

# LAW MEDIA

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## FACETS OF THE LEGAL PROFESSION

### AN INTERVIEW WITH MR. JUSTICE YANG



Mr. Justice Yang is one of the two Chinese Justices of Appeal in Hong Kong. He chaired the famous McLennan inquiry and chairs the Discharged Prisoner's Society. He is a member of the UPGC, which has offered much help to us. He is also no stranger to LA, being the staunchest supporter, especially of our legal education projects. Earlier this year, Justice Yang was awarded the Honorary Doctor of Laws degree by the Chinese University.

Mr. Justice Yang was born and educated in China. After graduating from Soochow University in 1949, he furthered his studies in University College, London, which laid the foundation of his legal career in the English tradition.

Mr. Justice Yang returned to HK in 1955. A year later, he became a Magistrate. Asked about why he became a magistrate, he honestly confessed that he was not quite motivated at first, but he became very interested soon afterwards. A magistrate's work, he told us, is exciting because it provides a fertile ground for observing human nature. The job was a worthwhile one because one got to meet with people of a different social background from that of most lawyers. It is no surprise therefore, that Justice Yang shows much concern for community services.

#### Work of a judge

A judge faces many problems in his daily work. When asked how one deals with boring submissions by counsels, Justice Yang maintains that a judge must be patient and courteous towards them. He says he will try to hint—our lot should bear in mind possible "hints"—but if the counsel remains unaware, he would let him ramble on. Justice Yang believes that some significant points may emerge at the end of a lengthy submission, and it is not in the interest of justice to stifle counsels' effort in presenting his case.

Another difficulty for a judge is his need to update his legal knowledge despite an already tight schedule in court. A reading day (every Monday) has alleviated the problem to some extent. Justice Yang usually tries to browse through the recent law reports. Nevertheless, it will still be impossible to remember everything. Hence a reminder by counsels is necessary whenever a relevant case is cited.

Justice Yang must also find time for his community involvements. This must be done on the basis that it does not affect his judicial office, he said. He believes that the work of a judge is enhanced in some ways by such activities because he will find it much easier to grasp complicated social issues, such as family problems and juvenile delinquency.

Justice Yang is opposed to the view that a judge usually decides a case by instinct and then comes up with various legal reasons to justify his decision. A judge will only shape his decision gradually as the arguments proceed but there is always a strong possibility of a change of mind if brilliant points are thrown in at the last minute. This approach is more consonant with the conventional

adversarial system of law.

When a judgment is reserved, a judge does not necessarily resort to his own research. He approaches the problem from different angles, in order to fit a meritorious case to the law. This is where a broad perspective and rich experience come in useful. In so doing, a judge has to live with a case of 24 hours a day because he has to await new inspirations. A judge's work is certainly not ten to four business.

#### Role of a Judge

Justice Yang believes that a judge ought to have "a sense of justice". He should be courteous and hard-working. His job is to decide between competing and complicated claims. It is therefore beneficial for him to be openminded and patient as well. However, Justice Yang does not think that he needs to be a brilliant lawyer, though he must be competent and be able to clarify contentions and make a wise decision.

Justice Yang is convinced that a judge should take an interest in community work. The law should never be divorced from society. Neither should a judge be out of touch with its members. However, this must be balanced against a need to remain impartial.

In order to be a successful judge, one's whole philosophy of life comes into play. There must be sympathy towards people generally. In the authors' view, Justice Yang does not believe in a didactic judicial figure.

"A person who knows much law may only be a legal technician. A good lawyer, including a judge, should have a broad interest, ranging from art to history. More so, he must develop a broad perspective of law, and the more humanistic, the better."

A judge, according to Justice Yang, is neither forbidden to make law nor encouraged to dispense "Palm tree justice". His concept of a judge is best summed up in a quotation he gave us,

"No one really doubts that the common law is a body of law which develops in process of time in response to the developments of the society in which it rules. Its movement may not be perceptible at any distinct point of time, nor can we always say how it gets from one point to another; but I do not think that, for all that, we need abandon the conviction of Galileo that somehow, by some means, there is a movement that takes place."

*per Lord Radcliffe, Lister v Romford Ice*  
[1957] AC 555 at 591

Justice Yang discussed some reasons why law making is so gradual. Most social changes come and go very quickly. If the law follows too closely, it will ebb and flow according to society's fast-changing movements. This can only be done at the expense of certainty. Hence, a social change will enter the judicial perspective when it attains a certain degree of permanence. Only then will judges attempt to rule in its favour instead of following precedents.

Nevertheless, it is interesting to note that sometimes the legislature may lead social changes. The authors venture to suggest, for example, environmental protection laws. However, the legislature must be wary of attempting to lead too far; otherwise, citizens may vigorously oppose the proposals. A good example is the proposals for decriminalizing homosexuality, which the reserved Chinese public is still reluctant to accept.

#### Advice to law students

A lot of practitioners have complained about the manners of some local magistrates. The authors put this comment to Mr. Justice Yang and sought his advice. He recognized that some of the magistrates might be rather impatient, but he said there was no reason to fear anybody as long as the counsel was well prepared.

"Whether or not he is irritable, impatient or impolite, [a magistrate] still has to do his job."

A judge may hint to the counsel that he should stop pursuing a certain point. But if the counsel insists, the judge must still hear, if not listen to, his arguments on it. Mr. Justice Yang told us about a case where the judge stopped a counsel admit his submission and ordered him to sit down. A junior barrister would have been petrified in that situation. Instead of complying with his Lordship's order, he retorted to the effect that he was not going to sit down until he had finished his submission and that the judge had a duty to listen to him.

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Of course, Mr. Justice Yang is not encouraging lawyers to be disobedient or to waste the court's time with clearly untenable arguments. Nevertheless, if a counsel is reasonably confident of his points, he should pursue despite gestures of disagreement from the bench. A judge would still change his mind at the very last minute. It will be foolish not to press your case until then. After all, a counsel owes a moral obligation to his clients. He cannot just give up too easily.

Apparently, "thick-skinnedness" is the key to survival in court. Besides this, Justice Yang had also mentioned several tips for the intended lawyers. First, it is not absolutely essential to carry much law in the mind as long as you know where to find the law you want, and can understand it quickly. But he must be a well-read person. Second, a counsel must master the facts of his case before he goes to court. It will not do if he still has to refer to his brief every now and then. For the sake of clarity, he should draw up a skeleton of his submissions and follow it strictly in court. A counsel cannot confuse a judge more than by jumping from one point to another haphazardly. Third, do not panic even if there are a lot of questions from the bench. The judge is just trying to clear his own mind. Sometimes, the judge may come up with a question which you should be, but unfortunately are not able to answer. The only thing you can do is to seek an adjournment and find out the answer as soon as possible. It is a bit embarrassing but remember: thick-skinnedness is the key to survival. Anyway, a counsel in that position will have no other choice.

### Looking into the future

Lastly, Justice Yang made a few observations on the future judicial system.

First, Justice Yang envisaged that the future Final Court of Appeal would have the task of interpreting the Basic Law and protecting basic rights. While that much has not been spelt out in the Draft Agreement, Justice Yang has his reason for this prediction:

"The Basic Law will be part of the law of Hong Kong, and therefore, it should be applied by all local courts."

The problem that he envisaged relates to the certainty of the Basic Law. If it is left to be interpreted by the lower courts, the possibility that a different interpretation might be favoured by a higher court in another case will render the Basic Law rather uncertain. One solution suggested by Justice Yang is to

confine the task to the Final Court of Appeal: whenever and wherever an issue on the Basic Law arises, it should be automatically remitted to the Final Court of Appeal for its ruling.

Second, Justice Yang is convinced that the use of Chinese in magistrates courts should be practicable (though not presently in practice despite the Official Languages Ordinance). The reason is that one can seldom find a complicated legal problem in respect of which a lot of precedents have to be resorted to or the necessity to use technical terms (compare the situation in the higher courts where the frequent need to refer to precedents entails the continued use of English). Nevertheless, the presence of a large number of overseas magistrates makes it rather inconvenient to introduce Chinese into their courts. And Justice Yang has to acknowledge this point. He also commented on the problem with localization in the Judiciary:

"The experienced and competent lawyers are unwilling to join the Judiciary because the remuneration is not attractive to them; those who are willing to come are not competent enough."

Third, it has recently been suggested that some of the overseas judges would cease to serve the local Judiciary after 1997. Justice Yang did not comment on the likelihood of this. Instead, he gave two reasons why those judges might continue their services here in Hong Kong:

- i. unless there is any change in the status quo of the Judiciary (including its independence, the judge's security of tenure and career advancement etc.), those judges should be willing to continue their work here;
- ii. it will be an unprecedented challenge and a very meaningful task in preserving a common law system under a communist regime. Some judges may take it upon themselves to perform this historical role.

Fourth, Justice Yang was requested to comment on the desirability of recruiting previous legal officers and Crown Counsels to the Judiciary, especially whether this would affect the Judiciary's image of independence.

"I don't think this will affect our image of independence. The practice has been adopted for years and it appears that the people are used to it. It might not be a good idea were the practice first introduced now, as it would prompt a lot of negative speculation, but that is not our case. It is better to select a competent person from the Legal Department rather than to forcibly elevate one outside it who does not qualify."

Alexandra Lo  
Peter Ng

## "BAR ASSOCIATION"

In order to be fully qualified to practise as a barrister in Hong Kong, one has to serve 12 months pupillage. Practically speaking, it is advisable to serve most of the pupillage in Hong Kong so as to familiarize oneself with local conditions or even to get a bit of exposure to local solicitors, although one can serve all or part of it in UK.

For the first six months the main problem generally faced by a pupil is that of finance. The norm is that a pupil is not paid, so many will have to take up some part-time jobs not only to maintain their 'livelihood' but also to get some decent and proper attire.

Another area of what may be termed as demoralization for some is that one may at times feel just a bit 'higher' on the ladder than an office boy: doing the photocopying work, etc. Also, the change of identity from being a student at the highest level of education to a 'nobody' in a group of well-established professionals is rather hard to adapt to, too.

According to the Legal Practitioners Ordinance a pupil is permitted to have limited practice subject to the approval of his or her pupil-master or the Bar Committee. Striking a balance, that is, how to pay equal attention to one's own cases and one's master's cases as a pupil starts to stand on his own feet and prepare his cases while still under pupillage, is a major hurdle over which a pupil practising his second period of six months of limited practice has to climb. The pupil also has to decide for himself as he is about to finish pupillage whether to set up his own chamber, join another set of chambers or become tenant in the set of chambers in which he takes pupillage. The most agreeable choice will be the last one since there are many advantages in joining an established set.

As to the choice of pupil-master one should bear in mind that the primary objective of serving pupillage is to prepare oneself for future practice as a barrister, thus, it is advisable not to go in for someone who is very senior because it is most likely that someone of such calibre will probably be involved in very 'specialized or high-powered work—the type of work which one will be most unlikely to pick up in the first few years of practice' so it is preferable to choose someone with a mixed or general practice of 5 to 10 years' experience or if one can't find anyone with a mixed practice then one can try to serve pupillage

with two pupil-masters—one who has a civil practice and another with a 'criminal' practice.

Regarding the ideal terms between pupil and master it should be 'something more than a pupil and master relationship'—it would be much more preferable if there is a kind of emotional attachment between the two.

Lastly concerning practical experience in court, it is obvious that whether one wins or loses depends on the merits of that case but one will get accustomed to victory and defeat as time goes by. However, it is true to say that job satisfaction can be found on occasions when one wins something 'big'.

Other than opting for private practice, another outlet for an intending barrister will be to become a Crown Counsel who works for the Prosecution Division, the largest of the AG's chambers which is responsible for prosecuting cases in the criminal courts and to represent the Crown in criminal appeals.

Basic qualifications to becoming a Crown Counsel as for all lawyers involve a strong desire to work hard, a willingness to listen to other people coupled with a sense of fairness in humanity and professional integrity. Practical differences between a private practising barrister and a Crown Counsel are namely that other than having different 'bosses', a private practitioner need not prove a person's guilt beyond a reasonable doubt as a Crown Counsel does for criminal cases. In respect of the rate of remuneration, one is based on contract terms while the other depends on the number of cases he takes over. Consequently, a Crown Counsel does not require too much 'connections' with solicitors which may be of paramount importance to a barrister in private practice.

But other than the above the work is as stimulating and fulfilling. In effect, being a Crown Counsel can have fruitful consequences as the post demands interaction with people of all jurisdictions from different prospectives who are giving different ideas about the same thing.

A noteworthy point is that the prospects of a Crown Counsel are attractive: one can be promoted from Assistant Principal CC. to Deputy P. CC. to Deputy Crown Prosecutor to Crown Prosecutor and finally to AG.

An area which is highlighted to be rather frustrating for a Crown Counsel is that of understanding the social setting and the way the police force thinks and operates. This is especially true for expatriate Crown Counsels who are mostly on two-year contract with the Government.

Needless to say as to all kinds of profession there is a sour side of the fruit and there patience is the name of the game especially when faced with uninteresting judges and opponents. Thus, applicable to all practitioners as such 'while you can fight vigorously but fairly, one should avoid allowing personalities to get involved and the hallmark of a successful advocate is to talk civilly to each other.'

Acknowledgement: Mr. Louis Chan  
Mr. Anthony Howard  
Mr. Albert Yau  
Mr. John Yan

Sylvia Noronha

### EDITORIAL

There must be an end to everything. So we now present you with this issue of the Law Media which is the last one to be composed by this board. It has always been our sincere wish to introduce a greater variety of topics and to make the newspaper more informative. For this issue, we

have conducted various interviews with selected members of the legal profession in an attempt to present to you a comprehensive picture of it.

Indeed, it is with reluctance that we leave our job. Best wishes to the succeeding board!

## .... X & CO ....

What is the working life of a practising solicitor in a small local firm like? From the stand point of a summer student who spent two months in such a firm, the following aspects are apparent.

Firstly, working hours are highly flexible. The proprietor may be in at eight, and is usually the first in the office each morning. (This is discounting the cleaning staff of course.) Of the assistant solicitors, one generally wanders in at around ten while the other is in more or less punctually when there is no morning court appearances required. Lunch often lasts from noon until two for the assistant solicitors but the proprietor prefers to wait until the lunch-time rush is over. There is no tea-break as such, but as all the solicitors stroll around the office with, variously, cups of coffee or soda-water at all hours of the day, the loss is not felt. Theoretically, the office day ends at five-thirty. Usually, the only sign that this significant time has arrived is the assistant solicitor's change-over from drinking cups of coffee to cans of beer. When they actually leave the office is anyone's guess.

Holidays seem fairly easy to come by. Trips to Taiwan, Macau, America were all taken by the solicitors in the two month stay I was with the company. Whether this is a hang-over from the school-days dictum that summer is the time for fun, or whether such forays take place throughout the year is difficult for me to say.

The work handled by the firm covers a wide range. There is quite a lot of litigation work, both civil and criminal, cases dealing with various aspects of contract, some probate work, some company work, many divorce cases, and a limited amount of work dealing with property—mortgages and repossession. There is also at least one trade-mark case. The two banes of the proprietor's life in this area, is the large number of Legal Aid cases accepted by the firm (because that kind of work doesn't pay), and the lack of conveyancing work, which is the most lucrative. There is not much specialization. The office system seems rather haphazard. Files, especially the Legal Aid one, tend to get passed around a

lot from solicitor to clerk, back to solicitor, etc. This in turn results in many 'lost' files and secretaries are sent scurrying all over the office searching.

Money and billing is never far from the solicitors' mind. The most important thing every aspiring lawyer should learn, according to the proprietor, is how to bill clients. The second most important thing, incidentally, is how to make mistakes without anyone else finding out. And long 'conversations' were held on the subject-matter. I was carefully instructed on the economics of running a firm and gained useful insight into the costs of office space, staff salaries, office equipment depreciation, office expansion... Actual earnings were never discussed, though. But the assistant solicitors, like those in many other small firms in Hong Kong, are paid commission on the business they bring to the practice, apart from salaries. Various advantages and disadvantages attach to this practice, which is not followed in the big firms.

Office facilities were good. This may be attributable to the fact that the firm had recently moved to new offices. In any case, the firm is fully equipped with a personal computer, whose use was often very hotly contested and refrigerator whose primary purpose seemed to be keeping the beer and soda water cold.

Facilities for making hot drinks is also available as is a telex, photocopying machine and numerous IBM typewriters. There is also a highly complicated telephone system whose working has not, at the time I left, been fully plumbed by the solicitors and whose cost never failed to cast the proprietor into gloom.

Finally, the atmosphere within the firm is very informal and communications between staff always good. So good, in fact that slanging matches often took place: in English when the assistant solicitor disagreed with the proprietor and indelicate language was exchanged at top-of-the-voice volume, and in Chinese when the secretary typed too slowly for the dictating solicitor or when the solicitor dictated too quickly for the typing secretary. In general, the lack of formality and the easy terms on which everyone stood was striking.

Sandra Fan

## THE LINK

In order to qualify for admission to practise as a solicitor in Hong Kong, it is necessary for a holder of the Bachelor of Laws degree (LL. B.) and the Post-graduate Certificate in Laws (P.C.L.L.) to complete a two year period of articles. The purpose of this article is to reveal some of the problems facing an articulated clerk, which all intending solicitors should bear in mind.

The first and foremost is that one may find what he has learned in the Law School different from what is required in practice. Quite a wide range of law is covered in our syllabus and in consequence, each area cannot be explored in greater depth. However, in practice, rarely will a case that involves such areas as trust or jurisprudence arises. On the other hand, one may find his knowledge in some other areas not thorough enough to deal with the specific situation which a client comes up with. Moreover, a law student may not appreciate how significant it is for a practitioner to check the client's financial position when deciding whether or not to proceed with the case. Therefore, the two year period of articles is really a training on the practical aspect of the discipline. It prepares a law graduate for the legal profession.

On the other hand, one cannot expect the training provided in a firm of solicitors is as systematic as that provided in the school. A firm of solicitors is a business institute and everyone in it has his own work to do. Thus, it is important for an articulated clerk to maintain a good personal relationship with his colleagues in the firm. Otherwise, no one may teach you anything and it is hard to settle down. In addition, one has to fit himself into the system of the firm and grasp every opportunity to learn. It is also suggested that one should review his position after having been articulated to a firm for six months. If the training is found to be not useful he should consider to be articulated to another firm.

Generally speaking, the workload and the mental strain is heavier for an articulated clerk than a law student. For instance, where a student makes a mistake, it is at most a matter of losing marks in the examinations. An articulated clerk owes a responsibility to the client and a mistake, however trivial, can lead to serious consequences—he may be sued for negligence. Therefore, an articulated clerk takes every opportunity to relax and take a rest.

Despite the heavy workload, the great mental strain and the relatively low salary it is said that there is much enjoyment in the job. One will probably guess that it is due to the good prospects of becoming a solicitor. That is, however, only part of the reason. Indeed there was much job satisfaction as well.

Lawrence Peng

## PEOPLE: Ms AGNES YUNG

As we rushed by the discussion room, hurrying our way for an interview, we heard a voice calling us. We turned round to find an unfamiliar face, with a friendly smile and a cup of tea in her hand. She was Miss Agnes Yung, who later confessed that she has made the correct guess by virtue of her sixth sense. It must have been advantageous to be equipped with such intuition! Who knows?

Miss Yung entered HKU in 1975 when the Faculty was still the Department of Law. She graduated from the PCLL course in 1979. Following her articleship she practised for three and a half years in the field of commercial law. At present, she is the only full-time Chinese female lecturer in the Faculty.

Naturally, one would be curious to know about her choice of the teaching profession. Miss Yung explained to us with readiness that she had 'always' hoped to become a teacher as she likes sharing thoughts with others and has great interest in the academic side of law. It was her plan that after acquiring some practical experience she would start teaching as she would be better equipped by then. Hence, here she came.

She commented with humour that in the past she could just prepare the first two tutorial questions and volunteer to answer them. Afterwards, she had to pretend to be knowledgeable, nodding now and then, in order to get through the rest of the class. But as a tutor, the amount of preparation is comparatively greater and deeper research is needed before one can give proper guidance to her students.

In her observation, the present students are still examination-oriented. Nevertheless, we have become more out-spoken, responsive, communicative and have more stimulating thoughts than those in the past. She admitted that she was in an advanta-



geous position as a Chinese lecturer because she can communicate with her students easily, though the students may be tempted to conduct the tutorial in Chinese.

Sharing her working experience, she told us that the commercial practice with the exception of conveyancing is dominated by male practitioners. A female practitioner has to work very hard to prove her competence and may be at times pushed to the verge of losing one's 'femininity' and becoming over defensive. She realised that it has always been a problem for a female professional to balance between her career and family. However, it is rewarding in that she has done her best and has successfully learnt to organise her time and place priorities. Can you guess what are her priorities?

Her idea of a good lawyer, male or female, possesses qualities like competence, good legal sense, ability to cater for the client's needs, conscientiousness, firmness in one's work and last but not least, the ability to cope with pressure. Thus, the friendly chat ended.

Vivian Chan  
Bernice Wong

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# ORIENTATION

# 1984

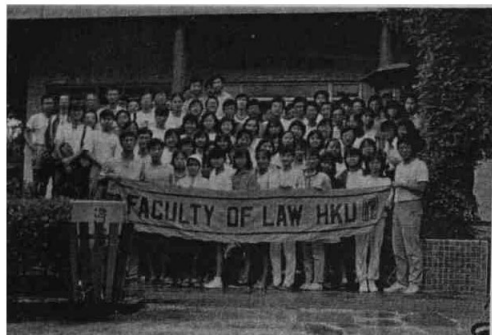
In view of the rapid expansion of the Faculty of Law and the admission of some 120 new students, the Orientation programmes were designed to incorporate the freshmen into the new community and to promote unity within the Faculty.



" Here We Are "



Soccer Match



Orientation  
Camp



Games  
Day



The Orientation Camp has always been a favourite to most students. This year, save for some intervention from the forces of nature (unceasing rain ensuing from a typhoon), the camp went ahead quite smoothly. A number of "golden oldies" like the introductory games, barbecue and case drama were retained. In addition, thanks to the thoughtfulness of the organizing committee, some novel programmes were introduced. Among them, the "treasure trail" and 溫故知新 were particularly well received. On the whole, the camp was quite a good start for the Orientation.

As to the Orientation Fortnight, it commenced with the function "Here We Are", a modification of the mass orientation. The freshmen were allowed to introduce themselves individually and floor questioning was brought in again. The atmosphere was generally harmonious. However, many students complained that it lasted too long.

A variety of other programmes were organized during the Fortnight to attract participation from both current students and freshmen alike. They included a video show of "The Paper Chase", a soccer match, a basketball tournament, an academic orientation, Games Day and individual visits. There were also two evaluation sessions during the Fortnight for the freshmen to voice their opinions and comments on the progress of the Orientation programmes which proved to be quite constructive and fruitful.



Freshmen  
Nite

The highlight of the whole Orientation is of course the Freshmen Nite, held at the close of the Fortnight in Loke Yew Hall. The programmes for the night were mainly "adaptations" of television programmes. Variety was certainly not lacking as there were many items like singing, dancing, farcical drama and even aerobics, to mention but a few. The Freshmen Nite reached a climax when current students and freshmen joined hands and circled round in the hall—a tender moment to be cherished by all.





# ANNUAL BALL ?

For everything there is a time: a time to be born and a time to die; a time to mourn and a time to dance; a time to hold the Annual Ball and of course, a time to evaluate it. For those who have repeatedly read discussion on the Annual Ball, they will be burdened with yet another piece of writing on this subject.

All in all three aims have been suggested for the ball. Firstly, it provides an opportunity of interaction between students and legal practitioners. Secondly, it is a new social experience for those who have not attended similar formal occasions. Thirdly, it is a major fund-raising programme.

Despite the fact that the ball does have some value, the first two aims can hardly justify organising such a big function. Indeed communication between students and practitioners at the ball is rare. Achievement of the so-called "interflow" objective remains minimal, if not fictional. Therefore the worthiness of the ball depends largely on its effectiveness in raising funds.



Well then, that is another story. Although one may say the ball is a risky business, experience tells us that it should, at any rate, give us quite a substantial amount of income. If the ball is after all an effective means of raising funds, it would be worthwhile holding it.

Of course one must not ignore the rate of attendance at the ball. The "notorious" Annual Ball has been described as a "pain in the neck". But this year it saw an encouraging increase in student attendance (though regrettably not the same with practitioners). When being invited to the ball, students used to turn their heads and dismiss it as too formal and boring. It is suggested that this is a general misconception. For most who actually attended the ball, their comment was not so bad after all. Maybe it is time for the students to change their views on the ball which may, to their surprise, be quite enjoyable. Support from fellow-students is so vital to those who have laboured all summer in the preparation of the ball. Without their support, the

organizers will only be fighting a hopeless battle. Hopefully those many familiar faces that have so often appeared at the Law Library may one day turn up at an Annual Ball. After all, for everything there is a time, and why not for an Annual Ball?

*Alfred Chan (II)*



## A. G. M.

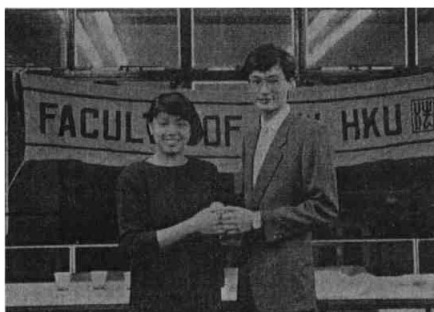
The Annual General Meeting was held on 23rd October, 1984. The meeting, chaired by the Mr Erik Shum, spanned a total of nine hours from 6 p.m. to 3 a.m. Apart from the adoption of the yearly report of the L.A. Exco, the agenda included a proposed amendment of the L.A. Constitution in respect of the duties of the External Secretary.

A proposal in regard to the constitution was made to the effect that in addition to his duty to promote better relationship with outside bodies, the work of the External Secretary shall include assisting the External Vice-Chairman in promoting social awareness in the Faculty of Law. This amendment was suggested in view of the rapidly changing conditions of our community brought about by the 1997 issue and the corresponding need for law students to be more aware of current events. A motion to so amend the constitution was duly passed at the A.G.M.

As to the yearly report of the L.A. Exco, it has often been said that the A.G.M. is an occasion for 'open confrontation' between the current exco members and those L.A. members who have some personal grudges against them. As a result, prolonged questioning and harsh comments are not infrequent. The A.G.M., which is meant to provide an opportunity for reviewing and evaluating the performance of the retiring exco so as to give constructive suggestion and proper guidance to future excos,

becomes a meeting for channelling spite and illwill.

However, the above may not be an accurate portrayal of the A.G.M. in that there are always enthusiastic members concerned about the running of L.A. making concrete and constructive suggestions at the meeting. Therefore it may be fairer to say that the tense atmosphere brought about by harsh questioning merely, but inevitably, overshadows the concern shown by such members.



But this year we saw a different picture of the A.G.M. There was no more prolonged interrogation, no more personal remarks made in the disguise of comments. The members at the meeting raised reasonable and constructive questions. On the whole, the atmosphere was candid and sincere.

This was certainly good news for exco members. After an exhausting year of work, no one would like to face a barrage of harsh questions directed at oneself. In addition, the primary objectives of the A.G.M. being to evaluate the work of the outgoing exco and to give guidance to the incoming one, were better achieved in a gentle atmosphere.

Nevertheless some have questioned the reasons for such a change in the atmosphere of the A.G.M. Some suggest that it is due to a basic change in attitude of L.A. members in examining the work of an exco. They have been less demanding, more reasonable and more sympathetic towards the eleven exco members who have been pestered with work and worries for one whole year. Some attribute the change to a decline in seniority. Still some others think that the determining factor is the general indifference of L.A. members towards the functioning of L.A. Whatever the reason, it is hoped that the A.G.M. will be of help to the new exco. Best wishes to L.A. and the exco in a brand new year.

# SOME ASPECTS OF AMERICAN LEGAL EDUCATION

## AS SEEN BY A HONG KONG LAWYER, PART II

Reputation-wise, American law schools can generally be put into two categories (1) national or (2) local schools. National law schools, like Harvard, Yale, Columbia and Stanford respectively command a national reputation. Their graduates obtain jobs across the country. Statistically speaking, they tend to gravitate towards the more prestigious and correspondingly better-paid jobs with employers like the federal government, Wall Street type of large law firms and the Fortune 500 corporations. Local schools do not have a national image and their graduates, by and large, join smaller law firms or corporations in the same city or State where the law school is located. There is, of course, another classification: dividing law schools into private, state and proprietary law schools according to their economic foundation. Most prestigious national schools are part of the private universities such as Harvard and Yale. But there are national schools which are affiliated to State universities, the most notable examples must be Michigan; Boalt Hall, Berkeley and UCLA. Proprietary law schools are normally not affiliated to any university, for example, John Marshall School of Law in Chicago. They are the less well-endowed of the three groups.

Foreign students who have obtained an LL. B. in their own jurisdictions can apply to do an LL. M. in U.S. law schools. As compared to the number of law schools which produce J. Ds., law schools offering LL. M. courses are relatively few. There are specialist LL. M. (Taxation) of New York University. There are generalist LL. M. courses. Some universities, like New York University, run part-time, evening LL. M. courses as well as full-time, day, LL. M. courses. Indeed, for most LL. M. courses across the country, the LL. M. candidates are only taking courses offered to J. D. students as well, save for example, special courses on legal education, catering specifically for those who are drawn to the LL. M. course with a view to go into law teaching. That perhaps explains why in many LL. M. courses (such as Harvard), foreign students out-number local students. In certain States, like New York State, an LL. M. degree from an accredited law school entitles the holder, who does not have a U.S.J.D. degree, to sit the State Bar examination. Some States still impose residential requirement on a candidate sitting for a State Bar examination. There is, however, no citizenship requirement for qualifying to be a U.S. attorney. Such a citizenship requirement has been declared unconstitutional by the U.S. Supreme Court. It is also noteworthy that among law professors, the possession of an LL. M. or a S.J.D. is the exception rather than the rule: a J.D. suffices; but the trend is towards law teachers possessing post-graduate qualifications.

The American method of legal instruction—the “Socratic” method and the case approach, is proverbial. It is different from the lecturing style adopted in the British law schools where the student audience assume a rather passive-listening role. The “Socratic” approach demands a student’s participation in class and expects him to respond to the law professor’s probing and questioning him a certain legal problem. Personally speaking, I find the British tutorial system can be just as brutal and

anxiety-provoking as the “Socratic” method. Again, from my own observation when attending U.S. law schools, the “Socratic” method is like a tutorial conducted with a group of 50! In fact, it seems that, because of the “Socratic” method, running a law school becomes quite economical as, for example, compared to a medical school. All one needs is an auditorium accommodating a hundred students and hiring a lawyer to give law lectures. That is only half truth. In the U.S., for a law school to gain accreditation by the American Bar Association, it has to meet certain minimum requirements on full-time-professor-student ratio, library volumes, minimum salary for professors etc. Graduates from non-accredited law schools cannot (except in a few States like California) take the Bar examination to qualify as attorneys after graduation. To that extent, nearly all U.S. lawyers have been law students for 3 years in an accredited law school. But, that is not usually the case in England and Wales.

It has been noted that a U.S. law school prides itself in 4 things, in the following order: a strong faculty, a well-stocked library, at least one highly-regarded law review and an esteemed moot-court Bench. The realists would add: powerful and rich alumnae. To the cynics, it boils down to one word: money!

I have also noticed two other significant differences between U.S. and British law schools. First, British academicians do not go into practice and back to teaching, and the practitioners do not take up teaching and go back to practice in the same way as their American counterparts. Not a single British law professor, for example, has been appointed to the Bench, whereas appointments of eminent law school professors to the Bench or to influential legal posts are frequent in the U.S. Hence, the British practitioners do not hold their academicians to the kind of high esteem enjoyed by the Americans. Secondly, treatises and works of scholarship written by academicians do not get cited and accepted as authority by the legal profession in the same way and to the same extent in Britain as in the United States. A British textbook will not be accepted as an authority and cited in court unless the author is pre-eminent in the field and, almost without exception, deceased.

One aspect of U.S. legal education which impresses me is the excellent training given to law students who participate in the production of a law school’s law review. Although in a British law school, law students write as many essays as their American counterparts; yet the exposure to and experience acquired in writing for and editing a scholarly publication is exceedingly useful and distinctly American. That is why employers tend to have a bias in favour of former law review editors in their recruitment. An extension of the law review training is the taking up of a one to two year clerkship with a senior federal judge after law school. That is the “boilerplate” qualification or to graduate with a silver spoon, particularly for those who aspire to law teaching and large firm practice.

What can we learn from the U.S. legal education in the sense that we can borrow their goods ideas and avoid their pitfalls? In fact, Canadian and Australian law schools do, in many respects, resemble the U.S. than the British. It has been suggested that our Hong Kong legal education may have to undergo certain changes in the foreseeable future. If that is the case, it would be instructive for us to explore the American system for inspiration. Indeed, as remarked by an Australian law teacher to me, in the 1950s and 1960s, an Australian law graduate had no hesitation at all in choosing to further his law studies in London or Oxford or Cambridge. Now, in the 1980’s, Harvard or Yale or Michigan is just as popular. Would that happen to Hong Kong too?

\*Frankie Leung

\* I am indebted to Professor Arthur Von Mehren of the Harvard Law School who introduced me to the U.S. legal system. However, the views expressed in this article are entirely mine.

### NOTES

#### Further Reading on U.S. Legal Education

##### (A) Journals:

- (1) *The Journal of Legal Education*
- (2) *American Bar Association Journal*
- (3) *National Law Journal*
- (4) *American Lawyer*
- (5) *Syllabus*
- (6) *Chronicle of Higher Education*

##### (B) Books:

- (1) Frances Utley and Gary A. Munneke: *From Law Student To Lawyer: A Career Planning Manual* (1984).
- (2) James B. Stewart: *The Partners: Inside America's Most Powerful Law Firms* (1983).
- (3) James J. Fishman and Anthony S. Kaufman (Eds.) *Practicing Law In New York City* (1975).
- (4) D. Robert White: *The Official Lawyer's Handbook* (1983).
- (5) James H. Hall (Ed.) *Directory Of Opportunities In International Law* (1979).
- (6) Paul Hoffman: *Lions Of The Eighties: The Inside Story Of The Powerful Law Firms* (1982).
- (7) Arthur T. Vanderbilt, II: *Law School: Briefing For A Legal Education* (1979).
- (8) Lewis Mayers: *The American Legal System* (1964).
- (9) Saul Miller: *After Law School? Finding A Job In A Tight Market* (1978).
- (10) Dennis Campbell and Winifred Hepperle (Eds.) *The U.S. Legal System: A Practical Handbook* (1983).
- (11) Martin Mayer: *The Lawyers* (1967).
- (12) Stanley V. Kinyon: *Introduction To Law Study and Law Examinations* (1971).
- (13) Scott Turow: *One L: An Inside Account Of Life In The First Year At Harvard Law School* (1980).
- (14) Jethro K. Lieberman: *Crisis At The Bar: The Unethical Ethics Of Lawyers (And What To Do About It)* (1978).
- (15) Thomas Ehrlich and Geoffrey C. Hazard, Jr. (Eds.) *Going To Law School: Readings On A Legal Career* (1975).
- (16) Sally F. Goldfarb: *Inside Law Schools: A Guide By Students For Students* (1983).

# ROMANCE

Romance is something you see very little of when you specialise in family law. The "romantic" young couple tend to end up, ten years after, squabbling over who should have the home, the kids and the family car. Of course one has to recognise that romance exists but arguably it is merely symptomatic of a physical condition, for example, adolescence, mid-life crisis (did you go to see the film "10"? etc. While I think the word defies definition I suppose it is most commonly used in the context of sexual love. But there are many other possibilities — the "romance of travel" for example. Now *that* is probably a great deal more reliable and won't land you in the divorce court.

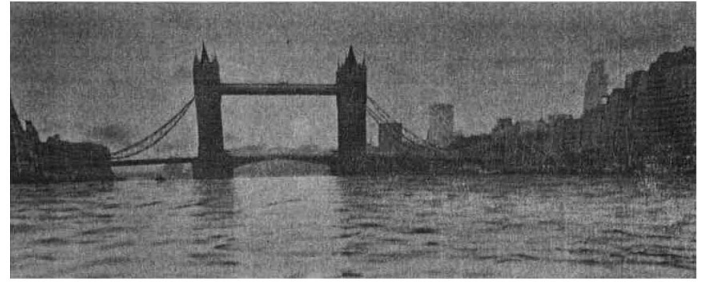
MRS. E. PHILLIPS

ROMANCE — a kind of ante-coital euphoria; a fantasy — involving a willing suspension of belief — not the real world; a benevolent neurosis, leaving its victims happier and wiser.

DR. WESLEY-SMITH

ROMANCE — a conspiracy by society to achieve the subjection of women. The romantic tradition requires that a woman be beautiful, submissive, faithful, helpless, trusting, unquestioning and adoring, and therefore incapable of surviving independently in the mainstream of human activity. In her struggle to achieve this ideal, she must neglect the pursuit of her own ambitions and dreams and devote her life to the service of her hero prince.

MRS. MARTIN



Romance: that chemistry of sensual explosion when you first see HER and know immediately, instinctively that you could spend every minute of the rest of your lives together.

MR. DALLY

"A silly delusion which often leads to the even sillier institution of marriage."

MR. P.J. SHEEHAN

"Romance is delightful as long as you don't confuse it with real life. Remember that for most women romance begins when you sink into his arms — but ends with your arms in his sink!"

MS. C. PEDLEY

## YOUTH — AN ABERRED VIEW

Youths blunder. That is what stamps them. They are vigorous, impetuous, unbridled, the reverse of artful... and hence their errors. An adult may err no less, but the difference is an adult regrets his fault; a youth will only pronounce with pride: "I am responsible for it." (The only case I can think of where this line is inappropriate is when his girlfriend tells him she is pregnant.) It is a bit pretentious, yet it shows his character, especially his individualistic outlook. That accounts for his yearning to be unique, or vice versa. Anyway, some of them would sleep with cobras for days just to get their names printed in the Guinness Book of Record. You might call eccentric (Didn't John Stuart Mill approve of eccentricity indulged in for its own sake?). I admire their courage (or audacity if it pleases you). Courage often breeds disasters largely because it enables one to criticise his immediate superiors at the risk of the sack or the bad book. Youths are prone to them. There can be no question of courage without the presence of intense feeling: love, hatred, admiration, contempt... These are profuse in the youth. They moan at their idols' death, and they also curse the corrupt for their evils. They may from time to time have chosen the wrong objects. But didn't most of the married make the same mistake? To err is but human.

Youth is arrogance. The sentence is suggestive of, at one dimension, those ladies who have a habit of picking holes in others' English accent or the Literature students who constantly carry the works of James Joyce or Joseph Conrad (or their equivalent) round the campus as a badge of their status. At another dimension, which is what I have in mind, is the belief commonly shared by young people that they are much in control of themselves and their affairs — that they are "masters of their fates". Most of us, except the cynic, have committed the excusable mistake of dreaming too much. But what distinguishes

the youth is their faith in turning those dreams into reality. Some of them are extremely high-brow and demand enormously of themselves. Some others are the castles-in-the-air type of idealists. (The difference is the former dream of saving themselves, and the latter the world.) Unlike the typical day-dreamers, they do strive for their goals. Their toil, I am afraid, only fuels their burning desires and obscures the long odds against them. Confidence is illusory when one realizes the jokes fate plays on men. A youth, by definition, is too young to take notice of them.

I realized my view is aberrated when I thought of those numerous who bear no resemblance to the youth I depict. I met boys/girls whose outlook and behaviour are not commensurate with their ages and education, and they are content with it. I saw no labour, no arrogance but sheer indulgence in mediocrity, in material comfort, in ignorance... I came across people who want to excel in nothing but fashion sense, or their charm towards the opposite sex, people who are more concerned with the evening's TV programme than the Ethiopian famine. At the other polar, there are those who pore their youth into the gutter without averting their eyes. They allow their vigor to be stifled and imagination smothered by their work, and their experience limited by the narrow confines of their discipline. They suppress, or allow to be suppressed, their emotions and hence desires. And they hide their numbness behind an air of imperturbability. They have cheated us, but eventually, they will know they have also cheated themselves. Lastly, the pragmatists — the reasonable men who adapt themselves to the world they live in. I will say no more of them. They are all around us.

I feel I have been "mistaken" about youth the same way a natural lawyer about the law.



## POLITICAL PARTY : A DESIRABLE CREATURE ?

Carl J. Friedrich: "Parties are, it is now generally agreed, indispensable feature of democracy".

### Introduction

The recent political development in Hong Kong provides much stimulation when one really thinks about Hong Kong's future political system. With both the 1997 issue and the internal political development in mind, a democratic government, as many people believe, seems to be the most favourable direction for Hong Kong to head for. In most democratic countries, notably the United States and England, political parties seem to be an indispensable and necessary creature. Hence, the aim of this article is to examine the desirability of having political parties in Hong Kong.



### What is a "political party"?

Just like many other terms and phrases of political science, it is extremely difficult, if not impossible or foolish, to define a political party. Yet, a few examples may well serve the purpose of explaining the term. Edmund Burke thought of a party as a group of men who had agreed upon a principle by which the national interest might be served. Leon D. Epstein, on the other hand, explained a party as "any group, however loosely organized, seeking to elect governmental office-holders under a given label". Professor Samuel J. Eldersveld considered the term from a behavioural viewpoint and described a party as a social group engaging in patterned activities within the social matrix. In a nutshell, it is submitted that a political party should, at least, possess the following characteristics:-

- (1) a stable organization
- (2) aims at securing or maintaining for its leaders the control of the government or the rule over a political community
- (3) aims at providing, to its members, ideological and material satisfactions, benefits and advantages
- (4) a commonly held political ideology, however vague it may be.

### Political Parties: Pros & Cons.

A coin has two sides. A political party also has two sides: one reflecting its merits, the other manifesting its drawbacks.

The presence of a political party in a community helps people identify and articulate their interests. It provides a forum for discussion, a platform upon which positions on issues can be formed and leaders to express their views. Besides, a party often help aggregate different or even conflicting demands from the people. These demands may be made directly on the party, or through the party to the government. As a result, a compromised and consistent position commensurate with the accepted value system of its members can be reached. This result helps the community establish and maintain its internal stability, the very thing that many local people vote for.

A political party, on the other hand, offers a nurturing cradle for the fresh political talents. Starting their political life in a party, the fresh political talents can have a chance to learn the skill required in the game and prepare themselves for the future. This seems to be of particular importance to Hong Kong because the future governance of Hong Kong demands such experienced talents.

The presence of political parties offers another attraction, that is, the efficiency resulting from competition. Whenever there are two or more political parties, there will be competition for the control of the government. The party whose policy proved to be successful will remain at the helm whereas the contrary will point to its downfall. As a consequence, the policy of the government can be polished and the running of the community will be more efficient.

Although the advantages of having political parties are irresistably clear, many people still prefer not to have them established in Hong Kong. Their arguments are twofold. First, they are of the conviction that political parties will upset the existing stability and prosperity. They are afraid that radical elements will be injected into the government or there will be the rise of the so-called "free-lunch clique". As a result, they believe, the local economy will be ruined. However, their arguments appear to be ill-founded and unreal, though not totally illogical.

Their second argument is much more forceful. They argue, since a truly democratic or representative political party will detrimentally affect the Communist influence over the local people, China will either disallow such a party or try her best to influence one of the parties, or perhaps extend her own political party here. This worry, I agree, is indeed a real one. In fact, this may prove to be an insurmountable problem that Hong Kong fails to hurdle.

### Present Situation

Western political history tells us that political parties are sometimes originated from interest groups. In Hong Kong, there are now in existence many such groups. Is there any likelihood that the Western experience will repeat itself in Hong Kong? To this, the chance will be quite slim, at least when one looks at the present political situation. It is because there is neither an emerging pressure group gaining territory-wide recognition nor any external stimulant uniting the existing divergent groupings.

### Conclusion

On the whole, the advantages of having political parties are crystal clear. Yet, on the road to this destination, there are at least two insurmountable obstacles, one is the China factor, the other is the present situation of the local groupings. Had it not been for these two road blocks, the prospects of Hong Kong having political parties is assuringly bright.

Rimsky Yuen

## LEARNING THE LAW : A SECOND THOUGHT

Whicky, as he is called, has been in the Law School for quite some time by now. Not a bright student by whatever standard you judge him, he did manage to secure a place for himself in the Hong Kong University. He is a very common fellow, by all means. In fact, you could pass him by every day in the Law Library without noticing him at all. Like most students, he has to spend quite a considerable amount of time in his studies. And like most of them, he is still searching for an efficient study method.

I suppose every student would feel a little bit uneasy at first when he enters the Law School and Whicky is no exception, though he has been adapting himself to suit the ever changing environment in the Law School. Having been a science student in the high school, he was not at all accustomed to reading those clumsy and very often ambiguous passages that appear all too frequently in the cases he had to read, not to mention those strange Latin phrases with which he was at a complete loss. That, of course, was only the beginning of his trouble. To understand the underlying principles in those cases was difficult enough for him, but to present them in a logical and coherent manner in answering a problem or writing an essay was simply out of his reach; especially when we remember that his English standard was so poor.

At first, he insisted on his "scientific approach" in studying law, which he considered was the only way to fully master the subject. Put it in a nutshell, the "scientific approach" is simply to equate legal reasoning with scientific reasoning. Based on a few basic legal principles, you can use logic and/or induction to derive other principles and apply them to the situation at hand.

Thus all legal rules are built up from a logically coherent framework by which all problems can be solved. Such an approach, he claimed, enables you to fully appreciate the relations between the various relevant principles, although it demands a rigorous mental process.

In fact, such an approach is quite effective and sufficient at times. It allows you to remember the principles more easily and very often, you simply have no need to remember them at all. They flow naturally from one another and a coherent body of legal rules is gradually built up into a full mental picture.

But for all its worth, the approach is not infallible. No sooner did Whicky build up his theory than it began to break down. Soon he realized that his method was not foolproof. Logical reasoning is but a disguise of policy judgement. The more he thought about it the more he was convinced that it was indeed so. Alas, what was he to do? To be fair, the training he received in his secondary school was seriously defective in regard to any question of policy consideration. It was examination-oriented all the way. At its best, you can put it that the training aimed at promoting clear logical thinking. But at its worst, it provided but a mess of impractical and purely theoretical principles which were so divorced from reality as to render them useless. So Whicky knew he had to learn, not from textbooks or law reports, but from everything around him.

In fact, Whicky is now experimenting with his new study method, combining reality and logic in his legal reasoning, and perhaps in a new scientific manner!

# 為人師表

密斯

今天很可惜是星期三！要做的工作一件接着一件，沒完沒了的。好不容易才捱過四堂（*Land and Trusts*），箇中詳情，不必細表總之死裏逃生，我仍然有呼吸。但時間表上的終站尚在遠距離，現在只剩二十二分鐘的時間，讓我趕往一間商科學校教英文，非常之十萬火急，旁人看見，或許會認為太辛苦吧，其實，我何嘗不想立即掉頭回家，擁被蒙頭大睡，明天醒來，對一切不良後果（側倒牌）呢？無奈耳邊總有把聲音：「妳以為是誰？走快步！」

其實，我個人向來對學校和教育事業存有偏見，原因不明，只記得一年一度作我的志願時，「我將來要作育英才」，「我要成為現代南丁格爾」，或「我要做一個賢妻良母」等作開場白，唯有我大聲疾呼：「我不要教書，我怕血，我怕嫁。」改卷的老師少不免對我的歪理和文章鋪排有微言，但這與我無關，我依然年年交同樣的文章，拿同樣破紀錄性的低分數。不過，今時今日，當我考慮到今年暑假的旅費時，我欣然地接受了這份工作。

我班上學生人數遠超任何人道標準，所以，我著實是花了一些時候去認識她們，過程中自難免有不公平，有一個女孩子名叫「銘心」，如果每個名字背後都有一段故事的話，她所紀念的那個片段想必轟轟烈烈，刻骨銘心吧，是以她的名字令我對她特別印象深刻，不過，這並不能替我去瞭解班上的美玲和淑芬，雖然，我始終不大欣賞其中幾個油腔滑舌的作風，但是，我必須承認這群女孩子的可愛處；對我來說，這純是一個意外的感覺，因為，從一開始，我便清楚知道自已能為這份兼職付出的精神和時間一定有限，故此，我曾嚴重警告自己不要太熱心，免得她們在我身上投注過高的期望，既然我只要求學生準時交功課，所以，我亦只打算做一個準時交功課的老師，我構想中的師生關係無庸親切，只要有效率。

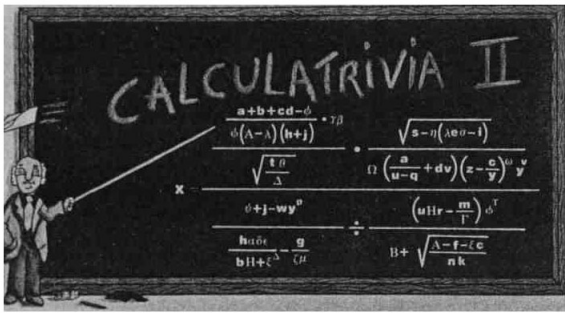
事出意外，要追究原因，錯當在我一人身上；只怪自己濫發性格不改，下課鐘聲一響，立刻精神百倍，雀躍之情溢於言表，完全失去控制。上課時又不停攪局，說真的，誰耐煩煩那些如數學方程式般的英語句法呢？

那些如數學方程式般的英語句法呢？  
*Interrogative = did + subject + infinitive (without to)!*  
難解過密碼。而每當學校發作文題目時，我必帶頭鼓噪，皆因實在怕改文；要她們描述客機被騎劫的經過，全班立刻拍胸稱英雄，為救命，任何犧牲，在所不惜，前仆後繼，但求力

挽狂瀾，改一次卷等如看五十次「野鵝敢死隊」，問你怎受得了？她們又善長製造各式奇怪的錯誤，令人啼笑皆非，「The aeroplane was floating in the air」，請各位教我如何下手是好。

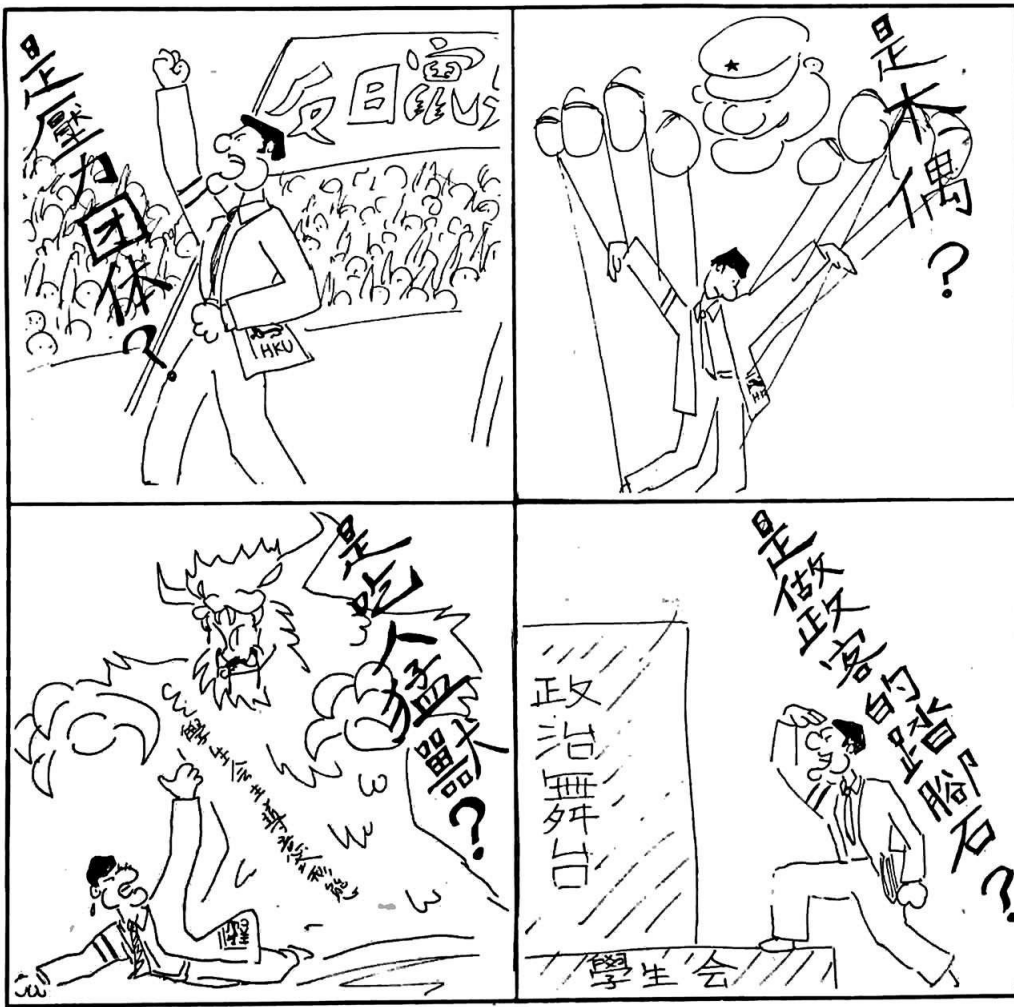
總而言之，我亦不過是另一個要人管教的大孩子，她們都不怕我，不時問我一些不合宜的問題，諸如：年齡、婚姻狀況、週末如何渡過……，這樣的好處是上課氣氛輕鬆愉快。然而，人是有弱點的，我們習慣對冷待我們的人小心謹慎，而面對善待我們的人，却不免大意放肆，是以她們的筆記經常遺失，課室永遠熱鬧如咖啡茶座；同一時間之內，至少有三段對話同時在進行中，我忍不住勸她們「沉默是金」，四字真言，却只在答問時才被奉為金科玉律，我自會收緊繩子，目前，我會繼續堅持以對待成年人的態度與她們相處的。

曾經有人問我：「一邊讀書，一邊教書不是太辛苦嗎？」我個人的感覺剛好相反；三個月的教書生涯樂多於苦，令我想起小時候，與鄰居的小孩一起扮扮老師扮學生遊戲的情境，今天不過是重溫當年一場有趣的角色扮演吧了，唯一有分別的地方，就只是每月月底支票過戶時，那份滿足感。



## 學生會是甚麼

戴耀廷



## 只為一種感覺……

魯奇

丹尼，我是多麼熱切的渴望告訴你，我渴望成為一個 *Law-breaker*

不是大奸大惡的那種，而是一個不守秩序的劣童，一個不甘心於循規蹈矩的人。

這個信念在我唸了 *Criminal Law* 之後仍沒有絲毫搖動。噢，當然，你知道的，我曾經是一個熱誠的交通安全隊，那類以服務他人為生活目標的熱血少年。

而你可能不知道的，丹尼，是我也會相信過那句童軍的格言：日行一善。所以我那真的很不明白，難道強盜他們也會日行一善？

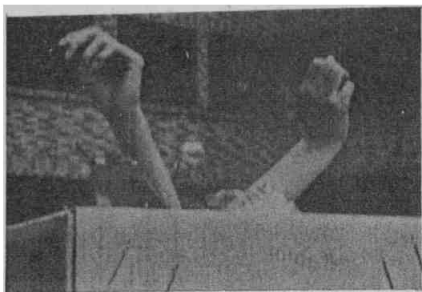
丹尼，我什至在中三的時候還有那個衝動：我渴望老師會派我在週末責旗。

那時候，我確信自己是一個良善的人，一個勤奮，有愛心，有責任心的少年，等待着成

長。直到有一天，你在我面前犯罪——道德上的、法律上的。總之，你的行徑已超出了一個好人的界限。我對自己說，你是一個歪人。

但是，從那時起，我們却成為了好友。

我什至開始愛上犯罪。



於是，我們一起在上 *Geog* 堂時呆呆的望着風韻猶存的 *Miss Chan*，在老師面前明目張胆的走堂到新都看早場（那些六十年代的邵

氏國語片！），或到 *Fifi* 一面抽煙，一面談天說地，在考試時傳 *notes*，在洗手間的牆壁上留下自己的心聲，在 *Donald Duck* *P* 場搞笑，在班房內看「中華英雄」，引誘低班的 *prefects* 搞名然後嘲弄他們的愚忠和不自醒……

一切都只是為了那種犯罪後的感覺。它是一種莫名的滿足感，一種重獲自由的喜悅。或許，有時候一個人往往會自覺地，刻意地去選擇做出不當的，愚昧的行為，目的就只是為了一種 *guilty pleasure*。這種迹近自毀的行徑，亦正如尼采所說，是人類可愛的地方。

畢竟，人只是會用後肢站立的動物。

後記：讀者們，如果你在看了這封信後，發覺自己還不曾戀上過犯罪，答應我，下星期把所有 *lectures* 和 *tutorials* 都走掉了。我想你還來得及。

## 另一個地方

毛錫強

這個暑假裏用了二十四天走遍埃及，在這個陌生，粗獷而歷史悠久的非洲國家裏的每一個片段，每一件事物，對我這個在鋼筋水泥森林長大，最遠只去過澳門的人來說都是一個驚喜：混亂刺激的開羅，氣人的辦事效率、尼羅河上揚帆，從空中俯瞰沙漠，各種殿古宮、騎驢子穿山越嶺一看法老們的陵墓、紅海的漁村、海灘和珊瑚礁、永不對勁的食物，令人心酸的貧窮、五個萍水相逢卻一見如故的香港人為我慶祝生日、溫情洋溢的小旅館，趕不盡的蒼蠅、無處不在的黑市，受困於紅海水雷危機，西奈半島的柴山峻嶺和修道院、四十多五十度的氣溫……這一切感受仍是那末新，每晚寫遊記的時間真花得不冤。且信手拈出幾個片段吧。

### 埃及人

是篤信回教使然吧？埃及婦女從不和外國人打交道。對埃及人的印象都是男人給我的。埃及人大都貧窮、熱誠、慇懃好客，會說一些蹩腳英語，肯幫忙遊客。（可惜每每越幫越忙）老頭兒至稚童也會跟遊客打招呼，叫聲 *Hello* 或 *Welcome*。

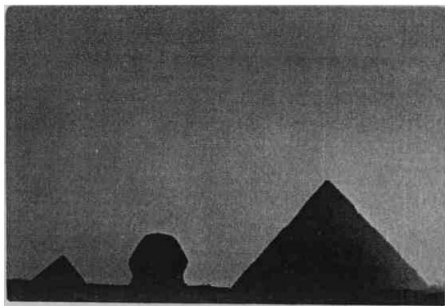
黃皮膚黑頭髮的外國人在埃及是很希罕的，通常都引人注目。在窮鄉僻壤，中國人跟火星人在無大分別。但埃及人的熱情仍是不減。有錢人請我乘順風車，喝汽水。（在埃及可是奢侈品）連鄉童也送我鮮菓子。最令我印賞的是他們的安貧樂道。說來難信：走遍埃及，從未見過乞丐。埃及人是快樂的。

### 最後坍塌的人類建築

尚留存的金字塔有三十多座，最具代表性

的是在 *Giza* 的三大金字塔。 *Cheops* 和 *Chephrens* 比康樂大廈略矮， *Mycerinus* 也有二百多呎高。這幾座山岳一般的建築，就是四千七百年前的埃及人在車輪都未發明的技術條件下以人力一塊一塊堆疊成的（對埃及歷史文化認識稍深，便不會相信「外星人建這金字塔」這類理論）

不知道當年亞歷山大大帝、凱撒、拿破崙等叱咤風雲的人物駐足於金字塔前的感受會不會和我這個普通人一樣？其他的古跡，會令我



發思古之幽情。金字塔令我震攝，令我心懷崇敬。建造方式精確、年代、體積，加在一起就構成這份只可意會，不可言宣的魅力。埃及有句說話：「萬物懼怕時間，時間懼怕金字塔」。

在埃及的最後一個黃昏，是在離不遠的一個營地渡過的。金字塔在暮靄中屹立，眼底收盡了幾千年的興替，觀看了幾千年的日出日落，見證了人類的文明。那是一個絕美的畫面，但忽然有一股衝動令我放下攝影機，不作人工化的紀錄，而是努力去看，去捕捉那一個感受。這次旅程中，印象最深刻的就是這個畫面。

### 撒哈拉

哺育了世上最古老的文化的尼羅河流域只是一條狹窄的綠帶。埃及其餘土地都是沙漠撒哈拉。埃及之旅最難忘的日子是在撒哈拉過的。雖然各地的沙漠應該都差不多，但知道自己是踏足在這個傳奇性的地方，那種感覺可教人興奮，可能是渴望到沙漠已很久，所以乍到撒哈拉，倒有一半兒親切，一半兒陌生。即使不覺得「我是屬於這地方的」，也領略到「這是我應該來的地方」。

大自然畢竟是最偉大的藝術家，黃沙、礫石、破曉、黃昏、野駝、蝎子、海市蜃樓、沙暴（小規模的，謝謝天。）星河，就把一切由人建造的比了下去。有一晚臥在沙上，望著燦爛的星空，聽著附近綠洲裏的游牧民族底隨風四散的愛唱……那一晚真美妙。

是幾時開始檢討此行的？敢是作別開羅飛往約旦途中吧？這個落後貧窮的國家和香港很少相近之處。這廿多天所過是歷根兒是另外一種生活，讓我有機會學習在最劣的物質條件下創造最好的生活環境；學習在最差的環境中發掘最大的樂趣，學習去享受、珍惜、欣賞一切我一向以為是理所當然甚或不屑一顧的事物——涼風、清水、淋浴，對胃口的食物，乾淨的洗手間，功能正常的水喉，看得懂的書報，後來在英國那段日子，已有天上人間的感覺，回港後更不消說。當維多利亞港在飛機右舷窗外出現時，那是我最想以香港為家的一刻。

### 跋

我有時會想：假如我當初不想清楚自己想見些甚麼，做些甚麼，就不作選擇地去了歐洲，我會不會有這麼特別的經歷和覺得現在的生活是那末舒適呢？

我懷疑。



## 幾個片段

初哥

上庄、落庄

一年前，十一個人組閣上庄。週年大會結束時，我們一起唱 Law Anthem。那時，心情十分興奮，因為終於可以嘗試將我們的理想切實執行，但心理壓力也不少，承擔一年的重擔並不是一件易事。一年後的今天，我們落庄了，又一班有幹勁的同學抱著一腔熱誠走出來為我們服務。當我們再次唱著 Law Anthem 來結束週年大會時，可以感到擔子放下的那份輕鬆，但很奇怪，那份捨不得的感覺仍然強烈。捨不得甚麼？我自己也不知道，但若再有一個機會，我可能抑壓不住那份衝動，又和十個人上庄去了。

## 律師、法官、律政司

作為主席，有很多機會和法律界人士接觸，多數是代表學會接待或招呼請來的客人。與其說是招呼客人，不如說人家「招呼」你還恰當，話題總是由他們帶起，畢竟人家社交經驗比自己來得豐富，這方面，還是要多學習。如律政司和首席按察司同樣地有風度，健談而風趣。和這些知名人士接觸，印象最深莫過於鐵探按察司。他不但只大力支持我們的法律知識推廣活動，和他交談，還可以感覺他關心社會，香港前途，有一份正直不苟的風範。

## 一封信

瑣兒：

外面是天陰陰的，下着微雨，使人感到更加落寞及孤寂。又一天過去了，拖着一個懶惰的身軀，不知怎的摸東摸西，沒有做到一件令自己感到滿意的工作。但是功課的重擔及所帶來的壓力，使我因懶洋洋的過了一天而感到不安。人真是一種矛盾的動物：有煩雜及量多的工作時便感到壓迫，因而要伺機逃避，偷懶一番，但當生活清閒時，又會覺得失却落實及成功的感受。

這又回想到當初我考慮應否進入港大修讀法律的情境。在香港的社會環境裏，當一個律師自然有其甚高的社會地位，因而使法律課程是不少莘莘學子所熱衷追求的學科，但我所嚮往的是重投於一個有學術氣氛，自自在在的環境裏，沒有需要和那些受社會感染甚深的人士交往。沒有需要再因朝九晚五的黑板生涯而發悶……而最重要的是我可以找到真正的朋友，不是只談風月的同事，而是有共同意向，沒有機心的同窗。

我常覺得能夠使自己感到個體的存在價值在於人和人的溝通及認同。當煩悶的時候能和他們傾談大笑一番，使我煩寂全消。當有人和你討論一些較深入的問題時，這使人感到交流的可貴，使你更能認識到他們那可愛、可貴的一面。當有人找你幫忙去解決些內心的問題，這使你覺得兩人間友情的肯定，更為珍貴。在一個學校的環境裏，在一個較純真的氣氛下我高興的能找到機會去認識人們的性格及個性，這使你對自己，對其他人都更有認識，再而繼續確定了那友誼可珍可貴的地方。



高談闊論一番之後，可能你也感到有點悶吧，不知你現在一個人正在做什麼？很多時我期求能為你分擔憂慮，但奈何現實環境關係，我只能在遠洋之外提供精神的支持及鼓舞，冀望一同能跨過重重的難關，完成我們的目標。鴻雁的往來已成了我們日常生活的一部份。但唯獨是依憑著這樣的溝通，我們才能緊密的聯繫著了解，體會到大家所處境況。分離是無奈的，但亦是現實的代價。共同奮鬥的力量持續，在於我們有共同的目標，共同的理想及期求，路途是遙遠一點，而且荊棘滿地，凹凸不平，但畢竟我們是會邁步到達那道路的盡頭。

月淺燈深，外面是黑壓壓的一遍，只有葦黃的街燈在默默的守候著街道。深夜很多時都能使人易於去沉思反省自己的過往。夜，使人覺得是一日工作活動後的終結，沒有形形色色的匆忙，沒有其他事端的分擾，只有自己一個人在感受著自己的存在氣息，享受著平淡的心境，細嚼著從收音機所傳播的柔和樂章的時候。

又是新聞簡報，我要在此擱筆了，因為明天清早開始我又要經歷另一個繁忙的星期，重歸到現實的波瀾裏去。

我

八四年十二月

相

上庄時，我們十一個人合映一幅相，很多時會拿出來看。發覺一年來，大家都變了。圓圓的面容仍然是圓的；肥難的面貌也改變不大，但那時的稚嫩現在已消失不少；呂奇依然十分呂奇；情聖一貫有型瀟灑；早由嘛……胡同學的鬍子本來是疏疏落落的；給人一種落寞



的感覺，但現在則十分有型，想來是有人經常修剪之故吧。番瓜的面本來也是圓的，但現在則愈來愈尖，看得心也酸了。「一年工作會令人成熟」的說法大概最能在地身上看到。可幸上天年中降下甘霖，使脫了水的瓜面回復滋潤，人是消瘦了，但風采依然！姐姐那時已十分嚴肅，有大家姐風範，而眉宇間那份「死則死矣」的豪情已隱隱若現，和最近新庄的相比

無奈

一年的工作會令一個人情緒波動很大，慶幸有一群好朋友可以分憂。但有時看著參與活動的人少同學態度冷淡，幹事們的心血付諸東流，那份無奈的感覺便不期然淡出來。

迎新

籌備迎新是暑假期間進行的，由於大部份人都做暑期工，會議多在晚上舉行。放工時候大多是六時許，然後立即趕往大學，捧著飯盒，一邊吃，一邊討論，討論熱烈之際，可謂口沫橫飛。會議結束後，踱步返回宿舍，夜間薄扶林道很寧靜，吸著清新的空氣，一日的疲勞可謂一掃而空。想到迎新時可能會發生的事情，新鮮的面孔，心情十分興奮，希望今年的迎新活動能做到盡善盡美，給新同學一個好開始，舊人多些衝擊……回頭望去，大家的心血總算沒有白費。

迎新營

在迎新營的第一個晚會，上演了一齣介紹法律學活動的話劇，一幕幕由年初演至年尾，看著、看著彷彿是時光倒流，每一個活動都是大家的心血，每一個細節都如在眼前，一時間千般滋味湧上心頭，差點兒忍不住眼中的淚水，當肥難大聲說：「初澤臨庄」，真想說一聲：「我願意」。

新鮮人之夜

最能令我覺得法律學會是一家人的時刻是當大家（新人、舊人）在新鮮人之夜唱 Law Anthem 的時候，新人手拖手，圍住一班舊人，歌聲響徹陸佑堂，那三聲 o-ah- 更是雄壯。曲終人散後，仍有部份人留在陸佑堂內狂歡，自己則和妹頭慢慢步下陸佑堂的梯級，回頭看見會旗在陸佑堂前飄揚，彷彿靜靜的看著一年復一年新人變舊人，慢慢的成長、離開了自己一年級的時候，轉眼間又踏入第三個年頭了，在「P」也混了兩年多……，正想得入神，妹頭拍著我的手背說：「還是走吧！」，於是拖著沉重的步伐，我們離開了陸佑堂。

# 律呂

## 我需要一個妳

劉進圖

紫帶玉淵求相見

紫禁城如帶，繞了一個四方，圍出森嚴氣象。長城亦如帶，綿延開闢，樹浩氣雄姿。六月天寒，雨絲中的長城矗立於峭陡的山脊上，想見當年千百匠人冒艱辛、登危崖，築這防戰牆垣。今日，遺下了碎瓦殘磚。踏足高處，滿眼是鬱綠灰濛，神馳數千載蒼桑歲月，憶起途中內地人民的笑語：「不到長城非好漢。」原來這長城已與中華民族四字連結，載著數不盡的故事、詩詞，負著英雄豪傑的盛譽；今朝動人的又豈是那幾堆碎石？置身其間又豈能不感喟？

然而，我要說的不是這些？

玉淵潭恬靜。兩灣湖水依著一岸楊柳，一望有數不清的翠綠。泛舟湖上，不期然把小舟灑向柳樹垂處。天是藍、水是靜，心裏想的却不是故宮的偉構珍藏，不是頤和園的秀麗，不是全聚德的烤鴨，也不是長城。只想妳，想妳在我身旁。想共妳笑語談天，想順藤摸瓜，灑灑妳的秀髮，想一言不發，與妳靜聽這無邊大地的呢喃。

那一趟我假意沉思，妳問了幾遍都不回答，側身臥在地上，騙得妳俯耳過來，我吻了妳頰旁，兩個人笑作一起。又有一次送妳回家，一條小溝教我們把攔著的手分開，一個左、一個右地走了一回，妳硬說不算數，要回頭牽手一道走過，我不住笑妳痴。

今朝千里相隔，求一見而不可得。

情到濃時情轉淨

七月夏，駛進羅湖兵房，日夕對著一群精力充沛的學生。上課、遊戲、賽球、化粧晚會、替鄉鄰小學生服務，滿山跑採番石榴——挺有意思的生活。然而，他們看我是先生、不是朋友。教室的窗外有幾根樹枝，枝上停著一隻鳥兒，我呆呆地望了好多分鐘，想將詩情寄。

我讓冷水淋在頭上，想起了多病的母親，想起了摯愛的友朋。為這群相處一月的學生，我交付了自己，去分擔他們的惶惑，一月明星稀上帝們的慰語我也沒忘。只是，有一刻，我仍想妳。一個人不一定就孤單，應該兩個人的時候却不是兩個人才孤單。

平凡就是人生

經過熱鬧的學生會迎新，不當組長倒當起經理人來——經手把一幢空屋理成一個居所。接著來的是擦油、洗地、抹窗。清理廚房時宰了四隻巨型蠅螂、兩隻螞蟥、一隻「炎蛇」。到雜貨店買的是瓦煲、盛器、五金盆是門手、補牆粉，木桶是夾板、摺門。菜心四塊六、白菜仔兩塊錢。膠袋要留起來載物、晾衣服要記得收回來，還有電費、水費、電話費、垃圾費……環首看街市裏擠來擠去的大姑師奶、拚命把蔬菜往裏塞來加重斤兩的小販、呆坐街角的大廈看書，生命對於他們是甚麼？回轉來看我上堂讀書、吃飯拉屎，多了一點甚麼？民主關社的討論？合約信託財產商業法論文？有一天沿著山道拾級而上，忽然憶起一個跑步的問題：踏出了這一步，還是要踏進一步，下一步之後還有下一步，為甚麼還要踏這一步？我愕然駐足。

理想若經不起平凡的考驗，若不能走進此時此地就不成其理想，信仰亦然。

路修遠其漫長兮，雖九死而猶未悔

我像是滿腹失意苦思的落拓主義者嗎？是在賣弄大學生底浪漫嗎？讓我告訴你我在幹甚麼。

星期天，和迎新組員重聚去踏單車、看戲談學運談風月。星期二，和候選學生會幹事談政綱、意義。晚上和友人漫步薄扶林，數說兒時往事、信仰人生，不覺夜已盡。星期三，隨著一個剛和男朋友鬧翻了的朋友，坐下聽她訴說錯綜複雜的故事。另一晚去拜候一位從外國留學回來的學友，請教關於宗教與政治的問題和美國大選背後的矛盾對立。除了說說談談，我也身體力行當起一份「微」的雜誌的編輯，以業餘時間搞一份公售雜誌。下午若不用開會便躲在圖書館看司馬義寫在信報月刊的前途談判內幕揭秘，晚上偶而回舍下拌一個雞架沙律，偶而聽講座、看比賽。週末去了澳門看格林披治大賽，星期日晚坐夜船回來，乘興「衝書」至凌晨五時，小睡片刻便去K230測驗。此外，逢星期四我乘船去長洲返修，在沙灘擲石子、靜坐、閱讀、寫作。這些是較花時間的，其他像飲茶、play、睇戲和返屋企飲湯等我也幹。

若果充實其中一個衡量標準是生活的多元化，我想我比很多人都要充實，但這些對我都不是最重要的。

飛蛾撲翼

曾經有一段日子，我夢想過投身青少年工作，幫助那些沒有親情，沒有接納，被教育制度淘汰了的同儕（我認識許多這樣的故事）。想過組織補習社，搞一個有電子遊戲機的青年中心，後來看看沒有錢，唯有執起破筆桿，寫文章，希望將來辦一份雜誌。但是一次又一次走過報攤，看見銷路日增的雜誌，心裏沮喪了多趟：我既不會繪圖，畫不來「中華英雄」，又不會寫「姊妹」、「明周」式文章，能夠幹甚麼？今日還有多少人會看文字？看的全都是乖學生、知識份子，寫來有咭用？誰還來和你談思想、價值？難道轉行去拍戲嗎？

又或者我應該明白，勇於生存本身就是可歌可泣的情義？

冰牆

許或不該埋首單看一己。其他人又怎樣？法律學院裏很忙。那當然！大家都在忙，我不忙怎麼成？大家都忙讀書，忙 seminar、忙「勤料」、要不然忙飲茶、忙食飯、忙睇戲、忙笑鬧、忙打波、忙搞野、忙上莊、忙開會、忙博忙做、忙忙忙忙……這些全都對，但還有時間不為甚麼地談一點心、訴半點閒情嗎？有誰還敢跳出自己的圈子去侵犯別人領土？

基督徒也不例外，也在忙聚會、忙事奉：我們受不了，我們是說一群忙了多年才醒覺過來的手足，我們幾個人星期日晚間起來，專心從事吃飯、崇拜、講人星期日晚間起來，專心和眼淚，可是這痛楚畢竟勝於麻木。

我們往外望，看有沒有可融化的冰牆。

豈有豪情似舊時，花開花落兩由止  
何期淚灑江南雨，又為斯民哭健兒

魯迅

生活的平凡，無奈加上理想的遙遠和人際的刑痕釀成了一個叫失望的漩渦要教我退伍。身周有許多人，半夜出來談一宵的也有，有許多事，家國社群讀書娛樂都不少，我卻只感到孤單。十月二十二日下午，我一口氣看完「中華英雄」新本和修訂本共五十多部，花了我七個多小時。沒有吃飯。那一晚我在日記簿這樣寫著：「又是一個不能入夢的晚上，沒有人瞭解，也根本不想觸動別人的瞭解。」

後來我漸漸覺到，真情的空洞不能用激情來代替。勉強沒有幸福。

是誰鼓舞我？啓迪我？讓我告訴你魯迅的故事。魯迅早年赴日學醫，本想當國必先健民，後來領悟中國之積弱不在國民體質，乃在封建宗法精神的枷鎖、盲目自大的習性。他決定棄醫從文，回國參加文化上的革新，但當辛亥革命後，他看到「民國」的招牌雖掛了起來，舊社會的剝削和軍閥割據却只有更趨，他在北京當官，每天却只有躲在房裏研究古籍，生命一點一滴地離他而去，他悲憤但找不到出路。

然而，一九一八年，「新青年」的編輯錢玄同來見魯迅，勸他復出。魯迅說：「假如一間鐵屋子，是絕無窗戶而萬難推破的，裏面許多熟睡的人不久就要悶死，然而從昏睡到死亡並不感到悲哀。現在你大嚷起來，驚起了較為清醒的幾個人，使這不幸的少數者來受無可挽救的臨終的痛楚，你倒以為對得起他們麼？」錢玄同說：「然而幾個人既然起來，你不能說決沒有摧毀這鐵屋的希望。」

魯迅對當時中國的處境雖然十分悲觀，但他還不忍抹殺這希望的可能，於是，他發表了「狂人日記」，接著是「孔乙己」、「阿Q正傳」……

為著不可忘滅的斯民，魯迅灑下了江南淚雨，鼓舞了豪情。

「然而說到希望，却是不能抹殺的。」為著這世上還有一點不可忘滅的人和事，我就得活下去，在孤單與沮喪中活下去。無暇終不悔。我曾經祈求上帝把我裏面燃燒的激情打下十八層地獄，好讓我不再痛苦，牠沒有應允：這痛苦却成了我生命的策勵。

後記

我必須承認，我曾企圖將這篇文章送給那一個和我摯誠相愛的人。儘管那時我還不大懂得愛。然而得弄清楚一點，這篇文章的標題的「妳」字是沒有特定的含意的。