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Another brick in a wall of injustice

THE academic world is still reverberating gently in the aftermath of the City Polytechnic libel case, and so am I. For latecomers to the scene of the disaster the story so far is as follows:

Stephen Foo, a student, was the chairman of a committee set up by the student union. Amy Yau was dissatisfied with one of the committee's decisions, and may have said so in two posters put on the Poly's "democracy wall".

Miss Yau said in court that somebody else had put the posters up with her student number on them. The judge did not believe her. Without expressing an opinion on this point let us assume for the moment that the judge was right.

Mr Foo happens to be a law student. Provoked by the two posters he sued for libel.

Mr Foo was represented by a lawyer. Miss Yau was not. Final score: \$75,000 in damages for Mr Foo, with costs to follow.

This sad story reflects little credit on any of those involved. Clearly Miss Yau was either careless with her student number or with her language.

Bearing in mind the ingenuity with which lawyers can find hidden meanings in intemperate expressions I have some reservations about the judge's finding that the posters said Mr Foo was "a criminal, biased and dishonest". No doubt in an ideal world students would have their posters vetted by libel lawyers.

Mr Foo is going to be a barrister, and clearly has a great future in the business since he already displays one of the worst features of the legal profession, an inability to discern those occasions when a successful resort to law makes the winner look ridiculous.

Mr Foo was not some innocent bystander dragged unwillingly into controversy. As chairman of a student union tribunal he had engaged in student politics, and should have expected to be exposed to the uninhibited rhetoric in which student political disputes are conducted.

When I was a student politician I was subjected to much worse things than "biased and dishonest". Even "criminal" would have counted as scarcely more than a term of endearment.

But Miss Yau and Mr Foo have a peerless excuse for any personal deficiencies. They are students. They have plenty of time to learn to be more careful.

This cannot be said for Mr Justice Bewley, presiding, who is well past the age of discretion.

Before I add Mr Bewley to the list of Hong Kong judges before whom I hope never to appear, let us record in fairness that his Lordship was not helped by the fact that one side was legally represented and the other was not — a circumstance which frequently leads to a distressing outcome.

As Miss Yau's only reported defence was that she had not written the items complained of, we may suppose that other points were not argued at all.

ALL the same I wish the judge had not offered the comment that he "could not rule out the possibility that the libel might affect Mr Foo's career as a barrister".

Mr Foo is not a barrister yet. What happens if he decides to become a pop singer or an insurance salesman instead? Does Miss Yau get her money back?

Turning to that gruesome section of the *Hong Kong Law Journal* where the monetary value of personal injuries is learnedly dissected, I see that a gentleman who suffered the John Wayne Bobbit injury was recently awarded \$82,000.

Are we really to believe that having your name besmirched on a City Poly notice board is almost as painful as having your twig pruned?

Hong Kong has a long tradition of making only modest awards in libel cases. This tradition seems particularly worth preserving when both the litigants are students, and one of them cannot even afford a lawyer.

Miss Yau now faces a bill for something in excess of \$125,000. Her views on Hong Kong justice can be imagined.

Also, opponents of free speech all over Hong Kong are already using this case to justify censoring notice boards, newspapers and anywhere else where students express their views.

Ponder, please, this quotation from a recent Dean of the Yale Law School: "Free expression is more important than civility in a university."