CHAIRMAN’S LETTER

Time flies. Seven months have lapsed since I took over the chair. Let me take this opportunity to briefly report on what has been done so far and what will be done in the months to come.

As the executive body of a professional association, one of the roles of the Bar Council is to facilitate practice development. On the civil side, mediation is gaining popularity and members would have already received notification concerning the mediation programme in September and October. As regards criminal practice, the focus has been on prosecution work for junior members. I am grateful to those who have taken time to discuss the matter with me in the past months. Their views are of great assistance in formulating the plans ahead.

The number of new members continues to grow steadily. Training and the provision of assistance remain our key tasks regarding pupils. With the help of the Advocacy Training Council (‘ATC’) and the support of our Judiciary, a “Training the Trainers” programme was organized in May. Our trainers and pupils have derived immense benefit from Lord Walker, Lord Justice Mummery as well as Mr. Edwin Glasgow QC and other representatives from the ATC. The feedback is very encouraging. Whilst financial resources is an issue we need to tackle, the consensus is that similar programmes should be organized on a regular basis. On the other hand, plans for reforming the Advanced Legal Education programme for pupils are being fine-tuned and hopefully the same can soon be finalized.

Despite contrary submissions from the Bar and other stakeholders, the Government transferred the legal aid portfolio to the Home Affairs Bureau. The Bar will continue to monitor the situation so as to ensure that legal aid is being administered as independently as possible under the present framework. Other topics on which the Bar has made submissions include the bill for Civil Justice Reform, the rewriting of the Companies Ordinance, the Race Discrimination Bill and the Mainland Judgments (Reciprocal Enforcement) Bill. By the time this Newsletter reaches our members, the Bar’s submission on the legal issues arising from the Green Paper on Constitutional Development should have already been lodged with the Government.

In July, the Bar delivered the first series of lectures on Hong Kong laws to the National Judges’ College in Beijing. Apart from an introduction of our legal system with emphasis on the concept of the rule of law, the principles of judicial review were discussed. The next series, to be delivered in September, will deal with criminal procedure and evidence. In addition, steps are being taken to foster a closer tie with the leading law schools and law institutions in the Mainland so as to promote interaction between the two legal systems.

Internal affairs aside, much time of my remaining term will be taken up by overseas travel. In fact, this letter was written when I was in San Francisco attending the American Bar Association’s annual meeting. Representatives from 26 jurisdictions took part in the international programme, which proved to be an effective platform for discussing common issues faced by the legal profession. In the forthcoming months, there will be the POLA conference in Jakarta, the All China Lawyers Association’s annual meeting in Yinchuan, the Opening of the Legal Year together with a rule of law project in London and the International Bar Association’s annual meeting in Singapore. Time consuming though these conferences may be, it is important for the Hong Kong Bar to maintain a presence in the international arena and to keep abreast of developments in other jurisdictions.

Not only am I grateful to you all for giving me the privilege to serve you as Chairman, I would like to express my gratitude to all the members of the Bar Council, the members of the various Special Committees and the staff of the Bar Secretariat for their unfailing assistance and support.

Rimsky Yuen SC
Chairman
August 2007
時光飛逝，從我接任主席之職至今已有七個月。讓我在此機會簡短地報告已完成的工作及在未來日子將會進行的工作。

作為一個專業團體的行政組織，大律師公會執委會其中一個角色是協助同業於執業上的發展。在民事執業方面，調解服務日趨流行，會員亦應已收到將於九月及十月舉辦的調解課程之通知。刑事執業方面，關注的重點在資歷較淺的會員之勵志工作。我謹此感謝過去多個月來曾與我討論此問題的會員，他們的意見對於制定未來的計劃提供了極大幫助。

新會員的人數繼續穩定地上升。為見習大律師提供訓練及協助仍然是我們的主要工作。在Advocacy Training Council (“ATC”)的幫助及本港司法機構的支援下，我們在五月舉辦了“培訓導師訓練課程” (“Training the Trainers”)。我們的培訓導師及見習大律師從Walker勳爵 (Lord Walker)、英國上訴法院常任法官Lord Justice Mummery及前大律師Edwin Glasgow先生 (Mr. Edwin Glasgow QC)及來自ATC的其他代表所講授的課程中獲益良多，對課程的反應亦令人鼓舞。當然財政資源問題有待妥善處理，但我們亦有共識：公會應定期舉辦類似課程。另一方面，我們正在仔細改進為見習大律師而設的「高級法律進修課程」，期望有關計劃將會落實。

儘管公會和其他相關人士在持相反的意見，政府仍將法律援助的工作撥予民政事務局管轄。公會將繼續監察情況，以確保法律援助能在現存的框架下，盡可能獨立地運作。此外，公會亦就其他議題提出意見，包括《刑事司法制度改革條例草案》、《重審公司條例》、《種族歧視條例草案》及《內地司法(交互強制執行)條例草案》。當這份會刊送到各會員手上時，公會亦應已就《政制發展綠皮書》所引發的法律問題向政府提交意見。

於七月，公會首次到北京的國家法官學院進行一系列有關香港法例的講課。除了以著重法治理念的角度來介紹我們的法律制度外，我們亦談及了法治的重要性。我們準備在九月舉辦一系列的講座，課程將圍繞刑事程序及證據。此外，公會亦正致力於培養與內地主要的法律學院及法律機構更緊密的關係，以促進兩地法律制度的交流。

撇開內部事宜不談，我餘下的任期將有大部份時間出訪海外。其實，在撰寫此信時，我正身處倫敦，參加英國律師協會年會。來自二十八個司法管轄區的代表參加了會議中的國際環節，可見該環節是一個討論法律行內其他問題的有效平台。在未來數月，我將出席在新加坡舉行的亞洲律師協會會議 (POLA)、在紐約舉行的中華全國律師協會年會、在倫敦舉行的法律年度開幕儀式暨法官計劃，並在新加坡的國際律師協會年會。這些會議或議論，及對香港大律師公會來說，繼續站在國際舞台上和緊貼其他法律管轄區的發展亦十分重要。

感謝各位給予我擔任主席的榮譽，為各位服務。我亦藉此向所有公會執行委員會委員、各委員會委員和公會祕書處職員不斷的幫助及支持表達謝意。

袁國強
主席
二零零七年八月
Hope you feel refreshed by the new look of the Bar Newsletter!

Starting from this issue, our editorial team has a new composition. In addition to Wilson, Barbara, Helen and CW, who have been diligently serving on the editorial board, Debra, Mona and Abigail joined the team. For this issue, we also have the kind assistance of Derek Chan and Janine Cheung who captured respectively for us the beauty of the Court of Final Appeal Building and the sumptuous food at Cheung Kee, for which we are most grateful.

Protection of heritage has been a hotly debated issue recently. To what extent shall we strive for new and advanced development and to what extent shall we preserve those long existed? Or let us view it from the other perspective: How to use those long existed in the advanced society nowadays effectively without disrupting its original, aesthetic and historical value? This is an art.

We all know that our Court of Final Appeal Building is the former French Mission Building. How many of us have uncovered the care and efforts that had been put in the conversion process more than ten years ago? Just to give us a court building with appropriate facilities without compromising the beauty of its original architecture! Our article on the Court of Final Appeal Building may give you some ideas. Next time when you step into the Court of Final Appeal Building, take a look around and see how much more you uncover. I would like to express my deepest gratitude to The Hon. Mr. Justice Andrew Li, Chief Justice of the CFA and Mr. S.L. Lam of the Architectural Services Department for their generous assistance and support (full acknowledgment and thanks are placed after the article inside).

How many of us have ever struggled in making sure of the correct pronunciation of certain Latin terms in your submission or that these terms have been understood properly? Despite advocacy for the use of plain English and the irresistible reality of the increasing use of Chinese in Court, we may still find the use of Latin terms in our profession cannot be done away with. What about having a try at the crosswords this issue?

To prepare for the food and wine column, six of our editorial team had a good opportunity/excuse for a dinner together. See whether you like it or not.

Not to be missed are of course the snapshots of various activities of the Bar in the first half of 2007. Enjoy reading!

Elaine Liu

*Message from the Chief Editor 主編的話*

期望今期會刊登載新的設計為您帶來耳目一新之感。

今期會刊的編輯隊伍有一個新的組合。除了Wilson, Barbara, Helen和 CW, 我們在會刊的編輯工作外，我們聘用的Debra, Mona和 Abigail。今期我們特別獲得Derek Chan和Janine Cheung相助，分別為我們捕捉終審法院大樓外的美景和記載他們的美食。我在此向他們衷心致謝。

保護文物乃近年熱議倍受歡迎的議題。究竟我們應該為追求發展而棄之多遠？為保育傳統遺留的又應該矢志多堅？或許換個角度看，在現代先進社會裏，如何能有效地善用歷史遺留存，而又不失其原始美態和歷史價值？這是一項藝術。

我們都知道終審法院大樓前身是法國海外傳教會大樓。但我們當中有多少人意識到十多年前把該大樓改建時所付出的心力？那就是為了一座有著悠久歷史的法院大樓，同時致力保存大樓原來的建築美而付出的。今期會刊終審法院大樓的文章或許能為我們提供一些參考的點子和啟示。當您下次踏進終審法院大樓時，不妨環顧四周，看看有多少新的發現！我謹在此深深的感謝終審法院首席法官李國能及建築界林社幹先生的協助和支持（詳細致謝之言刊登於內文文章後）。

我們當中又有多少人曾在法庭陳詞時，為了某些拉丁用語的正確讀音和解釋而掙扎？儘管大家倡議使用簡單英語，但我們依然未能把拉丁用語完全摒棄在法庭專業用語之外。大家不妨一試今期會刊的填字遊戲。

為了今期的品酒評食，六位編輯委員會成員有一個難得的機會／借口大快朵頤，看看您是否喜歡。

當然不能遺漏的是二零零零七年上半年公會活動的留影，希望大家喜歡今期會刊！

廖玉玲大律師
A quick trek through the Court of Final Appeal Building – and a fascinating study of function X heritage

Since the CFA came into operation 10 years ago, it has had its fair share of strife and heated controversy. On a sweltering summer’s day however, it is a relief to feel the beckoning coolness of the former French Mission Building. Before stepping across the threshold, take a quick glance around to confirm – there it is – a stone tablet proclaiming “Missions Étrangères 1917” on the outer wall. That was the year in which the French Mission completed renovations to the building that was acquired 2 years ago from Emmanuel Raphael Bellios, a prominent philanthropist and Director of the Hong Kong and Shanghai Bank in the late 1800’s…
But one may be jumping a little too far ahead: let us go back to 1841, the year when the British Superintendent of Trade took possession of Hong Kong. His deputy (by the name of A.R. Johnston) was authorized to construct a permanent residence and Land Office on the bluff near Murray Battery. When it came to be completed in around 1843, the original structure on this site was a large, two-storey residence with sizable rooms and a verandah that was known as “Johnston’s House”. Indications were that certain extensions were done before 1860 which resulted in a three-storey building with a basement and two corner-tower extensions, all in neo-classical style. Extensive reconstruction of the façade occurred during Befilas’ ownership of the building between 1879 and 1880, and it was believed that he was also responsible for renaming the building “Beaconsfield” (probably in admiration of the then British Prime Minister Lord Beaconsfield a.k.a Benjamin Disraeli).

The highly-polished floor at the lobby takes some effort not to slip on when hurrying towards the grand wooden staircase under the vaulted ceiling.

Used briefly by the Government before 1941, the building housed the temporary headquarters of the Government after the war and was eventually bought from the French Mission in 1953. Its fate became intertwined with the law when the Victoria District Court came
to be resided therein from the mid 1960s, after which the Supreme Court took its turn from 1980 to 1983. In those times, the Victoria District Court contained not one but a dozen courtrooms of all shapes and sizes. One of them was Court No. 7 on the ground floor where the Godber case was tried by His Honour Judge T.L. Yang (as he then was) in February 1975. One floor up, and the chapel to the northwest corner (added by the French Mission in 1917) had been occupied by the Court of the Chief Justice sitting with the Justices of Appeal... 

Enter the Courtroom through the double-doors where a compact (though dignified) courtroom awaits. Many of us will be familiar with the cupola above, the red carpet below and the clock in the corner. Some may even have fiddled with the amplifier on/off button behind the Bar table when a mysterious incomprehension of the goings-on sets in. But how many of us appreciate the existence of other high-tech devices, from the ceiling-mounted televisions in the back room (for broadcasting proceedings via closed-circuit when the diminutive public gallery overflows), to the invisible linings, glazing and sealants in the walls, windows and doors – in a valiant bid to keep the right noises in but the wrong ones out?

The lobby is apparently where a lesson in artful metaphors may be learnt. Notice the "NO ADMITTANCE" glass doors that restrict public circulation from the judges' private chambers, the large windows that peer into the courtyard, the glass top enclosing the courtyard from above, and not least, the open design of the shaft.

透過雙重門, 便可進入莊嚴而嚴密的法庭。相信大家不會對法庭內, 上至四層頂頂內的天花板、下至紅地毯以及犯人席感到陌生。我們當中有些人或因聲音不清, 曾經坐在庭內大喇喊專用桌上的旁聽區旁聆聽。然而, 當我們當中有多少人能夠真正留意到大樓其他高科技設備的存在? 見那懸掛在法席及房間旁的監視器, 便是由於為了當法庭內座無虛席時, 在房間作現場直播之用的。還有那靜靜地靠在門後和窗縫的耳塗, 以及牆和窗的多層設計, 原來就是法庭賴以隔音的設備。

大堂正是個學習巧妙隱喻之良好地方。或許, 您會察覺到把公衆和法官的私人辦公室分開的, 是兩扇通透的玻璃門; 那從上覆蓋庭院的, 是一道玻璃天頂; 另有那偌大玻璃窗的設計, 使人能放眼室內的庭院; 更少不得的是那法官專用升降機構槽, 也刻意地採用了開放式的設計。你或許會因此聯想: 究竟這些設備和出入口設計是否為了制衡司法制度的透明度, 法官不偏不倚和當局立性的原則和精神呢？

正當我們在涼快的大樓內細味著這種奧妙之際, 抬頭看到那懸掛的玻璃天頂, 使大樓成為一個整體室內製冷空間, 可見當日築建者為完成個別室內製冷空調而把大樓築起層層隔開的做法。對於當日在取捨時能以減少破壞大樓建築特色為優先的決定，您是否感到難過？再回過頭來, 又不禁折服於藏書室選址於庭園的
of the elevator that's fit for a judge or maybe two... Consider if you will, whether these rather suggest the transparency that we strive for in our legal system, and the need for judges to be seen as independent, unbiased umpires (with their own facilities and entryways indeed)...

Whilst pondering over the intricacies of the above, bask in that chilled air and marvel at how they decided to ventilate the building as a whole by enclosing the same with the glass top, rather than by sealing off the corridors with monstrous partitions that would utterly spoil the architecture, just in order to trap the cool air. Think also, where better to put the voluminous library than in the basement, or suffer the erection of conspicuous support beams elsewhere?...

This highlights in reality, the amount of foresight that was invested into converting the building for its present use. It also bears reminder that by the time when approval for funding of $45.5 million was granted by Lego in around late 1995, the then planners, engineers and architects had but a short time to sort out whether to emulate or leave authentic, what to conserve and what to compromise. Transforming a monument (so declared on 14 September 1989) into a fully functional court whereby absolutely no structural changes are permitted by law is no mere trifle. Muse over the fact that when the planning was underway, consideration had been given to the possibility that should the time come when the CFA chooses a new site for its operations (now widely rumoured), reinstatement of those changes made in the run-up to 1 July 1997 should be relatively minimal.

Having said this much, the spotlight will shift in the next issue to a possible contender for the site of the CFA - a site which is as deeply rooted in Hong Kong's history and our legal heritage as the former French Mission Building.

Abigail Wong

Thanks and acknowledgements

1. Gracious thanks to The Hon. Mr. Justice Andrew Li, Chief Justice of the CFA who gave permission for photos to be taken of the interior of the building, to Mrs. Irene Li at the judiciary for facilitating the photo shoot and supplying historical information. 感謝終審法院首席法官李國能，批准本會派人到終審法院拍攝照片，感謝官員協助安排有關派攝影師到終審法院拍攝之事宜。

2. The same to Mr. S.L. Lam, Senior Property Services Manager, Eastern/Antiquities, Architectural Services Department - for a most enlightening account of the conversion process. S.L. 感謝梁世強先生，為我們介紹有關物業事務管理的內部資料。

3. Information in italics comes from: Paintings by Tilbrook, Brian (Introduction by Morris, Jan) in Hong Kong Heritage (1989): Hong Kong Government Information Services Department. 上述以斜體書寫之部份，乃引自結束法院社區概況冊之書藉，內容為本會委託Tilbrook, Brian所舉辦的畫展。
VISIT TO SHENYANG, LIAONING PROVINCE 訪問遼寧省瀋陽市

The Mainland profile in 2007 started off with the Bar’s visit to the Liaoning Province, the northeast of China. This was organised by the Beijing Office of the Government from 30 January to 2 February 2007. Despite the cold weather, with a maximum temperature of -4°C and minimum -15°C, and the long distance, the trip attracted more than 80 participants from various professional services sectors in Hong Kong. The Bar was led by the Chairman of the Special Committee on Mainland Affairs with six representatives.

The Hong Kong delegation was warmly received by the officials of the Liaoning Province at its capital, Shenyang, throughout the trip.

The highlight of the event was a legal services seminar. Participants included the Vice-Director of the Justice Bureau of the Liaoning Province, the Vice-Director of the Hong Kong Basic Law Commission of the Standing Committee of NPC and former Secretary for Justice of Hong Kong, Deputy Solicitor General of the Department of Justice, as well as representatives of the Bar, the Law Society and the Lawyers Association of the Liaoning Province.

On this occasion the Bar has made known to their counterpart of the independence of the barrister profession and their great interest in the rule of law. We also shared our views on a variety of topics including cooperation between Liaoning and Hong Kong lawyers, arbitration, applicable law and jurisdiction of contracts, and the role of lawyers in corporate investment and financing. The Bar also signed a co-operative agreement with the Lawyers Association of the Liaoning Province. There are now some 15 co-operative agreements that the Bar has signed with Mainland lawyers associations.

The Bar was also briefed on the latest developments in the legal profession in Liaoning. There was also an opportunity to get to know the finance and trade development projects in the Liaoning Province and Shenyang. We hope that this visit will enable the Bar to establish further professional relationship with North East China.

A lighter note on this visit: despite its heavily industrialised background, the Liaoning Province is not without its fair share of leisure amenities. Liaoning is apparently well known for its outdoor skiing facilities and we were given a brief tour of a ski resort during our visit.

Andrew Mak
Chairman
Special Committee on Mainland Affairs

The Bar delegates, Mr. Zhang Wenyue, Governor of the Liaoning Province and Ms. Else Leung GMB JP, Vice-Director of the Hong Kong Basic Law Commission of the Standing Committee of NPC and former Secretary for Justice of Hong Kong, taken at the Welcome Dinner hosted by the People’s Government of Liaoning Province.

The Bar members also had the opportunity to meet with officials from various local authorities and businesses, as well as members of the local legal community. The visit was an opportunity for the Bar to learn more about the legal and business environment in Liaoning Province.
PHOTO ALBUM 相片簿

ADVOCACY TRAINING – Teacher’s Training & Pupil’s Advocacy Course in May 2007 諸辯技巧培訓——

A pupil making submissions at the workshop. The trainer sitting at the clerk’s desk is Mr. Ian Candy, Former Magistrate, currently Senior Teaching Consultant, City U School of Law

一名學生在工作坊中作報告。培訓講座由前裁判官、現任香港大學法律學院高級教職員的Ian Candy先生主講。


ATC成員（左至右）：御用大律師Joanna Korner女士CMG QC，御用大律師Peter Birkett QC，Baroness Walker of Gartington，高木梅里爵士，御用大律師Edwin Glasgow爵士CBE QC，御用大律師Charles Haddon-Cave QC

Lord Walker addressing the Advocacy Trainers in Hong Kong

Walker勋爵向香港諸辯技巧培訓員講演

The Hon. Mr. Justice Saunders performing a demonstration for the pupils

高木梅里爵士向學員作示範

The Bar Chairman, Rimsky Yuen SC presenting a thank you gift to The Hon. Mr. Justice Ma CJHC

公會主席向資深大律師馬家偉大法官頒發感謝禮品

Closing session, (Front Row L-R), The Hon. Mr. Justice Ma CJHC, The Hon. Mr. Justice Saunders, The Hon. Mr. Justice Hartmann, Anthony Chan SC, Clive Grossman SC – Vice Chairman

結業典禮（前排，左至右）：高木梅里爵士，高木薩登爵士，亨特曼爵士，陳潤輝大律師，葛素曼大律師，公會副主席

SILK CEREMONY 資深大律師委任儀式

Mr. Barrie Barlow SC and Mr. Ashley Burns SC after the ceremonial proceedings held in Court No. 7 of the High Court on 12 May 2007.

Barrie Barlow SC和Ashley Burns SC於2007年5月12日在高等法院第七法庭舉行的資深大律師委任儀式後合照。
PHOTO ALBUM 相片簿

SECONDARY SCHOOL VISITS 學校探訪

Vice Chairman Paul Shieh SC spoke at Leung Shek Chee College on 25 April 2007.
會員副主席石永泰於2007年4月25日在梁氏芝德中學演講。

Catherine Wong after her talk at Tin Shui Wai Methodist College on 25 April 2007.
黃婉珊於2007年4月25日在天水圍德倫中學講座後留影。

黃婉清於2007年7月4日造訪其母校聖家堂中學。

Bar Soccer Team 大律師公會足球隊

SJC Anniversary Soccer Competition 2007
Vase Champion Final (4th August 2007)
Bar vs Law Society
1-1 (FT) 4-2 (Penalties)

聖若瑟書院週年足球盃賽2007
2007年8月4日冠軍盃決賽
大律師公會 - 香港律師會
賽果：法定時間 1:1 十二碼 4:2

Dividends paid after intensive training 獎金發放

Despite the oversized squad (60+), the Bar Soccer Team do welcome new blood. If you are interested, please contact
Erik Shrum or Kent Yee.
雖然球隊人數眾多（超過六十人），他們十分歡迎新成員。有意參賽
請聯絡Erik Shrum或Kent Yee。
A long-time rival to the tourist-oriented American Restaurant just across the road, Cheung Kee deserves to be better-known and appreciated.

Getting there is half the fun. This relatively obscure upstairs eatery is located above a bar which is best described as the kind in which Suzie Wong might well have felt at home. But that's another story. Before digesting any further, we suggest that the easiest way to get there from Central is to take a cab and stop outside the Wharney Hotel on Lockhart Road which is right next door. Don't be put off by the tall wooden staircase, even though there is no other way to get up there! As we shall see the steep climb is well worth the effort.

What better way to recover from our physical exertions than by ordering a couple of refreshing cold starters? We eagerly sought after the smoked wraps ($45), which possessed a lovely smoky flavour. The thinly chopped turnip, mushrooms and celery were neatly bundled up in shiny, chewy bean curd sheets. We were equally delighted by the duck webs with celery ($40), a house speciality. We devoured it in no time, together with a special sauce consisting of ginger, sesame and vinegar which left us begging for more!

More was to come in the shape of roast chicken Shandong style ($55). It was cooked just right, as evidenced by its crispy skin and rich garlicky aroma. We did not even have to get our fingers dirty, as the poor bird came in nearly bone-free, bite-sized pieces.

The Peking duck ($250) was sadly disappointing. Suffice it to say that we have had much better ones elsewhere. We had better luck with braised spare ribs with bitter melon ($80), a favourite summer dish, followed by the yellow croaker with pinenuts ($120). The latter was covered with a crispy skin and lying in a bright orange pool of pungent sweet and sour sauce, enough to excite even the most jaded palates.
At this point, most of us were ready to declare a truce. But once again the fairest sex had the better of the rest of us by insisting on getting 'one for the road'; namely, the famous toffee banana ($60). It was a real treat. In front of our eyes, the waitress performed the impressive feat of immersing clumps of banana in caramelised sugar and quickly drawing them through a bowl of ice-cold water. The result was a delicious soft, warm banana core encased in a crunchy honey crust. Mama mia!

It is not easy to recommend a drink that goes down well with such a large variety of dishes. However, given Cheung Kee's corkage-free policy (for the first bottle anyway), it would be a sin not to bring your own wine and complete your enjoyment of the gorgeous food.

For our meal, we chose a simple wine, Highfield Estate, Marlborough, Pinot Noir 2005. Its earthy spice, cigar box aroma and soft tannins nicely complemented the smoky flavours of the poultry and the smoked wraps. The wine would also be a good match for other northern Chinese dishes such as steamed pork dumplings. Well worth a try for just $195. It is available online from Wine 'n' Things: http://www.winenthingshk.com.

Our rating, out of a maximum of five thumbs-up: Food Service Ambience Price

Duck webs with celery 桃拜鴨掌

Ling Chun Wai
OMNIA MIHI LINGUA LATINA SUNT

“A mass of Latin words falls upon the facts like soft snow, blurring the outlines and covering up all the details” – George Orwell, Politics and the English Language (first published in April 1946)

The original expression was omnium mihi lingua Graeco sunt (“It’s all Greek to me”), but I’d dare suppose that mutatis mutandis, the sentiment of the title is not lost on those of us who have experienced the frustrations of encountering some unknown Latin phrases whilst doing legal research.

Worse still, if such gobbledygook was uttered in Court, the question became whether one could attempt intelligent guesses/fain comprehension for the moment before the opportunity to consult ancient (but seminal) texts like Trayer’s Legal Maxims or Black’s Law Dictionary arose. Woe betide those who have to argue ad ignorantiam and get caught using obscurum per obscurum, though an amused judge (or sniggering opponent) might just attribute your mumble-jumble to a lapsus linguae and move on...

It was recently overheard that when a particular junior counsel sought leave for the filing of a late affidavit from a local High Court judge, the go-ahead was granted but “on a de bene esse basis”. It was only later understood that the term meant nothing more than “provisionally” in the circumstances, although the literal interpretation of the phrase was “of well being” – which even the enlightened must agree – fails to explain the actual effect of the phrase.

Is it any wonder then, that the late Lord Lane (sitting as Chairman of Quarter Sessions in earlier days) was rumoured to have commented, “Latin must be a wonderful language if it can say all that in three words?” – when faced with counsel’s valiant attempt to explain that very phrase?

Where total banishment of Latin from all expressions of the law and in the Courts is concerned, the debate is a difficult one because certain Latin terms have arguably become such terms of art. Imagine having to utter in plain English those oft-used phrases such as “a writ of habeas corpus”, “actions in rem”, “the principle of res ipsa loquitur”…etc. – without plunging ourselves into deeper miseries of expression.

Hic et nunc, our learned readers are invited to test their knowledge of Latin phrases with the following crossword. (Answers in next issue)

Abigail Wong

黄紀怡大律師


OMNIA MIHI LINGUA LATINA SUNT

Across:
1 Retained by the Court to give unbiased assistance.
2 Approximately.
3 As in giving live evidence.
4 Therefore.
5 To say something does not follow is a non ________.
6 Administrative decisions need to be so, unlike the acts of a company:
7 An essential condition is a conditio sine ________ non.
8 A principle of construing like within like: eiusdem ________.
9 This doctrine has its basis in fairness to all parties: ________ et
alterum partem.
10 Often the last word in a Defence.
11 That who follows the Caveat more than the vendor.
12 The necessary changes having been made – this word is very much like the latter.
13 Thus so.
14 When something does not even get off the ground, it fails in
15 To admit a barrister for a particular purpose, such as for the
purposes of dealing with a certain case, this is called an ad
16 You plead this in defence if you had no clue about your
actions: non ________ factum.
17 One of the exceptions to the hearsay rule: res ________.
18 All international treaties are pact sunt ________, otherwise
they would be pointless.

Down:
19 Of one’s own right.
20 Better than just good faith: ________ fidei.
21 As a noun, you enter this when disputing the validity of a
will.
22 This should go without saying in law: ________ juris neminem
excutat.
23 Distribution of assets between creditors in bankruptcy often
follow the pari ________ principle.
24 Die bona ________ and the government gets a bonus.
25 Under our conflicts of laws principles, actions in rem follow
this.
26 The first something in ‘something for something’.
27 In the nature of but not quite.
28 The Old Common Law action which was the forerunner of
the law of obligations.
29 That bit which he swears in an affidavit.
30 ________ dat quod non habet is fundamental if you’re passing
goods.
31 A writ to ensure attendance.
32 Another name for one’s other self: ________ ego.
33 The reason, in short.
34 When we prosecute, it is on the basis that we let it be done
on the authority of the S.J.
35 An inquest aims to find this, the ________ mortis.
36 Not the plural of man, but a description of the mind.