also the Southern District).

The telephone directory survey conducted here is admittedly coarse. It does not give direct information about land ownership, which can only be ascertained by a comprehensive study of all land titles on the Peak for the relevant period. Where resources permit, this inquiry should be conducted in order to confirm or refute the claim of Lai and Yu (2001). However, the facts revealed from the survey of telephone installations on the Peak in the immediate post war years (from 1945 to 1949) are reliably informing in a number of ways.

Firstly, people or households with telephone services in those three early post-war years had to be relatively well off in the light of the massive wartime destruction of wealth and infrastructure. We may also presume that a person with a phone number at a certain address was also residing at that address.

Secondly, it reveals that after the war, more and more people, Chinese and European, based on the names of registered phone users in the telephone directories, were living in the Peak area. The number of Chinese residents on the Peak steadily increased, and there

was no evidence that they moved in and out of the District, which would have been the case if they were speculators in the local real estate market. This in itself negates the implied view of Wesley-Smith (1987) that few Europeans returned to Hong Kong. Indeed, it also testifies to the rapid physical recovery of the local property market from wartime destruction.

Thirdly, the appearance of more and more Chinese persons as residents (and absentee landlords), relative to Europeans over time in the Peak area testifies to the argument that the Chinese people could compete economically with the European people for prime residential premises in Hong Kong. The percentage of Chinese telephone users, compared to that of Europeans, rose from 2% to 5% in the three-year period. (Note that during the same period, the Peak witnessed a growth in the proportion of telephone users among both European (from 8.37% to 18.82%) and Chinese (from 0.026% to 0.46%), implying that it was a district favoured by the better off of all nationalities.) By the year 1965, this percentage reached 7.6% while the absolute size of population of both the Chinese and European people continued to grow. The telephone directory for the year 1965 shows 799 persons/families with their phones installed in the Peak area. A total of 61 persons/families/companies/government bodies were certainly Chinese, as can be told by their names. Others were mostly Europeans. Above all, the very co-existence of more Chinese and Europeans on the Peak is conclusive evidence that there was no racial animosity in Hong Kong. Otherwise, the Europeans would have deserted the Peak after the arrival of Chinese in the area.

Lastly, in the light of the above analysis, we can say that the post-war re-establishment of effective civil government and a viable economy by the colonial administration was rapid.

Discussion

The Lawrence-Marco proposition has not been refuted but must be buttressed by evidence of actual rather than just legal colonisation of the Peak by Chinese persons in terms of both the land and apartment ownership *and* residence for all and not just in one selected

neighbourhood on the Peak. If the Chinese were merely a minority land-owning class or a majority but absentee owners, then the Peak could be said to be a *de facto* European housing district. The telephone directory search reported here has affirmed that the Chinese did quickly begin to colonise the Peak as soon as the discriminatory law was repealed. However, were they landlords or residents? A comprehensive study of land ownership for all land lots on the Peak before and after 1946 beyond the above sample study of Barker Road is wanting, and this is one of the essential questions for further research.

Besides, the proposition must be reinforced by further solid empirical evidence for the argument that the relevant zoning controls for the Peak were not based on animosity against or aversion to the Chinese race, other than the express legislative exemptions which allowed Chinese servants to reside in the Peak area. Basically were there actually many Chinese (servants) on the Peak during the era of the discriminatory laws? To accurately address this research question, one must conduct further research on any official census statistics for the Peak District prior to 1941. A.J. Christopher provided an initial answer: "...in 1911, the Peak only housed 11 percent of the European population, the remainder of whom continued to live the crowded conditions of Victoria City...Furthermore, because of the presence of servants, Europeans only constituted one-quarter of the total population in the Peak" (1992: 102). Besides, according to Cheung's theory of price control, which predicts that rational economic agents seek to recapture lost rent through bypassing laws or policies, there would have to be a black market for the Chinese before the zoning was repealed. Was there such a black market? In any event, both questions point towards the need for further evidence of the existence of a large number of Chinese persons on the Peak. If there were just a few Chinese persons on the Peak during the days of *de jure* segregation, the proposition collapses. This is another and even more important question for further research.

Conclusion

Popular images of colonial Hong Kong chosen by European commentators have rarely been the subject of empirical investigation that would set them in context. One famous example is Lord Palmerston's frequently quoted description that Hong Kong was a "barren rock". Another example is that post-war Hong Kong Chinese are only interested in making money, as revealed in the work of Feign (1994). This paper exposes that post-war literature written by foreign "experts" on Hong Kong has given a distorted background to racial discrimination as part of the landuse control history in colonial Hong Kong.

Without denying the existence of psychological and social elements of discrimination, this paper provides documentary evidence to show that the introduction and destruction of racial segregation in Hong Kong has a strong economic and protectionist foundation.

This paper is not meant to stir up anti-British feeling by a reinterpretation of the history of landuse control in colonial Hong Kong using clichéd nationalistic opinion. The people who have chosen to live in Hong Kong have voted with their feet in support of the colonial administration and there is no need for further apology of paternalist and efficient British colonialism. The author recognises that there was a real change of attitude toward the subject of racial discrimination in Hong Kong, and this recognition is based on the an interesting archive material that has not yet been referred to in any known publication. In a file minute on the draft for the *Cheung Chau (Residence) Repeal Ordinance*, written and signed by the Acting Attorney General George Strickland, it is stated that: "The maintenance of such a restriction, which in the past savoured of racial discrimination, is also considered out of harmony with the spirit of the times."³⁵ The typed written expression, "which in the past savoured of racial discrimination," was crossed out by a hand stroke, which, in effect, prevented the politically incorrect statement of a loyal civil servant from appearing in the enacted repeal ordinance of 1946, but preserved it for historians. Interestingly, the land authority in Hong Kong's post-handover government has remained very reluctant to remove from an old land lease the

³⁵ Public Records Office file reference: Secretariat No. 10/2961 1946, dated 26 June 1946. The published wordings were identical to those for the bill that repealed the ordinance for the Peak.

building covenant limiting development to “European type house” on the Peak or elsewhere in Hong Kong unless a handsome premium is paid. The intent is not to enforce racial segregation, but to extract land revenue from developers seeking to build blocks of flats instead of houses. The Planning Department, however, tends to object to such a conversion, which, again, is not intended to preserve Western architecture, but to keep density low. Having said so, as a matter of praxis, the author does lament that prior to the handing over of Hong Kong back to China, opinion leaders in the colonial regime omitted to have done anything that echoes the laudable spirit behind the enactment of the Australian Native Title Act of 1993. The onus of presenting history as it is – simply and precisely (*there were racial segregation zoning laws in colonial Hong Kong*) – rests more on academics than on journalists, as the latter may not have performed sufficient archive research and tend to rely on the opinions of scholars or their peers, not to mention on colonial governors and politicians, as pragmatic considerations may need to prevail over the past neglect of a certain dimension of human rights. It is exactly at the former, the custodians of knowledge, that this article is directed.

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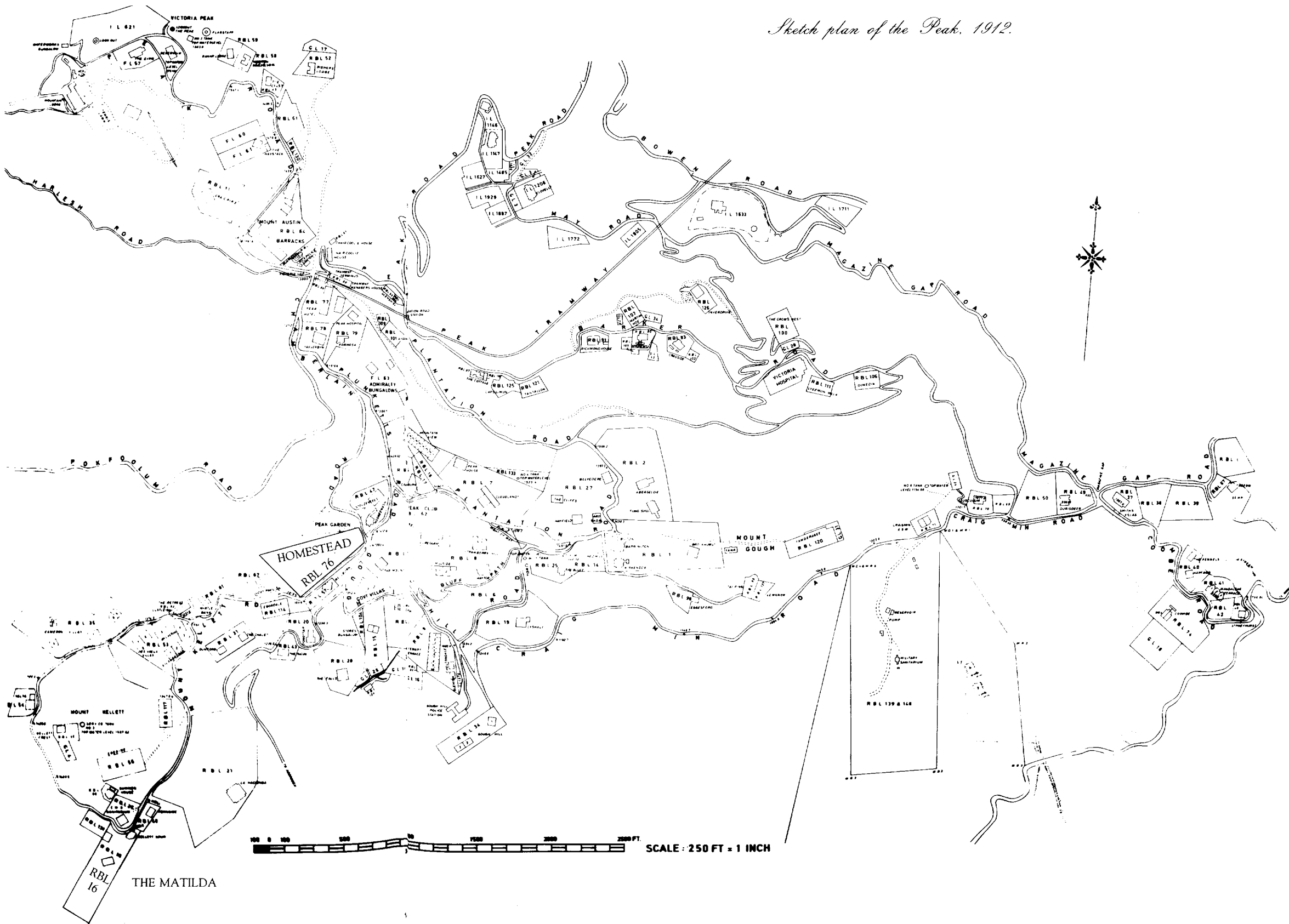
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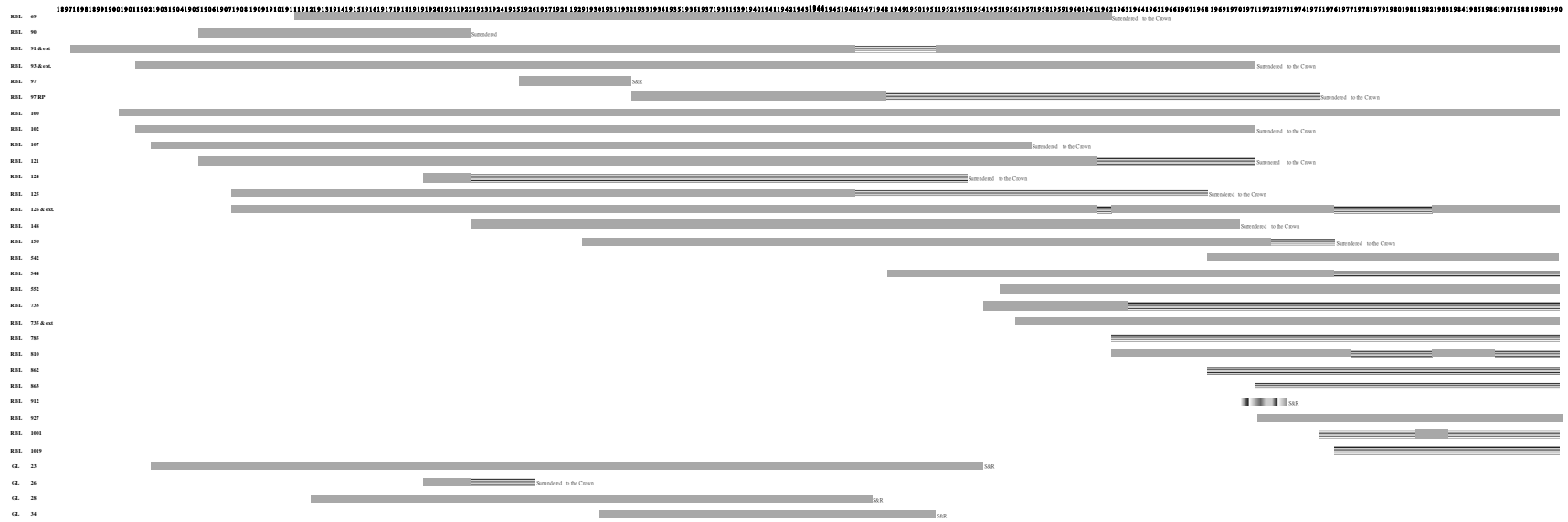
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Sketch plan of the Peak, 1912.



100 0 100 200 300 400 500 FT. SCALE: 250 FT = 1 INCH

THE MATILDA



Legend

S&R : Old lot surrendered and lot in the same (with same or different lot boundaries/size) or another location with new lot numbers re-granted

█: European ownership

▨: Chinese ownership

▩: Mixed Chinese and European ownership

Figure 2(a). Ownership of land by lot by race in Barker Road from 1898 to 1990

Percentage of Land Lots

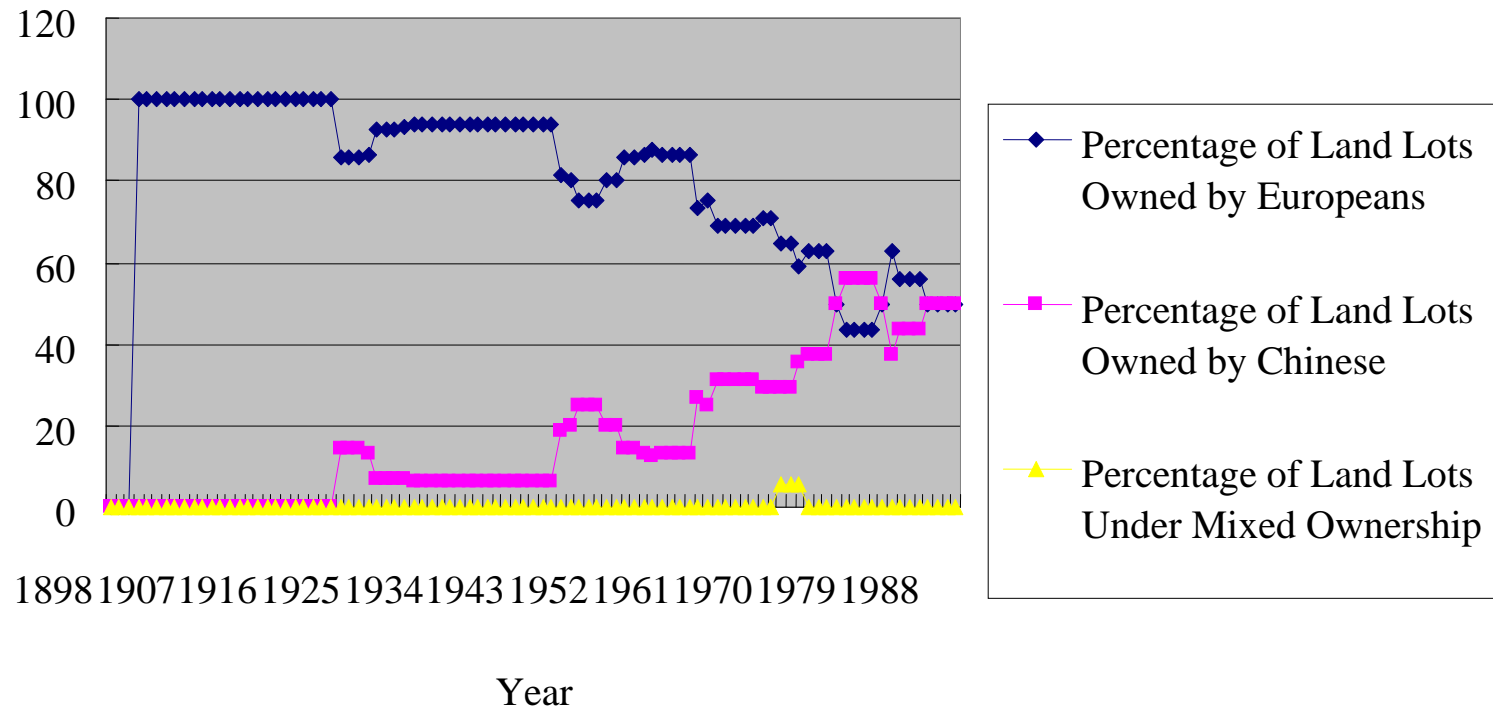


Figure 2(b). Percentages of land lots owned by race by year in Barker Road from 1898 to 1990