

# ANGLO-CHINA

**Chinese People and British Rule  
in Hong Kong, 1841–1880**

Christopher Munn



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# Contents

Lists of Tables, Maps and Charts	ix
Preface to the Paperback Edition	x
Acknowledgements	xii
Romanization and Quotations	xiii
A Note on Currencies and Values	xiv
Introduction	1
<b>PART ONE: Founding a Colony</b>	
<b>CHAPTER 1</b> ‘Anglo-China’: The Opium War and the British Acquisition of Hong Kong	21
<b>CHAPTER 2</b> ‘Her Majesty’s Chinese Subjects’: Government and People in Early British Hong Kong	53
<b>PART TWO: Crime and Justice</b>	
<b>CHAPTER 3</b> ‘Cheap, Summary and Sharp Justice’: The Early Hong Kong Magistracy	109
<b>CHAPTER 4</b> ‘A Mischievous Abomination’: Trial by Jury in Early Colonial Hong Kong	160
<b>CHAPTER 5</b> ‘Giving Justice a Second Chance’: Reforms to the Judicial System, 1849–1857	204
	vii

**PART THREE: Finding an Equilibrium**

<b>CHAPTER 6</b>	‘Treacherous and Reckless Barbarians’: War and Civil Unrest, 1856–1858	257
<b>CHAPTER 7</b>	‘A Reign of Terror’: Corruption, Scandal, and the Caldwell Affair, 1857–1861	290
<b>CHAPTER 8</b>	‘A Social Revolution’: Forming a Colonial Relationship, the 1860s and Beyond	329
	Conclusion	374
	Notes	379
	Chinese Character List	442
	Bibliography	446
	Index	457

# Lists of Tables, Maps and Charts

## List of Tables

3.1 Magistrates' powers in Hong Kong, 1841–75	116
3.2 Selected cases before the Magistrates, 1850–70	133
8.1 Sentences imposed by the Police Magistrates, 1870–1890	348

## List of Maps and Charts

Map A Hong Kong Island in the 1840s	xvi
Map B The Hong Kong Region in the Mid-nineteenth century	xvii
2.1 Population of Hong Kong, 1841–1870	69
2.2 The Lower Bazaar on the eve of the great fire of 1851	77
3.1 Defendants before the Magistrates, Hong Kong, 1846–1875	112
3.2 Defendants, before the Hong Kong Magistrates as a percentage of population, 1846–1900	112
5.1 Defendants before the Magistracy and Supreme and Admiralty Courts in Hong Kong, 1846–1857	210
5.2 Destinations of men transported from Hong Kong, 1844–1858	222
5.3 Hong Kong Supreme Court conviction rate, 1848–1870	244
8.1 Persons arrested and before the Magistrates for Breach of Curfew, 1857–1890	347
8.2 Death sentences and hangings in Hong Kong, 1850–1870	351

# Introduction

‘At the present moment,’ wrote the fourth Governor of Hong Kong, Sir John Bowring, in 1858,

the separation of the native population from the European is nearly absolute. Social intercourse between the races is wholly unknown. A few Chinese speak a strange ‘jargon’ by which they are enabled to convey their ideas to foreigners. I do not believe there is a single merchant or Tradesman in Hongkong who speaks or understands the native dialect, who has seen a Chinaman at his Table, or admitted him to the slightest confidential intimacy. The influence of the European settler upon the native mind may be said to be nil.

The day-to-day practice of government in Hong Kong, Bowring had earlier complained, was hindered by ‘the miserable want of functionaries – honest functionaries – who can serve as proper channels of communication between officials utterly ignorant of Chinese and natives utterly ignorant of English.’ ‘There is,’ he concluded, ‘an absolute abyss between the governors and the governed. We rule them in ignorance, and they submit in blindness.’<sup>1</sup>

These remarks contain some exaggeration. The separation between colonists and Chinese was never so absolute; and, as Bowring’s own administration was to demonstrate, too often the submission of the Chinese population had to be enforced through the barrel of a gun. But they embody a familiar complaint about the gulf in understanding between the small community of European colonists and ‘the vast and increasing mass of Chinese population’ who were subject to British rule.<sup>2</sup> The remarks are also a striking indictment of Bowring’s failure in his aims as governor. As one of Hong Kong’s most far-sighted of governors, Bowring had, in more optimistic moods, believed it possible to build Hong Kong as a display-case for the ‘superior civilization of the west,’ to bring to fruition the

expansive vision of Hong Kong's founders. According to this vision, Hong Kong was to be not only *the* great emporium for the China trade, but also a model of British good government, a living exhibition of European civilization, a meeting point between east and west, where the manners, institutions and technologies of both cultures would engage each other in a productive and beneficial way. Early enthusiasts had christened this realm of economic, political and cultural exchange 'Anglo-China', and had nominated Hong Kong as its capital. During Bowring's governorship, civil war in southern China, and renewed war between Britain and China, had helped advance Hong Kong as an emporium of trade. Yet exemplary good government had proved so elusive that Bowring's administration had all but collapsed under a weight of corruption, scandal and inefficiency. As the disorder in the region increased, Bowring confessed the utter inability of British methods of justice to deal with the more serious crimes committed within the jurisdiction of the colony's courts. To cope with the emergencies of war and popular unrest Bowring imposed repressive controls on the Chinese population that amounted to little less than martial law.

As the colony's Chinese population continued to grow, the 'abyss between the governors and the governed' seemed wider than ever. Although superficially cosmopolitan and undeniably prosperous, Hong Kong was, as Bowring's successor put it, a 'grotesquely anomalous' place, 'officially as well as socially ill at ease with itself.'<sup>3</sup> The Anglo-China ideal, critics complained, had fulfilled itself, not in any productive partnership between East and West, but only in the 'Anglo-Chino criminal conspiracies' that scandalized the press and parliament at this time.<sup>4</sup> In 1858 the colony's main newspaper, the *China Mail*, summarized the bloated ineffectiveness of the Hong Kong government in the following way:

With about 50 officials to govern five hundred merchants and not to govern 60,000 Chinese, who can wonder at disputes, with all our English, American, French, Germans, Moormen, Parsees, merchants, storekeepers, opium-sellers, gamblers and pirates, each under the supervision and control of his own consul or commander, Secretary or Protector, who in their turn are under the control of a Governor, who is under the control of a Secretary of State? All these are crowded together in a place about half as big as Hyde Park, and people at home wonder that they fall out and fight, slander, and go to law perpetually.<sup>5</sup>

In contrast to the early integration of Chinese elites into Singapore's system of government, it took nearly three decades for the colonial government of Hong Kong even to begin to establish stable and serviceable political links with the leadership of the Chinese community and a further decade before any Chinese was admitted to the formal organs of colonial power.

Whatever their disagreements on other issues, historians have tended to agree with the *China Mail*'s view that the early Hong Kong government left the Chinese population very much to themselves. In the 1890s E.J. Eitel

wrote of 'an unbridged chasm' separating 'the outward social life of Europeans and Chinese,' though he stressed the underlying 'communion of interests and responsibilities' of the two communities.<sup>6</sup> In G.B. Endacott's influential formulation, the first two decades of colonial rule were an experiment in 'indirect rule' giving way in the 1860s to a new policy of non-discrimination and equality before the laws, which enabled a more fruitful partnership between the races.<sup>7</sup> Later historians have generally been unimpressed by Endacott's claim about the establishment of racial equality in the mid-1860s.<sup>8</sup> But they have adopted his paradigm of indirect rule as the prelude for their studies of more extensive political engagement between colonial government and Chinese people later in the century.<sup>9</sup> The only recent substantial study of Hong Kong during its early decades as a British colony elaborates Endacott's view of indirect rule, stresses the separation of colonial government and Chinese society, and finds it possible to examine the early Chinese community as a separate, almost autonomous entity.<sup>10</sup> The idea persists in the official histories of the colony.<sup>11</sup> As a generalization about the state of affairs during these years, 'indirect rule' has much to commend it. The colonial authorities did indeed leave much of the work of government to the Chinese communities and made little effort to assimilate the Chinese to British rule. Like many of the generalized formulas intended to explain Hong Kong society, however, the paradigm of 'indirect rule' pastes over a great deal and tends to avoid, rather than explain, the colonial relationship.

In early colonial Hong Kong a small European community was placed in a direct political relationship with a growing Chinese populace without the mediation from Chinese merchant elites or Chinese officials that had helped to define and channel similar relationships in Singapore, pre-Opium War Canton, and the treaty ports. Largely because of the gulf in understanding between governors and governed, and because of the difficulties of maintaining order in such a troubled region, the colonial authorities attempted to subject the early population of Hong Kong to considerable direct rule. While this interference did not necessarily promote understanding, and was apt to be resisted, avoided or subverted, it exerted a considerable impact on people's daily lives. Hong Kong possessed one of the most top-heavy governments and one of the largest police forces in the British Empire. It had a military and naval presence that was roughly double the size of the civilian European population and was frequently called upon to aid the civil authorities. Despite Hong Kong's status as an international free port, its internal trade was encumbered with monopolies, licences, indirect taxes, and fees and charges, legal and illegal, of various descriptions. Chinese residents were subject to a nightly curfew, to registration schemes, to annual censuses and to police searches conducted for a variety of purposes. They lived under a constantly changing, labyrinthine system of intrusive regulatory laws and policing practices,



which increasingly criminalized many daily activities and brought thousands of people into direct contact with the police and the courts. When, at the end of the nineteenth century, local leaders in the southern part of Xin'an county sought to arouse resistance to the British acquisition of the New Territories they could exploit these measures to play on widely held anxieties

that under English law a poll tax would be collected; that houses would be numbered and a charge made therefore; that fishing and wood-cutting would be prohibited; that women and girls would be outraged; that births and deaths would be registered; that cattle and pigs would be destroyed; that police stations would be erected, which would ruin the *Fung Shui* of the place. In short, that the evils that would arise would be so great that one could not bear to think of them.<sup>12</sup>

The 'abyss' that divided Europeans and Chinese in early colonial Hong Kong was bridged by a tangled web of controls, crossed periodically by campaigns of crude coercion, and straddled uneasily by a succession of doubtful European officials and their Chinese collaborators.

This book probes the 'abyss' that separated governors and governed in early colonial Hong Kong. It explores the workings of the complex and fragile structures erected across it and investigates the activities of those who inhabited its murkier regions. It attempts to explain how Hong Kong's early colonial government managed to rule a large, rapidly expanding, unassimilated Chinese population under difficult conditions with tools that seemed singularly ill designed for their task. It argues that, far from seeking to leave the Chinese population to its own devices, the early colonial government intruded into the lives of Chinese residents of the colony far more than it did later in the nineteenth century, when Chinese elite organizations took on many of the functions of government that had proved so difficult for the colonial power. Rather than simply dismiss the 'maintenance of law and order' as the simple and unremarkable qualification to a general policy of non-intervention, as many historians do, it focuses on the uses of criminal justice by a government that sought legitimacy in 'equal laws' and 'impartial justice' yet believed that the solutions to the colony's many problems lay in special forms of policing and punishment for the Chinese population. The aim of the book is to fill a gap in the history of the colonial relationship in nineteenth-century Hong Kong and to introduce themes that were to play an important part in the relations between government and people throughout Hong Kong's history.

### Histories of Nineteenth-Century Hong Kong

The few original histories of nineteenth-century Hong Kong may be divided into three broad schools. A colonial school has, since the late nineteenth

century, produced a series of general histories of Hong Kong written from the point of view of the European colonial elite, sharing – and reinforcing – many of the assumptions of that elite about the benevolent, progressive nature of British rule. Since 1949 an opposing Marxist, nationalist historical tradition based in Beijing has produced histories that are highly critical of what its practitioners see as the exploitative, oppressive nature of colonial rule and of the wider British imperialist aggression connected with the colony. More recently, a diverse and growing body of historical research has moved away from crude pro-colonial or anti-colonial narratives and focused its study on the complex social and political dynamics of Hong Kong and especially the experience of its Chinese community.

Various colonial versions of Hong Kong history were produced or projected soon after the establishment of colonial rule.<sup>13</sup> The earliest substantial work, however, appeared in 1895, when E.J. Eitel produced *Europe in China: The History of Hongkong from the Beginning to the Year 1882*. Of German origin but naturalized as a British subject, Eitel was a missionary, a prominent sinologist, private secretary to Governor Hennessy, and inspector of schools in Hong Kong. Eitel sets his narrative within a grand Hegelian vision of racial destiny and imperial fulfilment. Hong Kong, he argues, was a central part of the ‘process of practical elaboration through the combined forces of commerce, civilization and Christian education’ of the ‘secret inchoative union of Europe and Asia.’ The Opium Wars and the acquisition of Hong Kong were the means by which Great Britain, ‘marching at the head of civilization’ reformed Europe’s former humiliating relationship with China into ‘a happier reunion by a due subordination of Asia to Europe.’ Hong Kong became ‘the vantage point from which the Anglo-Saxon race has to work out its divine mission of promoting the civilization of Europe in the East, and establishing the rule of constitutional liberty on the continent of Asia.’ British governors succeeded or failed according to how far ‘they marred or promoted the Colony’s progress towards fulfilling its divine mission.’ Plagued by ‘war without and dissensions within,’ Hong Kong was not, Eitel accepts, destined to become ‘a paradise of liberty’ overnight. The colony was unlucky in some of its early governors, and ‘an unbridged chasm’ yawned between European and Chinese communities. But out of the chaos and controversy of the early years, the colonial relationship between Europeans and Chinese had become clear: ‘the destiny of the one race is to rule and the fate of the other to be ruled.’<sup>14</sup>

At about the same time, another colonial civil servant, J.W. Norton-Kyshe (Registrar General of the Hong Kong Supreme Court) was compiling his monumental *History of the Laws and Courts of Hong Kong* (1898). This is a more eccentric work than its title suggests, and, in contrast to the grand historical vision of Eitel, Norton-Kyshe’s view of Hong Kong history is difficult to pin down: the only analysis in this chronological plagiarism of

the colony's early newspapers comes in the editorials and readers' letters that are pasted into the narrative word for word yet without attribution. The vague notion in the preface that Hong Kong was 'the starting point from whence a civilizing power by its beneficent rule and humane laws was to endeavour to effect those reforms which an uncivilized power like China was ever in need of' echoes Eitel's view, but the detailed chronicle of scandal and mismanagement in the work's 1,300-odd tightly printed pages provides little support for these claims.<sup>15</sup>

Another colonial civil servant, G.R. Sayer, produced two volumes in the 1930s: *Hong Kong: Birth Adolescence and Coming of Age* (covering the first 21 years of the colony's history) and *Hong Kong 1862–1919: Years of Discretion*. The titles themselves set out the theme of growth and progress. Sayer's writings are among the more entertaining and digestible of the colonial histories and take a less racially arrogant view of Hong Kong's destiny than do their Victorian predecessors. But they also advance a process, already implicit in Norton-Kyshe and Eitel, of treating the colony almost entirely as a European enterprise and of pushing the Chinese on the island quite out of the picture. This process is completed in the works produced in the 1950s and 1960s by Hong Kong's first salaried historian, G.B. Endacott, then professor of history at the University of Hong Kong. The most important of these, Endacott's *History of Hong Kong* (1958), is a distillation of governors' despatches, colonial blue books and parliamentary reports focusing on material development and constitutional change. The *History* traces Hong Kong's impressive growth as a great international port under British tutelage: in it, the Chinese population feature as a largely indistinct homogeneous mass, whose alternately 'criminal' and 'co-operative' tendencies turn them into a problem of colonial management. The problem was not always easily resolved and was productive of many paradoxes. 'The overwhelming Chinese character of Hong Kong and the need to protect their interests have been the main factors in the delaying the introduction of essentially Western ideas of political freedom,' Endacott concludes, in another work, on the political problems that have 'taxed the British genius for the application of empirical solutions.'<sup>16</sup>

The latest addition to the colonial canon largely continues this effacement of the Chinese experience and, in its coverage of the nineteenth century, focuses mainly on wars, military issues, and colonial anecdotes. Frank Welsh's *History of Hong Kong* (1994) relies on a broader, more imaginative body of research than the governors' despatches and blue books that formed Endacott's staple sources. It is written with flair and with an amusing sense of the incongruous. But it does not bring us much closer to an understanding of the workings of government and society in early Hong Kong. Its main function seems to be to produce a jocular celebration of colonial life to reflect the mood of self-congratulation of the last few heady years of British rule.

In scope and methodology, the colonial narratives have a number of characteristics in common. They devote considerable space to the pre-history of colonial Hong Kong, early Sino-British contacts, the Canton system, and the Opium War. Despite their narrow perspective, they claim to provide a 'general' or 'definitive' view of Hong Kong history. They focus on linear development, with chapters usually divided according to the terms of office of governors. They generally exclude the Chinese population as agents in history, except either as obstacles to the fulfilment of colonial aims or as willing but subordinate partners. They also identify strongly with the official view of Hong Kong history. Yet, despite their obvious limitations, the colonial histories maintain a central importance in the historiography of the colony. In the absence of any other original general histories of the colony in the English language, they remain the 'standard' reference works for many scholars. The narrative, issues, and material they present have greatly influenced the terms on which other historical schools and other academic disciplines have investigated and interpreted Hong Kong history. They have provided the basic sources for a plethora of popular, tertiary works on Hong Kong, ranging from illustrated chronologies to institutional histories. They continue to be widely read, and many of them were reissued in the 1970s and 1980s. Endacott's much reprinted *History* remains the standard work of reference. Welsh's widely praised *History*, has become a world best-seller.

Although diametrically opposed in ideological terms, and (for linguistic reasons) speaking to an entirely different audience, the Beijing school has a remarkable amount in common with the colonial school. Like the colonial school, the Beijing school similarly favours official sources and statistics and, though it is naturally critical of their 'colonialist bias', its practitioners are heavily dependent on the research of colonial historians. The Beijing School also devotes considerable space to the wars and 'national humiliations' that produced Hong Kong, focuses heavily on economic growth and formal political structures within Hong Kong, and produces works that claim to be 'standard', or at least 'outline', histories of the colony. The Beijing school stresses the general contribution of the Chinese population to Hong Kong's economic success, and dwells on the heroism of those who resisted colonial rule. Like the colonial school, however, it treats the Chinese population in terms of crude categories and has little to say about the complexities of Chinese life or the experiences of ordinary people. Although, until very recently, Hong Kong has received little attention from mainland scholars as a subject independent of larger diplomatic or economic narratives, the main elements of its history fit neatly into a crude Marxist-Leninist view of imperialist expropriation, exploitation and national humiliation.

The earliest full-length work devoted to the history of Hong Kong from Beijing, Ding You's *Xianggang Chuqi Shihua 1841-1907* ['Hong Kong's

Early History, 1841–1907'] (1958) tells a story of British military aggression, legal discrimination against the Chinese, relentless police repression, fiscal extraction, and exploitation of labour. 'Hong Kong was built and made prosperous on the blood, sweat and corpses of Chinese coolies,' Ding concludes.<sup>17</sup> More recently, China's resumption of the exercise of sovereignty over Hong Kong has stimulated a number of works by mainland authors designed, in part, to foster a Chinese identity among its Hong Kong readers. The most substantial of these is a two-volume general history of the colony by historians based mainly at the Academy of Social Science in Beijing. The volume on the nineteenth century, *Shijiu Shiji de Xianggang* ['Hong Kong in the Nineteenth Century'] is extensively researched and thematically organized: its aim, according to its publishers, is to redress a neglect of the colony by mainland historians and to respond to what is seen as a need among Hong Kong people to know more about their history in anticipation of Hong Kong's return to Chinese rule.<sup>18</sup> Although more temperate than Ding You in its criticisms of colonialism, and willing even to see strengths in some of the colonial government's economic policies, this work continues the traditional preoccupation of both mainland and colonial historians with the events leading up to the acquisition of Hong Kong, Kowloon and the New Territories. At least a third of the work is devoted to wars and diplomatic negotiations. The starting point and unifying principle of the whole project, according to its editors, is 'that Hong Kong from the earliest times has been sacred Chinese territory.'<sup>19</sup> The main weakness of the book is that, while it stresses, largely through statistics, the indispensable collective contribution of Chinese people to the colony's growth, and while it perhaps overstates the popular resistance to colonial expansion, it says little about the activities, relationships and conflicts within the Chinese communities or about the daily lives and predicaments of ordinary people, who tend to appear simply as sociological or statistical categories. Part of the problem is with sources: beyond the official archives that form the staple primary sources, the book draws mainly on the very colonial histories about which its editors express deep reservations.<sup>20</sup>

Neither of the most recent substantial colonial and Beijing histories, by Welsh and Yu & Liu respectively, has made much effort to synthesize the very different body of Hong Kong history which has appeared over the last two decades, and which has side-stepped, leapt over, or burrowed beneath the narratives and categories of the colonial and Beijing schools. Although its practitioners do not claim to be part of a historical 'school' and vary considerably in their approach, a clearly defined Hong Kong school of history has not so much taken the middle ground between the extremes of the colonial and Beijing schools: it has instead asked entirely different questions, opened up new fields of research, and introduced a view of nineteenth-century Hong Kong that goes far beyond the increasingly sterile



cycle of traditional narratives. This school takes Hong Kong and its people, rather than colonial government or the diplomatic relations between China and Britain, as its central subject of study. It addresses the dynamics of society and politics within Hong Kong, introduces questions of race, class and gender differences, and studies patterns of organization that do not fit easily into traditional colonial structures. Although sceptical of the claims of the colonial school, it is not obsessed with the question of colonial oppression, and, unlike the Beijing school, it tends to see colonial rule more as one component among many in the complex, often double-edged relationships that organized Hong Kong society. China figures prominently in the discussion of Hong Kong, not so much as a national entity, but as the region beyond Hong Kong from which most of Hong Kong's population originates, as an important political and cultural influence on the colony, and as a source of tension and conflict. The Hong Kong school makes wide use of previously untapped sources, particularly Chinese-language sources, and deploys the traditional colonial sources in a new and more critical way. It also tends to be analytical and monographical, rather than narrative and comprehensive, in its approach.

The sociologist Henry Lethbridge was perhaps the originator of this approach, and many of the questions he asked about early Hong Kong society have become the inspiration for larger, more empirical studies. These include questions about how Chinese society in Hong Kong managed its affairs outside the formal organs of colonial government; how far bureaucratic corruption affected the workings of government; and how the colonial elite used racism, class, and snobbery to define and regulate itself. These questions, many of them inspired by contemporary sociological theory, were raised, rather than fully answered, in a series of short and pithy essays collected in 1978 under the title *Hong Kong: Stability and Change*. Throughout the sixties, seventies, eighties and nineties, a more sustained and painstaking research into early Hong Kong society was undertaken by the theologian, Carl T. Smith, who has applied a genealogical training to the task of piecing together the lives and pursuits of Hong Kong's early Chinese elites and middlemen. This has involved combing through extensive official correspondence, missionary archives, land records, wills, newspapers, and personal accounts, and reassembling the fragmented references to the lives of ordinary people into new patterns that more convincingly reflect the choices and experiences of those at the receiving end of colonial rule. The most substantial product of this research, *Chinese Christians: Élites, Middlemen, and the Church in Hong Kong* (1985), demonstrates the economic and political importance of Chinese elites and middlemen in the early colony. It also entirely subverts the old assumption that the Chinese population of Hong Kong was composed merely of transients or sojourners. In this work governors, officials and European merchants fade into the distance, while men and women, prominent in the

Chinese community but unheard of in most colonial and Beijing narratives, are sharply defined as actors rather than as voices off-stage. The resulting picture is not that of a passive Chinese community thriving under British tutelage but one of men and women using the machinery of colonialism to promote a variety of careers and interests.

Elizabeth Sinn has advanced the understanding of the role and influence of Chinese elites in early colonial Hong Kong by investigating the growth and functions of the charitable and quasi-political institutions managed by them. In *Power and Charity: The Early History of the Tung Wah Hospital, Hong Kong* (1989) Sinn uses the extensive and hitherto untouched archives of the Tung Wah Hospital to show the considerable importance of the early Hospital as the unofficial centre of Chinese political power in late nineteenth-century Hong Kong. Sinn traces the functions of the Hospital during its heyday in the 1870s and 1880s and during its decline in prestige later in the century, as its ability to mediate between the colonial government and an increasingly alienated labouring population faded. Chan Wai-kwan, in *The Making of Hong Kong Society: Three Studies of Class Formation in Early Hong Kong* (1991), further explores the dimension of class in an examination of the formation of a European merchant class, a Chinese merchant class, and a Chinese labouring class spanning the nineteenth and early twentieth centuries. Chan argues that, ultimately, class divisions within Chinese society became more important than the racial cleavage between Europeans and Chinese, as the common interests of the Chinese and European merchant elites increasingly distanced Chinese merchants from the politically marginalized labouring class. Class division, Chan suggests, reached a pitch during the seamen's strike of 1922, in which seamen and other trades successfully used class solidarity to extract concessions from a now entirely adversarial Chinese merchant elite.

The most recent major study from the Hong Kong school, Jung-fang Tsai's *Hong Kong in Chinese History: Community and Social Unrest in the British Colony, 1842–1913* (1993) both synthesizes earlier research in the field (particularly by Smith and Sinn) and produces new research on social, political and racial conflict within Hong Kong. It focuses on the livelihood of the labouring class, the development of community, the fracturing of the Chinese elite into conservative and western-oriented groups, and the influence on popular protest in the colony of nationalism and other political movements in China. In a detailed examination of the many political confrontations and protests in the colony during the first half of British rule, Tsai discards the traditional colonial 'story of continuous growth and stability with a politically apathetic Chinese population' and presents in its place a tense and ambivalent colonial relationship characterized by collaboration and partnership on the one hand and increasing social crisis on the other.<sup>21</sup> Tsai points out the readiness of the colony's Chinese labouring masses to protest against intrusive government measures but

stresses that a conservative realism and a preoccupation with livelihood prevailed over larger class or national consciousness, despite the growing politicization of all sectors of the Chinese population in the early decades of the twentieth century.

The Hong Kong school's main emphasis is on the Chinese population of the colony and on the importance of Chinese agency in the colony's political and social development. Again, in contrast to the colonial school, it stresses conflict and change, rather than stability and growth, and, in contrast to the Beijing school, it complicates what might appear to be a simple colonial relationship by bringing in problems of class, and of antagonism and competition within the Chinese elite. The chronological centre of gravity of the Hong Kong school, and the area in which it has produced its most original research, tends to be the late nineteenth century, a period of considerable political change and conflict, and the period in which the Chinese merchant elite came into its own. The early thirty years or so of British rule feature in introductory chapters only as a kind of chaotic prelude to the political engagement and conflict later in the century, and have not been subjected to such intensive study. Nor, since the studies by Eitel and Sayer several generations ago has any sustained study of this formative period in Hong Kong history been produced in English. This book attempts to help fill this historiographical gap by examining the early period of colonial history in Hong Kong, when the racial and cultural divide between colonists and colonized prevailed over class differences, and when the problems of government were deepened by the absence of dependable local elites and their political organizations.

### **The Organization and Themes of this Book**

The book is divided into three sections, which follow a broad chronological progression. **Part One** examines the conditions in which the colony was founded and addresses the aims, methods and problems of its early government. This section introduces some of the contradictions between colonial rhetoric and the early experience of colonial rule that were to exert an important influence over the colonial debate about how the Chinese population should be governed. **Chapter One** links the high expectations entertained of the colony by its founders to the extravagant rhetoric of civilization and liberation that grew out of the expanding war between Britain and China in the early 1840s. The clash between this rhetoric and what colonial opinion increasingly perceived to be the problems of governing Hong Kong's large, migrant Chinese population becomes the organizing theme in the remainder of the book. **Chapter Two** examines the early problems of government by exploring the alienation between the tiny European colonial community and the Chinese population. This alienation was aggravated by the legacy of war, the absence of reliable collaborators,



the prevalence of crime and disorder in the region, and resistance to attempts by the new colonial government to raise revenue and manage the island's scant land resources. The issues of collaboration and resistance raised in this chapter serve as background to the study of the administration of criminal law in Section Two of the book.

**Part Two** explores the most extensive and most neglected area of engagement between government and people in early colonial Hong Kong, the criminal justice system. It focuses mainly on the formative years of the late 1840s and 1850s. **Chapter Three** addresses the extraordinarily high rate of prosecution before the colony's Magistracy and links this not just to the high crime rate in the early colony but also to the gross inefficiency of the colonial police and the lack of success in crime prevention. It examines the caseload and punishments of the early Magistracy and the complaints by contemporary critics that its rough and indiscriminate methods were not only failing to address serious problems of crime but were also driving away the respectable, wealthy Chinese that the colony needed for its viability. The chapter concludes that a general criminalization of the Chinese community took place in the assumptions of officials, in the creation of new offences applicable only to Chinese residents, and in the wide net cast by both police and Magistracy. **Chapter Four** examines the problems encountered in the early decision to dispense with the British Indian tradition of making native defendants accused of serious crimes amenable to native courts. The Hong Kong government applied the full apparatus of English trial by jury to the mainly Chinese defendants taken up on serious criminal charges from within the colony and from the large maritime region beyond. The chapter argues that racial bias and problems with evidence fostered a system of justice that not only contradicted official claims about equal laws and humane justice but also failed to produce the convictions that the colonial community deemed necessary to deter crime. **Chapter Five** explains how these and other difficulties prompted the government to introduce radical reforms to restrict the rights of defendants, loosen rules of evidence, and increase its reliance on the lower courts and on sending difficult cases to the Chinese authorities.

**Part Three** discusses the convulsions brought about in the late 1850s by rapid population growth, civil unrest, renewed war and pervasive misgovernment. It also traces the beginnings, in the 1860s and 1870s, of a more stable and systematic alliance between colonial government and Chinese merchant elite. This alliance was made possible by the presence in the colony for the first time of a settled, identifiable and self-conscious Chinese elite. It was also fostered by growing identity of economic and political interests between this elite and the colonial power and by a common desire to control the colony's large labouring population. **Chapter Six** discusses the civil unrest that arose in the mid-1850s from rapid population increase, incompetent policing and other problems, and

the anti-European resistance and terrorism that shook the colonial community during the Second Opium War. It explains how, at a time when the arrival in the colony for the first time of substantial Chinese merchants offered hope for a productive partnership between colonial government and Chinese community, problems of allegiance and civil unrest prompted the government to introduce further repressive measures in its attempt to control the Chinese population. The resultant powers concentrated into the hands of the colonial government's main European intermediary with the Chinese community, Daniel Caldwell, gave rise to serious questions of corruption and abuse of power, which are traced in **Chapter Seven**. This chapter further examines the difficulties the colonial government faced in its reliance on narrow collaboration, and uses the Caldwell scandal of the late 1850s to explore how easily, under this system, the institutions of British power, could be abused and subverted through a mixture of gangsterism and official corruption. The scandal also becomes a focus for the racial anxieties and political tensions that had accumulated in the colonial community. **Chapter Eight** discusses how in the 1860s and 1870s the foundations of the alliance between colonial government and the now well established Chinese merchant elite were laid through the empowerment of Chinese political organizations and the deepening of policing measures designed to control the labouring classes. These measures increasingly exempted the settled, respectable, wealthy portion of the Chinese community and enlisted their support in enforcing them. This class-based alliance formed the political foundation for the various forms of oligarchic government that served the colony for the remainder of the nineteenth century and beyond.

The themes explored in this book owe much to the studies of colonialism and imperialism in other places by other historians. The broad influence of Edward Said and his school appears in the examination of colonial rhetoric in Chapter One and in the importance of representations of 'the oriental' – in this case, of 'the Chinese character' – in the formulation of government responses and policies throughout the book. Here, colonial representations of the Chinese in the colony as an undifferentiated mass, and notions of inherent 'Asiatic' dishonesty and criminality, become especially important in considering a system of criminal justice that was administered by Europeans to a mainly Chinese population. An effort is made, however, to forge a clearer connection between the rhetoric of British rule with the immediate experience of British rule than either Said or his school, with their much broader studies, find it necessary to present. In particular, I try to link the evolution of government policies with the alternating rhetoric of optimism and disillusion contained in much of the debate on early Hong Kong. This is not simply a crude attempt to expose the discrepancies between official rhetoric and daily reality. Rather, the aim is to place the colonial debate about the practical problems of governing the Chinese

population within a larger colonial and imperial ideology dependent on assumptions about European superiority and about the 'character' of Chinese people. Similarly, questions of collaboration and resistance, so often neglected by the Said school, appear here at the centre of the problem of colonial rule.

The idea that imperialism is a function of indigenous collaboration, and not merely of western expansion, has, since Ronald Robinson sketched out his theory of indigenous collaboration in 1972, become an essential explanation of the methods of colonial rule. The uses of the colonial relationship to indigenous collaborators are, conversely, a central theme in the recent studies of nineteenth-century Hong Kong by Smith, Sinn, Chan and Tsai. The mutually beneficial collaboration between British imperialism and Chinese capitalism stands out in studies by Yen-ping Hao of the compradors in treaty port China and by Carl Trocki of the growth of the opium monopoly in Singapore. Its opposite – indigenous resistance to colonial rule – has been an equally important theme in the subaltern school of Indian history, in the Beijing school of Hong Kong history, and in the studies of less overt forms of daily resistance by James Scott. As Jung-fang Tsai demonstrates, these themes, in all their subtlety and ambivalence, come out strongly in the blend of co-operation and protest that characterized the Chinese handling of colonial rule in late nineteenth-century Hong Kong. Although the same forms of resistance and collaboration can be found in the early decades of colonial rule the application of these terms in this book requires some qualification and explanation.

Because Hong Kong was the product of war, and because it initially lacked both indigenous collaborators and effective immigrant collaborators of the kind who proved so useful to the British in Singapore, political 'collaboration' in early Hong Kong, where it was achieved, emerged either out of the narrower field of war collaboration, when the British attempted to settle and empower its former war collaborators, or out of attempts to handle the Chinese population through selected informants and power-brokers. The problems thrown up by such policies are discussed in Chapters Two and Seven: the more effective collaborators – an identifiable, stable, influential, and 'respectable' Chinese elite emerging out of the Chinese community rather than imposed upon it – came much later in Hong Kong than they did elsewhere, and their political power was not established until at least the opening of the Tung Wah Hospital in 1870. A further qualification in the Hong Kong case (and one no doubt applicable to many other colonial situations) is the presence of resistance *within* schemes of collaboration. This was important both in the attempts by the government to secure revenue through Chinese tax farmers, who simultaneously helped and resisted the government in its attempts to maximize revenue. It is present in the strategies by the managers of the Tung Wah Hospital and its off-shoot the Po Leung Kuk to take out of colonial hands the management

of the mui tsai (or female bondservant) issue and abuses in the coolie trade, and to redefine these problems in ways that suited the interests of the patriarchal Chinese merchant elite.

The subject of outright resistance raises other problems. Jung-fang Tsai has shown the dangers of reducing all forms of resistance against colonial rule to expressions of popular nationalism, a problem inherent in the Beijing school's interpretation of conflict and protest in the colony. Chapter Six of this book attempts to illustrate the complexities of resistance and non-resistance in the Hong Kong region during the Second Opium War. Chapters Two and Four, in their discussions of revenue farmers and malicious prosecutions, and Chapter Seven, in its account of the 'hijacking' of British naval power by a notorious gangster-collaborator, argue that some of the most troubling challenges to colonial rule came not from overt protest (which could be quickly put down by military force) but from the activities of those who sought to use, or abuse, the trappings, institutions and protections of colonial rule for the purposes of furthering disputes or schemes quite unconnected with colonial rule. The discussion of this phenomenon and of the 'corrupting' effects that colonial commentators believed it exerted on British institutions takes further Tsai's emphasis on the ambivalence towards British rule among many Chinese. It also underlines the limitations on the power of the colonial state and illustrates what Nicholas Dirks refers to as the 'ill-co-ordinated nature of power' in a colonial setting.<sup>22</sup> In the case of Hong Kong, naval and military superiority enabled the British to win wars, exterminate massive pirate fleets, and put down street demonstrations without much difficulty. Yet poor communication and a general failure to penetrate Chinese structures of power made the daily policing of the colony, and especially the administration of the more complex forms of English justice, more problematic. The migratory nature of much of the colony's population, and the powerful social and political ties between Chinese in the colony and communities on the mainland nearby added a further dimension to resistance in Hong Kong: boycotts, mass exoduses and *bashi* (or general shut-downs), already a feature of Chinese urban life, occurred perhaps in their most extreme form and presented colonial rulers with their most unmanageable form of popular protest.

This migratoriness raises two further themes: the desire among colonial rulers for a settled Chinese population, and the urge to monitor and classify the population through registration, censuses and other tools. The desire for stationary, governable populations is a common theme in colonial history and can be traced, for example, in attempts by colonial governments and missionaries to domesticate 'criminal tribes' in northern India or to Europeanize native groups in British Columbia by placing them in settled villages.<sup>23</sup> The 'constantly shifting' nature of Hong Kong's early Chinese population and the association colonists made between transitoriness and

criminality were important factors in the alienation between the tiny colonial community and the rapidly growing Chinese community during these early decades. They also enabled the colonial government to justify extraordinary and repressive measures to cope with a population that it considered to be neither British nor indigenous. Crude efforts to contain and manage this population, through such measures as curfews and registration, and the colonial desire to understand and classify the population through annual censuses and various forms of surveillance became important features of life in the colony. Like the effects of census statistics on perceptions of caste in British India, these measures also influenced the way in which society developed.<sup>24</sup> Having initially repelled 'respectable' and wealthy Chinese settlers because of their crudeness, such measures gradually exempted the wealthier, more established Chinese from their provisions. Further prohibitions on labour combinations made special arrangements for elite organizations. Policing schemes intended to combat vagrancy increasingly enlisted the support of the Chinese merchant elite.

The colonial government's use of the criminal law to manage the Chinese population during these early decades was a measure of the difficulties it faced in finding effective collaborators. The role of law in the process of colonization has at last become a topic of historical study.<sup>25</sup> In the Asian colonial experience these studies have tended to concentrate more on the colonization of indigenous forms of law through codification and reinterpretation, on experiments with utilitarianism, or on the effects of law on property ownership and family relations. Such studies reflect the experience in the Indian subcontinent of a pluralistic dependence on indigenous systems and of a very gradual application of new forms of law. Hong Kong, in contrast, was an extreme, if not unique, case in the Asian colonial experience because its colonial rulers, having rejected the possibility of allowing Chinese officials to administer Chinese law to the colony's Chinese population, decided to import the full apparatus of English law into the colony at a very early date. English law was extended not only to the Chinese population of the colony but also to alleged criminals, most of them Chinese, brought in from the vast maritime jurisdiction claimed by the colony's higher courts. The many problems of administering complex English law to a largely non-resident and uncomprehending Chinese population encouraged the colonial government to back away from the purer forms of English justice, to fall back on 'Chinese punishments' and summary forms of justice, and, increasingly, to rely on the Chinese government to handle its more difficult cases. Although trial by jury was never abolished in Hong Kong (and, in contrast to its fate in many postcolonial societies, is now guaranteed by a law of the People's Republic of China), its uses were increasingly circumscribed as the colonial authorities, backed by colonial opinion, deemed it unsuited to an unsettled



Chinese population. Part Two of this book explores this process. Rather, however, than produce dry legal history, it attempts, through an extensive study of court reports, to capture the experience of some of the tens of thousands of ordinary Chinese people brought before the colony's early criminal courts.

The frequent resort of the colonial government to the criminal law leads to two further themes: the readiness of the authorities to equip themselves with emergency powers during crises and a corresponding reluctance to dispense with those powers once the crises had subsided. That serious crises emerged during the early decades of British rule in Hong Kong is not in question. War, terrorism and crime made it natural that the colonial government, given its lack of communication and identity with the Chinese population, should find it necessary to equip itself with emergency powers, although the tendency of some officials (such as Caine in the 1850s and MacDonnell in the 1860s) to exaggerate the emergencies facing the colony is interesting. The main significance of the emergency measures is that they were cumulative. The residue they left behind became naturalized into colonial life, and they tended to be repealed long after their original uses had been served. In this way the curfews on Chinese inhabitants introduced to control crime in the 1840s and terrorism in the late 1850s were found to be so comforting to colonists that they were maintained almost to the end of the nineteenth century. Over the decades, anti-triad legislation introduced initially to combat crime and to please the Chinese government became elaborated into laws for the control or suppression of trade unions. The practice of using emergency powers and passing emergency legislation to address problems of government became a habit of the colonial government, which was brought under control only in the final decades of British rule.<sup>26</sup>

Colonial emergencies, non-co-operation from the neighbouring Chinese authorities, and a migratory population made it essential for the early colonial government to seek to differentiate the colony's population, as well as its economy and political system, from that of mainland China in order for the colony to survive. This paramount imperative is perhaps the single important political theme throughout Hong Kong's history. During the early decades of British rule the policies to maintain this differentiation from, and containment of, China were still emerging, as the government experimented with successive registration, deportation and anti-vagrancy schemes. The problems in establishing this differentiation in population, and the need to balance immigration control against the desire for Chinese settlers and cheap labour, were a constant preoccupation of the early colonial government. To some extent, the process of drawing clear boundaries between colonial and Chinese jurisdictions worked itself out during this period, though it was complicated both by the continuing non-co-operation of the Chinese authorities and by the colonial government's

growing dependence on the Chinese authorities in handling the problems of piracy and vagrancy. These themes appear both in the rhetoric and practice of colonial government during this period and are particularly prominent in the discussions in Chapters One and Two and in the examination of criminal justice in Section Two.

The subject of this book is a colonial relationship, by which is meant an unequal, partly antagonistic and partly co-operative power relationship between members of two ethnically distinct groups, one foreign and the other indigenous, taking place in a territory over which the former of those groups seeks to exert political control. The aim of this book is to help re-establish the colonial relationship in early Hong Kong as a subject of study, but also to examine that relationship in a critical way. It places the administration of criminal justice close to the centre of that relationship rather than conferring on it the usual exemption from close scrutiny. It attempts to understand the effects of colonial rule on ordinary people in and around the colony and the effects of their activities on the development of colonial rule. Colonial rule is presented here, not as some bundle of abstract policies handed down from above according to the exigencies of the time, but as an array of daily relationships continuously negotiated through confrontation and compromise, at home and at work, in the courts and on the streets. In focusing on the acutely problematic colonial relationship of these years, and in distilling three decades of crisis and confrontation into a few hundred pages, this book necessarily presents a dark view of Hong Kong society. It perhaps understates the more productive cross-cultural relationships that emerged out of the colony even during this early period, and risks giving the impression that colonial rule was unrelievedly oppressive. The studies by Carl T. Smith, Elizabeth Sinn and others of the many ways in which Chinese people in Hong Kong found protection and opportunities under colonial rule supply a ready corrective to this impression. They remind us that for most of the time ordinary people probably managed to navigate their lives around the mesh of restrictions and obstacles put up by the colonial government, and that extraordinary people managed to do extremely well in the colony. Nevertheless, many thousands of people became caught by those meshes and obstacles, and their experience is part of the history of Hong Kong.

# Notes

## Romanization and Quotations

- 1 Sidney Lau, *A Practical Cantonese-English Dictionary* (Hong Kong: Government Printer, 1977).

## Introduction

- 1 Bowring to Lytton, 18 September 1858, Great Britain, Colonial Office, Original Correspondence: Hong Kong, 1841–1951, Series 129 (CO 129), Public Record Office, London: CO 129/69, 247–8; Bowring to Grey, 1 March 1855, CO 129/49, 197.
- 2 Bowring to Russell, 4 September 1855, CO 129/51, 254.
- 3 Robinson to Newcastle, 3 July 1860, CO 129/78, 8; speech by Robinson at a farewell entertainment, 11 March 1865, quoted in Norton-Kyshe, *History*, II, 72.
- 4 *Friend of China*, 1 December 1860, 105.
- 5 *China Mail*, 23 June 1859, 98.
- 6 Eitel, *Europe in China*, ii.
- 7 Endacott, *History*, 124–5; Endacott, *Government and People*, vii.
- 8 Nevertheless, the idea continues to crop up in some curious places. See, for example, Flowerdew, *The Final Years of British Hong Kong*, 18.
- 9 Sinn, *Power and Charity*, Chapter 2; Smith, *Chinese Christians*, 107; Tsai, *Hong Kong in Chinese History*, Chapter 2.
- 10 Ting, 'Xianggang zaoqizhi huaren shehui, 1841–1870'.
- 11 'The Chinese asked only to be left alone and thrived under a liberal British rule.' 'History', in *Hong Kong 1998*, 403.
- 12 Report of a meeting at Ha Tsuen, 28 March 1899, quoted in R.G. Groves, 'Militia, Market and Lineage: Chinese Resistance to the Occupation of Hong Kong's New Territories in 1899,' *Journal of the Hong Kong Branch of the Royal Asiatic Society* Vol. 9 (1969), 43.
- 13 The earliest is probably the brief article entitled 'History of Hong Kong' published, in Chinese, in the first issue of the magazine, *Xia'er Guanzhen* [usually known as the 'Chinese Serial'], August 1853. It begins with a justification of the British invasion of China in 1840. It then stresses the small



population of Hong Kong before its colonization by the British, and contrasts that with its current large and cosmopolitan population (now as numerous as 32,000), its fine public buildings, and its Chinese shops and restaurants, which were able to rival those of Canton: 'Hong Kong,' it proclaims, 'really has all the dignity of a great metropolis.' The article goes on to describe the colony's system of government, laying particular stress on its legal system and legal procedures, before noting that, for minor non-criminal disputes, Chinese people (because of their unfamiliarity with English legal forms) are at liberty to have their cases decided by local headmen 'according to their own customs.' In other words, it sets the themes for the much longer, more detailed colonial histories that were to follow later in the century.

In September 1856 Governor Bowring was reported to have been preparing a comprehensive history of Hong Kong and its people: this project appears to have been one of the many casualties of the war that began the following month. The earliest histories of any length are two intensely polemical works: Tarrant's *Hongkong* (1861), based on his newspaper articles on the history of the colony; and Anstey's *Crime and Government at Hongkong* (1859). *China Mail*, 18 September 1856, 150.

- 14 Eitel, *Europe in China*, i-v, 288-91.
- 15 Norton-Kyshe, *History*, I, vii.
- 16 Endacott, *Government and People*, vii.
- 17 Ding, *Xianggang chuqi shihua 1841-1907*, 82.
- 18 Yu and Liu (Eds.), *Ershi shiji de Xianggang* ['Hong Kong in the Twentieth Century'], Publisher's Foreword.
- 19 *Ibid.*, 2.
- 20 *Ibid.*, 1.
- 21 Tsai, *Hong Kong in Chinese History*, 292.
- 22 Dirks, 'Introduction: Colonialism and Culture,' in Nicholas B. Dirks (Ed.), *Colonialism and Culture*, 7.
- 23 See, for example, Freitag, 'Crime in the Social Order of Colonial North India,' *Modern Asian Studies*, Vol. 25 no. 2 (1991), 227-261, and Fisher, *Contact and Conflict: Indian-European Relations in British Columbia 1774-1890*, 125-144.
- 24 For the question of censuses in India see Cohn, *Colonialism and Its Forms of Knowledge*, 8 and Brown, *Modern India*, 158-9.
- 25 For a survey of recent works see Merry, 'Law and Colonialism', *Law & Society Review* Vol. 25 no. 4 (1991), 889-922.
- 26 Miners, 'The Use and Abuse of Emergency Powers by the Hong Kong Government,' *Hong Kong Law Journal* Vol. 26 Part 1 (1996), 47-57.

## Chapter One

- 1 R. Montgomery Martin's Report on the Island of Hong Kong, 24 July 1844, *British Parliamentary Papers: China* 24, 116.
- 2 Davis to Stanley, 21 December 1843, CO 129/4, 278.
- 3 *Friend of China*, 12 May 1842, 29. This may seem far fetched, but if an early pre-reclamation map of Hong Kong island is turned 90° clockwise the resemblances become clear.
- 4 The remark may have been by his assistant, Huang Entong, though the interpreter, Robert Thom (who saw great political significance in the expression), attributes it to Qiying. Cunyngname, *The Opium War*, 193; remarks by Thom on a reply by Qiying, July 1843, FO 17/68, 110.
- 5 D'Aguilar, 'Pencillings on the Rock,' 89.

# Index

- Aberdeen, Lord 31, 33, 51, 262  
 Aberdeen (Shekpaiwan) 74, 78, 124, 187, 306, 308  
 Adams, W.M., 318  
 Admiralty Court 208, 217  
 Anglo-China: ideology, 40–1, 118, 166, 167, 274; and Bowring's reforms 258–63; disillusion with 43, 49–50, 51, 325–6; Hong Kong as capital of 36–7  
 Anglo-Chinese College 66  
*Anglo-Chinese Directory* 213  
 Anglo-Chinese relationship 1–4, 14–18, 58, 65–7, 263; and communication in English 66; deterioration in 336–7; as distrustful and suspicious 66–7; gulf in communication 337–8; as hostile 73; improvements in 367–72, 374–8; and introduction of cadets 337; master-servant 142–4; racial concerns 323–4  
 Anstey, Thomas, Attorney General 231, 232, 238, 243, 260, 268, 269, 281, 282, 291, 292, 301, 318; and Caldwell affair 309–10, 311–13, 326  
*Arrow* 272  
 Australia 224, 225  
 Ball, Henry 355–7  
 Berncastle, Dr. 237, 238  
 Boggs, Eli 291, 309  
 Bonham, Sir Samuel George, Governor (1848–54) 49, 55, 58, 114, 115, 182, 183, 207, 208, 220, 248; and implementation of Select Committee recommendations 62; and judicial resources 209; and jurisdiction of magistrates 240–1; and powers of *tepos* 123  
 Bonham Strand 78, 305  
 Bowring, J.C. 259  
 Bowring Praya 260, 263  
 Bowring, Sir John, Governor (1854–9) 24, 55, 56, 117, 118, 153, 154, 166, 185, 198, 201, 218, 235, 298, 318, 327; attitude towards Chinese population 1–2; burials ordinance 147; and deportation 248, 257; emergency measures taken by 280–9; and opium monopoly 303; and piracy 246, 247, 248; reforms of 258–63; and second Opium War 272–80; and unrest in Hong Kong 264–72; vision for Hong Kong 1–2  
 Bremer, Sir J.J. Gordon 53, 55, 92  
 Bridges, W.T. 55, 85, 177, 195, 198, 212, 213–14, 228, 244, 280, 301–2, 303–4, 309, 310  
 Brown, Rev. S.R. 230  
 Buildings and Nuisances Ordinance (1856) 269  
 Burgass, Richard 147  
 Caine, William 17, 85, 101, 110, 114, 118, 164, 167, 172, 196, 238, 246, 261–2, 334; allegations against 299–305; and circumvention of legal formalities 125; land policies 97–8;

- mismanagement by 259; penal policies 151, 152, 153, 244-5; and quelling of demonstrations 270-2; and vagrancy 145
- Caldwell, Daniel Richard, Registrar General 65, 103, 126, 130, 138, 184, 195, 200, 215, 219, 244, 269, 280, 288-9, 335; on Chinese oaths 231-2; and the Ma-chow Wong affair 291-2, 307-22, 326-7; network of informants and detectives 124 345-6; power and influence of 288-9, 290-1; receives head money 246
- Caldwell, Mary Ayow 292, 307, 310, 311, 313-14, 326
- Caldwell Enquiries 126, 310-21
- Callaghan, Thomas 117
- Campbell, Charles Molloy 211, 300
- Canton 35, 36, 52, 61, 67, 70, 71, 76, 80, 87, 88, 126, 236-7, 302, 318-19, 322, 363; as centre of anti-British defiance 46; and opium trade 24-5; and Second Opium War 272, 273, 275
- Canton River Estuary 43, 246, 272, 276
- Carnarvon, Lord 317
- Carr, John 50
- Central Market 138, 140, 300-1, 305-6
- Censuses 67-9, 127, 376
- Chai Wan murder case (1849) 53, 166
- Chan Kwei-tsih 277-80, 306
- Ceylon 225-6
- Chan Tai-kwong 303-4, 371
- Chan Tsz-tin 278-80
- Cheong-alum 281-3
- China, opening of 27-31; political links with 333-4; and the press 36-7; revision of treaties with 260; unrest in 35; British wars against 24-7, 29-30, 257, 272-80
- China Mail* 2, 63, 132, 153, 154, 166, 175, 179, 184, 192, 207, 219, 264, 265, 281, 306, 316, 340-1
- Chinese in Hong Kong, attitudes towards foreigners 87, 119; attractions of Hong Kong for 70-2; and corruption 295-6; census and registration of 67-8, 69; characteristics of 229-38; classification of 253-4; as collaborators 73-4, 100-3, 378; contact with 51-2; perceived criminality of 15-16, 68-9, 83-4, 85, 86, 119, 126-7, 167; description of population in Hong Kong 67-73; discrimination against 268-72, 331, 355-7, 358, 365; elites 56-7, 73-6, 78, 258, 269, 329-33, 374, 375, 377-8; ethnic groups 71; and firecrackers 266-7; economic networks of 71-2; illness among 59; co-option of 329-33, 367-8; as informants 124; jurisdiction over 40, 53-5, 65, 164, 168; as labourers 78-86; opposition to MacDonnell's reforms 359-61; protests by 87-9, 270-1; responses to penal policies 155-6, 158; European attitudes towards 27-9, 57, 119 267-8, 337; as separate, autonomous community 1-4; as servants and middlemen 58, 64-5; as witnesses 180-91
- Chinese Imperial Maritime Customs 335
- Chinese law 16, 160, 163, 165, 166, 170-3, 201, 236-7
- Chinese Festivals 266-7, 284
- Chinese Repository* 39, 236
- Chow-aon 298, 301
- Christian Union 37
- Chuanbi, Treaty of 32;
- Chui-apo 204-7, 238
- Chun Cheong-she 194-6
- Chun Cheong-tai 194-6
- Chun-achee 308-9
- Chun-ashow 213
- Chungwan 123
- Chusan 25, 26, 31, 33; advantages over Hong Kong 47-8, 114, 152
- Clementi-Smith, Cecil, Registrar General 362
- Cleverly, Charles 272, 311
- Cole, Captain William 182
- colonial community, anxieties concerning 334, 338-41; attitude towards 48; composition of 58, 59-60; and government 60-3; illness and death among 59-60; life of 57-9; and the press 62-4; relationship with Chinese population 58, 65-7, 82-3; role of sinologists in 64-5
- colonial rhetoric 13-14, 23, 34-5; of civilization and regeneration 40-1, 166, 167, 274; concerning Chinese



- 27-9, 119, 332, 368; of  
contamination 325-6; of justice  
111-13
- Contagious Diseases Ordinance 297-8,  
344
- Cooke, George Wingrove 199, 230,  
236, 280
- coolies *see* labourers
- coolie trade and emigration through  
Hong Kong 48, 70, 176-7, 193-4,  
276, 304, 317, 320, 321, 325, 338-9
- corruption, Caine and opium monopoly  
scandal 299-305; and Caldwell affair  
305-22, 325-8; contamination and  
degeneration 322-5; in early Hong  
Kong 293-9
- crime, categorization of 132-4; and  
conviction on suspicion 149-50;  
increase in 124-5, 156-7, 340;  
reduction in 158; regulation of 345-6,  
362; state of 86-7; statistics 363-4
- crime prevention and detection 118-32,  
340-1; deterrents 157-8; and  
carrying of arms 126-7; colonial  
policing 120-2; combination of  
Chinese and European methods  
120-4, 131, 159; and District Watch  
Committee 122, 369-70; and  
legislation 125-31; and martial law  
125; and registration schemes  
127-30, 286-7, 288; and rewards  
119-20, 125; and self-policing  
121-4; tepo system 123-4, 294;  
under MacDonnell 341-57
- crimes 72-3; absconding 109, 111;  
assault, riot, violence 134-41, 174;  
by servants 142-5; centred in Lower  
Bazaar 75-6, 78; Chinese elites 56-7,  
329-33, 367-73, 377-8; drunk and  
disorderly 134-6; economic 113;  
extortion 183-4; felony 111, 119;  
gambling 345-6, 362, 369; murder  
193-4; nocturnal 131; piracy 174,  
184, 190, 191, 193, 199, 208, 244,  
246, 247, 248; in possession of arms  
and gunpowder 109-10; property  
174; regulatory, ecological,  
behavioural 112-13, 147-50;  
robbery 119, 125, 131, 174, 177,  
184-6, 197; sexual offences 174-5;  
theft 132, 134, 141-5, 343; vagrancy  
134, 349
- criminal justice 16-17, 18, 376;  
colonial bias in 111-13; complaints  
against 150; crisis in 207-8; effect  
of political emergencies on 250;  
impact on indigenous structures  
253; and the Magistracy 113-18;  
Ordinances during Second Opium  
War 283-9; problems of 104,  
109-11; reforms to 238-50;  
structure of 115; in Supreme Court  
173-80; and violence 252-3;  
weaknesses in 204-7, *see also*  
judicial system; Magistracy; rule of  
law rhetoric
- Cumsingmoon island 43, 101
- curfews 131-2, 284-6, 297, 343, 346,  
359, 365, 375;
- currency, values xiv-xv; and British  
influence
- Da Costa, Captain Frederick 204-6
- Davies, Henry Tudor, Chief Magistrate  
117, 201, 270, 303
- Davis, Sir John Francis, Governor  
(1844-8) 21-2, 24, 29, 40, 54, 62,  
64, 68, 101, 153, 164, 166, 168,  
172, 217, 218, 227, 235, 294, 296,  
300; on Chinese dishonesty 229-30;  
controversies with colonists 62;  
criminal legislation 147, 148; and  
the curfew 131; and disarming of  
ships 126-7; land policies 96-7; and  
martial law 125; alleged  
mismanagement by 43-4, 49, 50,  
102; and crime 120-1, 122, 123;  
quarrel with Chief Justice Hume  
115, 117; and registration scheme  
128-9; and revenue farms 98-9;  
and triad societies 126
- Davis Raid (1847) 126
- Day, John 179, 290, 311
- Dempster, John Carrol 228
- Dent & Co. 43, 49, 58, 67, 184
- Dent, Wilkinson 189
- Des Voeux, Sir G. William, Governor  
(1887-91) 55-6
- District Watch Committee 122,  
369-70
- Duddell, George 78, 100-1
- Duncan, Robert 109, 110-11, 126, 143,  
207, 240
- Dwyer, Lieutenant 204-6

- East India Company 80, 163, 164  
 East Point 78, 94; bazaar 264; murder case 184–5, 235  
 Eitel, E.J. 2–3, 298, 330  
 Elgin, James Bruce, 8th Earl of 263, 273  
 Elliott, Charles 25, 29, 31, 32, 53, 55, 60, 79, 92, 123, 163, 172  
 emergency powers 17, 124–7, 246–9, 283–6, 376–7  
 emigration *see* coolie trade  
 English law 16, 208; critics of 174; differences with Chinese 170–3; and disquiet about Chinese justice 165; as embodiment of benevolent British rule 166–7; and equality 167, 201–3; extended reach of 165–6; introduction of 163–73; local qualifications 169; and assertion of British sovereignty 165, 167–8; virtues of 172, *see also* rule of law rhetoric  
 Executive Council 61–2, 93–4, 114, 220  
 Fearon, Samuel 64–5, 68, 127  
 Forth, Frederick 309  
 Fortune, Robert 147  
 Freemasonry 126, 311, 315  
*Friend of China and Hongkong Gazette* 26, 28, 36–7, 39, 40–1, 45, 47, 50, 52, 55, 63, 81, 86, 209, 221, 247, 259, 264; bought by Tarrant 301; on Chinese witnesses 191; and deportations 145–6; on flogging 153; and opium monopoly 303; and the poll tax 127; and registration 129, 286–7; rhetoric of civilization 166, 167, 274; and secret society legislation 125–6  
*Friend of India* 27  
 Funck, Frederick 59  
 Fung-attai 76, 100, 101  
 Gaol Committee Report (1877) 216, 226, 364  
 Gaskell, William 206, 238  
*General Wood* incident 223, 225  
 Gladstone, William Ewart 27  
 Gough, Major-General Sir Hugh 163  
 government, and Chinese elites 56–7, 329–33, 367–73, 377–8; and Chinese-language petitions 65; and constitutional reform 61, 62; dictatorial nature of 62; and emergency powers 17; failures of 1–2, 104–5; imperial policy 31–2; indirect rule myth 2–3; involvement of colonists in 62; and land registration (1844) 65; legal reforms 208; and limits to 'selfpreservation' 358–66; and opium monopoly 76, 78, 100–3; *policy difficulties* 104; press attacks on 62–4; principles of 39–40; and classification of Chinese 253–4; reforms of 258–63; and registration controversy (1844) 61; relationship with Chinese 250–1, 336–7, 374–8; as repressive 2–4; resort to criminal law 17, 18; response to emergencies 17; 'selfpreservation' policies 341–57; and 'Asiatic' methods 327–8; and transfer of diplomatic functions 335; uncertainties concerning jurisdiction 53–5, 56; *see also* emergency powers, Executive Council and Legislative Council  
 Grant, Sir Hope 339  
 Grey, Sir George 259, 261–2  
 Guangdong Province 70, 187, 263  
 Gutzlaff, Karl 28, 37, 43, 50, 64, 65, 97, 128, 172  
 Hainan Island 219, 246, 248, 283, 286  
 Hakka (*kejia*) population 68, 71, 79, 126, 139, 215, 272, 339  
 Hakka-Punti wars 139, 236  
 Happy Valley 94  
 Hennessy, Sir John Pope, Governor (1877–82) 24, 62, 147, 224, 330, 331–3; and Chinese elites 367–73; penal reforms 358–66  
 Hillier, Charles, Chief Magistrate 65, 102, 110, 118, 140, 151, 196, 207, 231, 306  
 Hirschberg, Rev. H.J. 230  
 Ho-aming 192–3  
 Hoe Qui-keet 74, 180, 308  
 Holdforth, Charles, Assistant Magistrate 118  
 Hoko (*fulao*) 71  
 Hong Kong, British acquisition of 22–3, 26 35, 41; attractiveness to migrants 70–2; buildings in 32–3, 49; as centre of British power 39–42; and Christianity 50; as crown colony 33,



- 34–5, 39–40; as depot for opium and labour 23; disadvantages of 47; disillusion and discontent in 24, 33–4, 42–52; early promoters of 21–2, 23; emergency measures in 280–9; as emporium of commerce 2, 33, 34, 37; growth in size and economic importance 258–9; 333–5, 367; harrassed by pirates 45; historiography of 4–11; illness in 44–5, 49; instability in 104–5; jurisdictional disputes concerning 45–6; and loss of political power 335; missionary, merchant, official activities in 35–6; neglected condition of 259; perceived difficulties of 31; and the press 36–7; and problem of nationality 54–5; process of colonization of 103–5; purpose of 31–42; realistic assessment of 49; as refuge for traitors and gangsters 68–9, 105; rhetoric on 34–5; as safe haven 49, 51; vulnerability of 45–6
- Hong Kong Colonial Cemetery 60
- Hong Ren'gan 42
- Hongkong Almanack* 52
- Hongkong Daily Press* 63, 64, 297, 318
- Hongkong Government Gazette* 63, 368
- Hongkong Register* 58, 62–3, 87, 101, 162, 187, 191, 196, 205, 207, 220, 233, 237, 259, 264, 302, 303
- House of Commons Select Committee on China (1847) 61, 62, 102, 128, 150, 154, 158, 259
- Hulme, John Walter, Chief Justice 166, 182, 192, 198, 206, 208, 210–11, 215, 219, 220, 232; quarrel with Governor Davis 115, 117
- immigrants 145; landholdings of 95; resistance to assimilation by 104; rights of 54; status of 56; as subjects of the Queen 54–5
- India 163, 224, 225
- Inglis, Andrew, Registrar General 64, 93
- Jardine Matheson & Co. 33, 35, 43, 58, 94, 101, 102, 121, 183, 184, 259, 276, 367
- Johnston, Alexander 32
- judicial system, resources for 209–16; in state of crisis 207–8; weaknesses in 204–7, *see also* criminal justice; Magistracy; Supreme Court; English Law
- Kam Tin 92
- Kennedy, Sir Arthur, Governor (1872–7) 361
- Keswick, William 367
- Kowloon 22, 55, 79, 91, 135, 164, 248, 273, 278, 279, 333, 336, 339
- Kwok A-Sing 48
- Kwok-acheong 74, 263, 269, 277, 336, 374
- Labouchere, Henry 249, 263
- labourers 48, 145, 264–5, 320; abundant supply of 80; alienation of 82, 84, 104; anxieties concerning 79, 81, 280–1; considered spies 280–1; control of 80–1, 85; perceived as criminals 83–4, 85; demand for 79–80; desertions and boycotts by 45, 81, 129–277; difficulties in tracing 78–9; unemployment and underemployment 83–4; growth of 338–40; home life of 82–3; mobility of 84–5, 104; colonial views of 81–3
- Labuan 222, 223, 224, 225, 226
- land policies 104; and clearance of matshed settlements 95–8; colonial rhetoric concerning 92; and immigrant landholdings 95; and indigenous population 90–5; problems arising from 98; resistance to 93–5; and revenue 91, 96; and rice cultivation 92–3; settlement patterns 95; and uprooting of communities 96–8
- Lantau 246
- Laong Kwok-shi 160–2
- Laong-awa 160–2
- Le Yun-yow 189
- Legge, James 42, 66
- Legislative Council 61, 62, 114;
- Leong Sow-hop 117
- 'Light and pass regulations' *see* curfews
- Lin Zexu, Imperial Commissioner 25
- Lo-aqui 75–6, 78, 100–1, 102–3, 121, 238, 300, 374
- Lo E'en-teen 298, 300
- Lobscheid, William 94

- London Missionary Society 230  
 Lower Bazaar 96, 97, 98, 100, 103, 135, 238, 246, 369; as centre of crime 75–6, 78; great fire 78; self-policing in 122, 156  
 Lyall, George 311  
 Ma-chow Wong *see* Wong, Ma-chow  
 Macao 25, 40, 46, 67, 72, 168, 363  
 MacDonnell, Sir Richard Graves, Governor (1866–72) 17, 54, 85, 228–9, 296, 297, 321, 330, 331, 374, 377; policies and reforms 341–57, 369–73; challenges to reforms 358–66;  
 McSwyney, Percy Caulincourt, 110, 211  
 Magistracy 113–14, 123, 159; abuses in 154; and labour policies 145–6; cases before 132–56; criticisms of 117; extended jurisdiction of 240–1; penal policies 151–6; powers of 115, 116, 155; quarrels 115, 117; and regulation of behaviour 147–50; and triad members 126; unqualified magistrates 117–18, *see also* criminal law; judicial system; Supreme Court  
 Malcolm, Lieutenant-Colonel 150  
 Man Mo Temple 78, 121, 271, 284, 371, 374  
 Markwick, Charles 143, 276, 280, 308  
 Martin, Robert Montgomery, 21, 47–8  
 Marx, Karl 274  
 Matheson, Alexander 75, 154  
 Matheson, James 30  
 Mathiesen, Captain 119  
 Mathieson, Alexander 100, 101  
 May, Charles 117, 120, 126, 310, 312, 321, 335–6, 362, 369  
 Mercer, William T. 85, 168, 268, 270, 282, 335–6  
 missionaries 29, 33, 34–6, 37, 46–7, 50, 64, 87, 230, 273, 304  
 Mitchell, W.H. 49, 117, 118, 207, 269, 306  
 Morrison Education Society 65, 66, 134, 215, 230  
 Morrison, William 223, 234  
 Mosque Village 339–40  
 Murrow, Yorrick Jones 64, 177, 192, 318, 319–20  
 Nam Pak Hong Guild 371  
 Namoa 43  
 Namtow Raid 316  
 Nanking, Treaty of (1842) 22, 26, 28, 32, 54, 150, 164, 273;  
 New Territories 22, 91, 93  
 newspapers *see* press  
 Ng Choy 367  
 Norton-Kyshe, James William 163, 209, 281  
 opium 70, 72, 80, 83, 259; trade in 43, 45, 48; monopolies 76, 78, 99, 100–3, 299–305, 366, 372  
 Opium Wars: First 15, 21–31, 43, 46, 47, 53, 70, 72, 80, 87, 88; background 24–5; criticism of 27; justifications for 27–31; phases of 25–6; Second 272–80, 334; and use of local collaborators 73–4; as war of punishment 26, 29  
 P.&O. Company 74, 276  
 Palmerston, Lord 25, 31, 259, 262  
 Parish, Frank 236  
 Peace Preservation Ordinances 376–7  
 Penang 221–3, 225, 231  
 Perkins, George 194–5, 196  
 Petty Sessions Court 115  
 pidgin English 66, 312  
 pirates 72–3, 74–5, 125, 182, 294, 309, 311, 313, 315–17, 350; and protection societies 75, 123, 287–8; punishment of 150, 244–9  
 Po Leung Kuk 14, 371, 376, 377  
 police 321, 369, 376; areas covered by 121–2; ethnic composition of 121, 265–6, 359; resistance against 140–1; corruption of 293–7; and curfews 131; expansion of powers 343; and gambling 295; inefficiency of 120–2, 265–7, 268–9, 363–4; and protection of prostitutes 294–5; recruitment 120–1; secret 346; self-policing 120–4, 156  
 Pottinger, Sir Henry, Governor (1843–4) 22, 31, 32, 37, 40, 53–4, 75, 131, 146, 166, 172, 378; and merchant community 60–1; land policies 93, 95–6; legislation of 164, 165  
 press 36–7; attacks on government 62–4; attitude toward labourers 79,



- 81; as 'free' 63; and opium monopoly 101-2; as partisan and inflammatory 64; size of 62-3; *see also* named publications
- Punch* magazine 27
- punishments, banishment 110, 125-6, 131, 150, 151, 247; branding 115, 125-6, 352-3, 358, 361, 362-3; chain gangs 114; Chinese 16, 148, 150-1, 152, 233-8, 248; deportation and transportation 126, 167, 177, 178, 190-1, 198, 217, 221-6, 248, 283, 286, 343, 346, 347-9, 352, 361, 363; fines 134, 136, 139, 142, 148, 150, 151, 285, 347; flogging and rattaning 109, 110, 114, 115, 131, 134, 138, 141, 146, 147, 150, 151-2, 153-4, 155, 167, 177, 285, 332, 343, 346, 351-2, 353, 355-7, 361, 363, 365, 366; hanging 167, 217-21, 248, 346, 351; hard labour 180, 285; imprisonment 110, 142, 146-7, 148, 150, 167, 177, 217, 226-9, 285; main types of 217-29; military-style 114; object of 216-17; policies 151-6; queue-cutting 114, 141, 145, 150, 151, 152-5; racial differences in 137-8, 146, 221, 355-7, 358; responses to 155-6; of secret society members 125; stocks 150; by Supreme Court 175-6, 177-8
- Punti (*bendi*) 71, 139
- Qing Code 118, 152, 235-6, 238
- Qishan, Chinese Commissioner 25
- Qiyong, Chinese Commissioner 22, 40, 46, 68, 117, 125, 165, 168, 172-3, 221, 223, 237, 378
- Queen's Road 21, 114, 119, 131, 264, 266, 270
- Quin, William 336
- Red Turban Rebellion 236, 278
- registration schemes 126, 128, 286-8, 343-5, 359, 369; controversy over 128-30; enforcement of 128; and poll tax 127; punishments for breaches of 128; revised 130
- revenue, and Chinese interference 90-1; farms and monopolies 98-103; from the land 91, 93; insufficiency of 98; options 89-90 *see also* opium
- Rice, T. Fitz Roy 363
- Robinson, Sir Hercules, Governor (1859-65) 226, 318, 319, 321, 336-40, 375
- Royal Artillery 86-7
- Royal Navy 72, 74, 146-7, 245, 246-8, 287, 291, 297, 313, 315-16, 320, 326
- rule of law rhetoric 62, 71, 165-6, 167 *see also* English law
- Saiyingpun 97
- Salamander* 193-4
- Satchell, Dr James 50
- secret societies 125-6, 138 *see also* triad society
- Servants 64, 79, 109-10, 130, 136, 142-5, 180, 230, 276-7, 280-81, 284, 287, 344, 369
- Shanghai 26, 43, 322, 335
- Shap-ng-tsai 246
- Shay-afoo 187-8
- Sheungwan 123
- Shikarpur Gaol 224-5
- Shum-ahing 317, 321
- Sind 221, 222, 224, 225
- Singapore 57, 99, 221-3, 224, 225, 231
- sinologists 64-5, 88, 104
- Sirr, Henry 188
- Smale, Sir John, Chief Justice 48, 351, 354, 357
- Smith, George, Bishop of Victoria 49, 121, 131, 304
- Sokonpo village 94
- soldiers, as drunk and disorderly 135-6; equated with criminal class 114-15; illness and death among 59-60; poisoning of 86-7
- Stanley (Chek Chu) 78, 93, 118-19, 124, 377
- Staunton, Sir George 118
- Stephen, James 61, 164, 168, 233
- Sterling, Paul, Attorney General 195, 199, 306
- Stonecutters Island 92, 226
- Strachan, Robert 33, 264
- Supplementary Treaty (1843) 44
- Supreme Court 151, 202-3; 231-2; cases 139, 141, 160-2, 179-80, 181-91, 193-201, 215-16; and he problems of Chinese oaths 173, 231-2, 243; evidence problems 350; criminal jurisdiction of 173-80;



- criticisms of 214–15; defendants 174–8, 191–201; establishment of 165; European committals 176; flooded with cases 207–8; Hong Kong and English differences 169–70; and hung juries 242–3; influences on verdicts 178–9; jury attitudes 179–80, 214; and language problems 214, 215–16; and predicament of defendants 191–201; reforms in 239–50; removal of extraterritorial powers from 334; sentences 175–6; in Shanghai 335; and witnesses 180–91, *see also* criminal law; judicial system; Magistracy; trial by jury  
 Supreme Court prosecution rates 111–13;
- Taiping rebellion 51, 70, 236  
 Taipingshan Market 76, 78, 96, 97, 135, 267, 370  
 Tam-achoy 66–7, 74, 121, 144, 235, 252, 263, 269, 336, 374  
 Tang family 92, 93  
 Tang-aso 74  
 Tanka (*danjia* or boat-dwellers) 71, 73–4  
 Tarrant, William 264, 269, 300–1, 317, 318–19, 322  
 tepo (*dibao*) scheme 123–4, 294, 336, 369  
 Thistle incident 284  
 The Times 27, 164, 167, 257, 319  
 Thompson, John 356–7  
 Tianjin, Treaty of (1858) 272–3  
 Tomlin, G.L. 365  
 Tong-achik 215, 298  
 Tonnochy, M.S. 366  
 Too-akun 74  
 Too-apo 184, 211, 252, 307  
 trade, Chinese official resistance to 42–4; convergence of routes 72–3; expectations concerning 37–8; indigenous Chinese 71–2; policies for 31–2, 38–9, 260; proposed liberalisation of 24–5, 26, 28–30, 80, 260–1; stoppages and boycotts 129, 140  
 trade unions 17  
 Tramway Company 377  
 triad society 17, 51, 68, 79, 125–6, 126, 146, 182, 188  
 trial by jury 111, 113, 115, 160–2, 173, *see also* Supreme Court  
 Tsuen Wan 279  
 Tung Wah Hospital 14, 330, 368, 370–3, 376, 377–8  
 Upper (or Middle) Bazaar, clearance of 95–7  
 Venereal Diseases Ordinance 297, 309, 324–5 *see also* Contagious Disease Ordinance  
 Victoria 69, 75, 81, 121, 259, 264, 278, 339  
 Victoria Gaol 216, 217, 223, 225, 227–8, 248, 361, 366  
 Wade, Thomas Francis 64, 280  
 Wang Tao 42  
 Weatherhead, Alfred 230, 286  
 Weekly Dispatch 63, 207  
 Wei-afoon 56, 299  
 Wei-akwong 215  
 White, James 50  
 Williams, Samuel Wells 206, 274  
 Women, position of Chinese women in colony 84, 322–4, 326; and criminal cases 136, 142, 160–61, 170, 174, 186, 189, 194–96, 204–5, 233, 246; European attitudes towards Chinese women 310, 314, 322–5; and prostitution 322–5, 344, 75, 76, 294–5, 297–8; *mui tsai* (female bondservants) 84, 170, 174; *see also* Caldwell, Mary Ayow  
 Wong Ma Kok 204–5, 207  
 Wong, Ma-chow 253, 291, 305–21  
 Wong-akeu 181–2  
 Wong-awah 200–1  
 Wong Nai Chung village 94  
 Wright, John 82, 83, 135, 143–4  
 Xia'er guanzhen 66  
 Xiamen 26  
 Xin'an county 4, 93, 277, 278, 305  
 Ye Mingchen, Governor-General 263, 272, 275, 278