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Xiuqing Li

East China University of Political Science and Law

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John C. H. Wu at the University of Michigan School of Law

Li Xiuqing

Translator's Note

The following is an English language translation of a 2008 Chinese language article on John C.H. Wu, Soochow Law School LL.B. 1920 and Michigan Law School, J.D. 1921, by Professor Li Xiuqing of Shanghai's East China University of Political Science and Law. Li is a specialist in Chinese and foreign legal history, with a focus on the transplant of Western and Japanese law into China during the late imperial and modern era. She also serves as the Secretary-General of the China Foreign Legal History Association. In 2006-07, Li was a Fulbright Scholar at the University of Michigan Law School, where she followed in the steps of John Wu in researching and writing on early twentieth-century Chinese constitutionalism.

John C.H. Wu, one of the giants of post-Imperial Chinese law, philosophy, education, and religion, visited at law schools and universities throughout the United States and Europe—including Paris (1921), Harvard (1923 and 1930) and Northwestern (1929). He engaged in a long correspondence with Justice Holmes between 1921 and 1935, founded *Tianhsia Monthly* as a bridge between Chinese and Western culture, and served as Vice Chairman of the KMT-era Legislative Yuan's Constitutional Drafting Committee starting in the early 1930s. In fact, he is well-known in China and Taiwan as principle drafter of the 1946 Chinese Constitution, largely based on his June 1933 draft constitution (still described in Chinese as the “Wu draft”). In January 1927, he was appointed by the Jiangsu Provincial Government to sit as a judge on the new “Shanghai Provisional Court,” a court with jurisdiction over all controversies in the Shanghai International Settlement, except those cases where the defendants were citizens of the Treaty nations. (As he exulted to Justice

Li Xiuqing is a professor at East China University of Political Science and Law and Editor in Chief of the *Journal of East China University of Political Science and Law*. This article was first published in 57(2) *Huadong Zhengfa Daxue Xuebao* (*Journal of the East China University of Political Science and Law*) 139 (2008). The article was translated and annotated by **Nicholas C. Howson**, assistant professor of law, University of Michigan School of Law.

The following is a partial and edited translation of a law review article that originally appeared in Chinese in Shanghai, China. Untranslated portions of the text are not noted. In addition, because of editing and annotation, the footnote ordering does not reflect the footnote ordering of the Chinese original.

Holmes at that time, "I shall try to Holmesianize the Law of China!") He was later promoted to Chief Justice and then President of the same Court. He resigned from the Court in the Fall of 1929 to return to the United States as a Rosenthal Lecturer at Northwestern Law School (Winter 1929) and a Research Fellow at the Harvard Law School (Spring 1930). By the Fall of 1930 he had returned to Shanghai, where he practiced law until the Japanese invasion. After 1937 and a period of some turmoil in his personal life Wu rediscovered his early Christian faith, only now as a Catholic and not a Methodist, and went on to an equally rich career as a Catholic intellectual and leader, translating the New Testament and the Psalms into Chinese, and serving as Chinese minister to the Vatican in 1947-48. (He later completed a still popular English translation of Laozi's Taoist classic, the *Dao De Jing* (*Classic of the Way*)—see Jingxiong Wu, *Tao Teh Ching* (New York, 1961)). In February 1949 he returned from Rome to Shanghai and was asked by the Guomindang Prime Minister Sun Fo (Sun Yat-sen's son) and Acting President Li Chung-zen (Chiang Kai-shek having "retired" to his home of Ningbo, prior to his transfer to Taiwan) to be China's Minister of Justice. The appointment was never formalized with the collapse of the Sun Fo cabinet, and in March 1949—after a final, melancholy interview with Chiang Kai-shek at their shared hometown Ningbo—John Wu departed China for the last time. After the 1949 Revolution, he was a long-time professor at the University of Hawaii and Seton Hall University in New Jersey. Readers interested in further English-language information on the Soochow Law School or John Wu's career and life may refer to John C.H. Wu, *Beyond East and West* (New York, 1951), and William P. Alford and Shen Yuanyuan, "Law is My Idol": John C.H. Wu and the Role of Legality and Spirituality in the Effort to "Modernize" China in Wei-ming Tu, ed., *Essays in Honour of Wang Tieya* (Cambridge, 1994).

In addition to *Beyond East and West* and his translation of the *Dao De Jing*, John Wu's works include: *Juridical Essays and Studies* (Shanghai, 1928); *Some Unpublished Letters of Justice Holmes* (Shanghai, 1935); *The Art of Law and Other Essays Juridical and Literary* (Shanghai, 1936); *Essays in Jurisprudence and Legal Philosophy* (Shanghai, 1938); *The Science of Love: A Study in the Teachings of Thérèse of Lisieux* (Huntington, In., 1941); *Justice Holmes to Doctor Wu: An Intimate Correspondence 1921-1932* (New York, 1947); *From Confucianism to Catholicism* (Huntington, In., 1949); *The Interior Carmel: The Threefold Way of Love* (London, 1954); *Fountain of Justice: A Study in Natural Law* (New York, 1955); *Justice Holmes: A New Estimate* (Philadelphia, 1957); *Cases and Materials on Jurisprudence* (St. Paul, 1958); *Chinese Humanism and Christian Spirituality* (Jamaica, NY, 1965); *Sun Yat-sen: The Man and His Ideas* (Taipei, 1971); *The Four Seasons of T'ang Poetry* (Rutland, Vermont, 1972); *Zhongguo Zhe Hsueh*, (*Chinese Philosophy*) (Taipei, 1974); and *The Golden Age of Zen* (Taipei, 1975).

Introduction

Early modern China produced many talented legal scholars. In their midst, one name is difficult to forget—Wu Jingxiong (John C.H. Wu) (1889-1986).¹ In the 1920s and 1930s, perhaps no one measures up to John Wu in achievements or reputation for scholarship and research, legal education, and legislative and judicial work. One might go so far as to say that he was the most famous and outstanding Chinese legal personality of the time—and here it is appropriate not to use the qualifier “one of” the most. However, for various reasons, over a fairly long period mainland (PRC) scholars have all but forgotten the decades when Chinese legal scholarship flourished—a time when the history of law scholarship was prodded by movement towards a “new China” and everything was a “new frontier”—to the extent that personalities like John Wu, once of immense renown, are rarely mentioned.

Worthy of celebration is the fact that in the past ten years or so as most legal history scholars have begun to turn their attention to early modern legal studies in China—in their investigation of legal education reform, law transplants, Chinese and Western legal interaction, and the like—law scholars naturally focus their attention on developments over these critical decades for legal studies. Thus, sayings like, “In the North: Chaoyang, In the South: Soochow,” and names like Wang Chonghui, John C. H. Wu, and Yang Zhaolong, are at last beginning to escape many years of historical obscurity. In the midst of this renewed attention, a flood of research on John Wu’s scholarly progress and life experience has appeared following the 2002 publication of a Chinese translation of his English language spiritual autobiography “Beyond East and West.”

For the past seven or eight years, a portion of my interest has been directed to examining the transplant of foreign law into modern China. With this focus, ranging far into history but studying the modern, occupied with both the Chinese and Western worlds, and being exposed to the rich experience of such an out-of-the-ordinary personality, it is only natural that I was greatly intrigued. However, I never imagined I would write anything on John Wu. In October 2006, I was awarded a Fulbright Scholarship and traveled to the University of Michigan’s School of Law.²

1. Translator’s note: “Wu Jingxiong” is the modern PRC pinyin romanization of the Chinese characters for the subject’s name. As this article confirms, at some point before traveling to Michigan he adopted the foreign given name “John” (as in “John Wu” or “John C.H. Wu”), although his name was romanized as “Wu Chin-hsiung” when he entered Soochow Law School in Shanghai. Each time the author refers to “Wu Jingxiong” in the original Chinese article it is translated into English as “John Wu” or “John C.H. Wu.”
2. Mathias Christian’s *Rechtphilosophie zwischen Ost und West—Zine vergleichende Analyse der fruhen rechtsphilosophischen Gedanken von John C. H. Wu (Legal Science Between East and West—A Comparative Study of John C.H. Wu’s Early Jurisprudential Philosophy)* contains one inaccuracy: At page 8, the statement, “He [John Wu] went abroad to study in America in August 1920, registering at the Legal Research Institute of the University of Michigan,” conflicts with what appears at page 22, “In the Fall of 1920 at Ann Arbor, Wu enrolled for a Master of Laws degree at Michigan State University.” Translator’s note:

This is the first place John Wu studied abroad, and also the only one among his many experiences abroad where he studied for a degree. After reviewing a good deal of material, I slowly took the decision to write this article. After living and studying in that small city and campus for a year, I felt I had the duty to complete this writing. As this article is composed with real feeling and affection, I hope it adds something new and is not merely superfluous.

After Graduating in Law from Soochow, To Michigan Law School to Deepen His Study

To describe the opportunity John Wu had to travel to Michigan Law School after his graduation from Soochow University Law School (“Soochow Law School”), I must first start with the history of the two institutions and their interaction.

The University of Michigan was one of the earliest American universities to establish relations with China. Of the eleven students in the graduating class of 1845, Judson D. Collins was sent to Fujian as a Methodist missionary two years after graduation. He was probably the first Western missionary to reach Fuzhou. Although we in China have repudiated the activities of early missionaries, in America he is seen as the vanguard of those who went to China, and for that reason is one of the University of Michigan’s most famous early alumni. James B. Angell, President of the University of Michigan from 1871 to 1909, was from 1880 to 1881 the Resident Minister for the U. S. Government in China. Because of this relationship, the University of Michigan was well known in China at that time. When Angell returned to America, a number of Chinese students traveled to the University of Michigan to study. In particular, when through the efforts of Angell and others the surplus of the Boxer Indemnity was refunded for the support of Chinese education, the number of Chinese students traveling to America increased, as did the number of Chinese students going to Michigan. Between 1911 and 1917, there were fifty to seventy Chinese-origin students who studied at the University of Michigan.³

The Michigan Law School was established in 1859, with halting progress during its initial period, but eventually achieved proud success. In particular, such development accelerated after Henry M. Bates became Dean in 1910 and implemented a series of reforms, the most important of which included the start of the Juris Doctor degree in 1910; and in 1915, elevation of the law department to a law school. To establish a law school of the first

the author, in referring to Mathias Christian’s book, is referring to a Chinese language translation of the volume *Dongxifang Zhijian de Falu Kexue—Wu Jingxiong Zaoqi Falu Zhexue Sixiang Zhi Bijiao Yanjiu* (Legal Science Between East and West—A Comparative Study of John C.H. Wu’s Early Jurisprudential Philosophy) (Tian Modi, trans., Beijing, 2004). No effort has been made by the translator to determine the German language correspondences to citations recorded here.

3. The University of Michigan and China: 1845-2006, at 6 (Nancy Bartlett, ed., Ann Arbor, Mich., 2006).

rank internationally, several international law and comparative law specialist professors were appointed, and the curriculum and the library collection were restructured. By 1920, and after sixty years of development, the Michigan Law School had not only a high standing in America, but an international reputation as well. Because of its development and intimate connection with China, the Michigan Law School became one of the premier destinations for graduating Chinese law students. As an example, between 1909 and 1918 there were twelve Chinese students at the Michigan Law School.⁴

At the start of the Republican period in China, there were many legal-political institutes. Many private universities (institutes) and missionary universities also had law departments (law institutes). Legal studies continued to flourish just as they had in the final decades of the Qing dynasty, even though the government continued to issue laws and regulations governing legal education and the legal profession.⁵ The Soochow Law School was one successful establishment among these, and one of the fastest developing institutes.

Soochow University was a product of the American “Methodist Episcopal Church (or Mission), South”⁶ missionary effort in China, especially in Shanghai and the surrounding area. Formally established in 1901 in Suzhou, it was simultaneously registered in Tennessee, site of the “Methodist Episcopal Church (or Mission), South” headquarters. From its beginning, and like other missionary universities, it was deeply influenced by nationals from the missionary promoters’ home, with regard to its faculty, curriculum, and model of administration. On the foundation created by merger of the Methodist-established Anglo-Chinese College⁷ into Soochow University, in 1915 Soochow Law School opened on Shanghai’s Kunshan Road with a catchy English language name—The Comparative Law School of China. Its faculty was led by a lawyer-missionary from the Tennessee, Soochow University’s political science professor C.W. Rankin. The school received wide support from Shanghai’s foreign and Chinese legal circles.⁸ From the English name it is clear that the Soochow

4. Between 1896 and 1958, of the Michigan Law School’s foreign law students, the greatest number came from China (28 students). Although that number alone seems small, through this period there were 161 students from 40 countries. The other relatively large cohorts of foreign students were from Germany (21 students) and Canada (14 students). See Elizabeth Gasper Brown, *Legal Education at Michigan: 1859-1959*, at 63 (Ann Arbor, Mich, 1959).
5. See Wang Jian, *Law Schools*, in *Modern Legal Education in China* (Beijing, 2001).
6. The Methodist Episcopal Church (or Mission) South, a branch of The Missionary Society of the Methodist Episcopal Church, was an important denomination undertaking American missionary activity in China.
7. Translator’s note: thanks to Glenn Tiffert for his information on the institution called “Shanghai Zhong Xi Shuyuan” in Chinese. It was the “Anglo-Chinese College,” founded 1882 by Young John Allen and merged with Soochow University (which he also helped found) in 1911 to form Soochow’s “College of Arts and Sciences.” After the remnants of the Anglo-Chinese College moved to Suzhou as part of the merger, the Soochow Law School founded in 1915 took over the Anglo-Chinese College’s former Shanghai premises.
8. Translator’s note: John Wu describes the earliest days of the Soochow Law School:

Law School's aim was to train academic experts in "comparative law," and specifically require its students to study the basic principles of the world's major legal systems. Because the presiding professor C.W. Rankin and others had Anglo-American legal backgrounds, lectures and teaching were weighted towards Anglo-American law. Other than Chinese law subjects taught using Chinese, all other courses were given in English.

From its inception, the Soochow Law School modeled itself on the methods universally confirmed at the then-well-known American law schools: only students with two years of university level study could enter, with the course of study set at three years. Not many students enrolled at the beginning. The first class had seven students, who received LL.B.s in 1918. The second class had two students, and the third class eight students. However, because of student efforts and the strong teaching administration, the Law School nonetheless acquired a relatively strong reputation. Moreover, because of the strong connection with the United States, it received recognition and support from some of America's famous law schools, including the University of Michigan.⁹ Certain graduating students who received the Soochow LL.B. degree were then recommended for travel to these same law schools in America to undertake Masters or Doctoral

The classes were held in the evenings, from five to eight. There were no regular professors except Rankin himself, but practically all the famous lawyers in Shanghai, including Judge Lobinger of the U.S. Court for China, were on the faculty as lecturers on particular branches of the law. ... Besides the courses on legal subjects, there was a class on religion, taught by Rankin. We were required to read the Bible, and I fell in love with it. Also, the edifying example of Rankin made me search for the living source of his spirit of purity and love.

John C.H. Wu, *Beyond East and West* 66-67 (New York 1951). On the U.S. Court for China (established by an act of Congress in 1906, akin to a federal district court, with appeals to the Ninth Circuit Court of Appeals and the Supreme Court, and exercising civil and criminal jurisdiction over U.S. citizens within the "District of China"), see Teemu Ruskola, *Law's Empire: The Legal Construction of "America" in the "District of China,"* available at <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=440641> (last visited Jan. 16, 2009).

9. I reviewed *A True Examination of the History of Privately-established Soochow University Law School (1915-1952)* (Shanghai Archives No. Q245-1-1) and its tone and language is heavily impressed by the time when it was written, such that reading it now seems a bit laughable. For example, it states:

Before the great revolution of 1927, the entire curriculum at the Soochow Law School was the English and American imperialist curriculum, without one course on Chinese law. All instructors used English, and the only study materials were Anglo-American cases. Other than formal courses, the Dean often also invited "American scholars" to lecture at the school, as a way to deeply implant imperialist political thought. At the same time, in order to create a cadre of servants among the graduates of Soochow Law School, [graduating students] were permitted to enter American universities without taking examinations, and within less than a year they could receive the doctor of laws degree.

This description does not entirely accord with fact (especially the last phrase, as will be demonstrated below), but it does help us understand the early success of the Soochow Law School and its very close connection with the United States.

degree studies in law. Among the eight graduating students of the third class, six received degrees in America.¹⁰

John Wu was in the Soochow Law School's third class. He enrolled on September 1917, and graduated on June 1, 1920. Before entering the Soochow Law School, he had previously studied science at the Baptist College of Shanghai,¹¹ and spent a half-year studying law at Beiyang University.¹² From the age of six he studied the Chinese classics¹³ with a private tutor, and started learning English at the age of nine in primary school. In the open Treaty coastal port of Ningbo he was exposed to traditional Chinese education and a profound Western influence, so that before he entered university John Wu already had a good base in both Chinese and Western learning. In particular was his love of the English language: "...I liked English from the very beginning", feeling "[i]t takes a great deal more memory to learn Chinese characters than to master the English ones," "... I loved English at the first sight," often "I think in English, but I *feel* in Chinese."¹⁴ With this foundation, he was able to demonstrate his potential and superiority after entering Soochow Law School, where the greater part of the curriculum was taught in English and focused on Anglo-American law. His transcript shows that in three years he took more than forty courses, and in more than half was awarded outstanding grades of higher than 90 percent.¹⁵ Although he was the youngest student in

10. Wang Guoping ed., *Soochow University—Scholarship in Tiancizhuang* 54-55 (Hebei, 2003).

11. Translator's note: traditional English language rendering of the Chinese form "Huijiang" university.

12. Translator's note: Scholars of modern Chinese literature will be interested in the close relationship between Wu and perhaps China's most famous poet in the 1930s, Xu Zhimo ("Hsu Tse-mou" in the romanization of the time):

In the spring of 1917, my old companion Tse-mou and I found ourselves in the Peiyang [Beiyang] University, studying law... One day, my fellow student Hsu Tse-mou and myself decided also to pick up some names for ourselves. Tse-mou chose for himself "Hamilton" because he aspired to be a great Constitutionalist and economist. Thereafter he was to be called Hamilton Hsu. But later he turned out to be a poet of no mean order; and I think that was the reason why he dropped his adopted name.

Wu, *Beyond East and West*, *supra* note 8, at 65-66. Thus, just as American letters can thank the Harvard Law School for failed law student Henry James, modern Chinese literature can thank the Beiyang University law program for Xu Zhimo!

13. Translator's note: in Chinese, the "Four Books and Five Classics."

14. Wu, *Beyond East and West* 46-48 (Zhou Weichi, trans., Beijing, 2002). Translator's note: the author of this article cites to pages in Zhou Weichi's 2002 Chinese language translation of John C. H. Wu's "spiritual autobiography" *Beyond East and West*. This translation in turn re-inserts the original, English-language, phrases from Wu's English language text, and provides cites for Wu, *Beyond East and West*, *supra* note 8, in brackets following the cite to the Chinese translation. References to the 2002 Chinese translation are rendered here as Wu, *Beyond East and West* (Chinese Version), *supra* note 14.

15. Many thanks to Soochow University's Dr. Sun Wei for sending me this valuable academic record for John Wu. With the exception of his name and residential address, the transcript is entirely in English. It is worth noting that according to this transcript the English form of

his class, from the second term of the 1917-18 academic year to graduation he was the class monitor (class president); with a final average of 90.25 percent he was the only student in his graduating class awarded "First Honors."¹⁶

In summary, the Michigan Law School had a good reputation internationally, and a strong connection with China; Soochow Law School was the product of American Protestant missionary efforts in Shanghai and its environs, directed by Christians and American trained lawyers, and based on the American legal education model—so that in a short time after its establishment it achieved great renown. John Wu was already well prepared academically, with excellent grades and an enthusiastic and diligent character. These several subjective causes acting together allowed John Wu to win the opportunity to travel to the Michigan Law School for further study, opening before him a completely new frontier of study abroad.

Earning a Juris Doctor Degree in One Year of Study

In the summer of 1920, newly graduated from Soochow Law School and only twenty-one years old, John Wu boarded the American ship "S.S. Nanking" and

his name used at the time of his study at Soochow Law School was not the name Wu says he used at that time, but instead was "Wu Chin-hsiung." Translator's note: thus, John Wu's statement in his book that "In the fall of 1917 I registered myself [at Soochow Law School] as John Wu" would seem to be inaccurate. John Wu's description of how he took on the given name of "John" is interesting:

Nothing could be more casual than the way I came to adopt the name "John." Now in those days there was a vogue among Chinese students to adopt Western names. . . . I worshipped so many heroes that I could not decide upon any one. So I referred to the "Proper Names" section of Webster's Dictionary. I was running through the section alphabetically. When I came upon "John" I felt there was something arresting about it. I read it aloud many times, "John, John, John. . . ." "Why," I said to myself, "this sounds exactly like my Chinese name *Ching-hsiung!*" The fact is, when my schoolmates called me Ching-hsiung, they said it so quickly that the two syllables were merged into one, sounding very much like John. Therefore, this name suited me like a glove. What if the glove was imported, so long as it fitted my hand? I did not care which John I was following. Anyway there was John Marshall, John Keats, John Wesley, John Webster, John Falstaff, and King John. So I thought I was in fairly good company.

Wu, *Beyond East and West*, *supra* note 8, at 65-66.

16. According to "Relevant Materials Regarding the First to Eleventh Classes of Soochow University Law School," in Soochow Law School's first four graduating classes, each class had only one student awarded "First Honors." See Sun Wei, John C.H. Wu and Soochow University, in *Huadong Zhengfa Daxue Xuebao* (Journal of the East China University of Political Science and Law) (2008). Translator's note: on John Wu's relative youth, see his autobiography:

The students [at Soochow Law School] were mostly grown-up people who had work to do in the daytime. . . . I was the youngest. I remember an interesting thing happened on the day of my registration. I went to see the dormitory and met a sophomore student, who asked me, "What are *you* doing here?" I told him that I was just admitted. "What!" he said, "Look at these big textbooks and case-books. We have to read about a hundred pages a day. How can you catch up with the assignments, a young boy like you?"

Wu, *Beyond East and West*, *supra* note 8, at 67.

commenced his first trip outside of China. The long journey did not find him bored, nor did the huge expanse of the Pacific Ocean make him feel diminished or exhausted, nor did the separation from his homeland and family make him feel sad or worried. Rather, he “felt as free and happy as the birds of the heavens and the fish of the sea.”¹⁷ This was not merely the happy excitement of an earnest Christian, but the pure feeling of a youth filled with hope and expectation towards the immediate future.

Using the English name “John Wu,” he enrolled at the Michigan Law School on October 5, 1920, and graduated with a Juris Doctor degree on June 30, 1921. This degree led to him being called “Doctor Wu,” notwithstanding his subsequent receipt of several honorary doctorates from famous universities.

Today, mainstream law schools in the United States primarily award three degrees: the Juris Doctor, the LL.M. (faxue suoshi) and the S.J.D. (or J.S.D. (faxue boshi)).¹⁸ The latter two are primarily for non-U.S. students studying in the United States. The LL.M. is generally awarded after one year of study and completion of a required number of credits. The S.J.D. is often awarded to students who have already received the LL.M. and who apply to complete another year of course work under the direction of an academic advisor (some law schools do not have this requirement) and then continue with another two or three years of work finishing a dissertation. The Juris Doctor is the most important degree awarded, and it has the greatest American legal education specificity—not only do more students apply to obtain this degree, but the application requirements and process are the most complex.

At the time John Wu entered Michigan Law School, Michigan awarded only two degrees;¹⁹ the Juris Doctor and the LL.M.²⁰ As described above, the Juris Doctor degree was first awarded in 1910. The LL.M. degree was awarded earlier, starting from 1890. In the early period, those working towards the LL.M. degree had to take at least three courses in the offered curriculum, study under the direction of a faculty member and make frequent reports

17. Wu, *Beyond East and West* (Chinese Version), *supra* note 14, at 73 (Wu, *Beyond East and West*, *supra* note 8, at 76).

18. Translator’s note: in Chinese, there are different but similar terms for J.D. and J.S.D./S.J.D. The former is rendered “falu boshi” in Chinese, and the latter “faxue boshi.”

19. Translator’s note: We are indebted to former Michigan Law School Dean Theodore St. Antoine for the following small correction:

Professor Li says that when John C.H. Wu entered Michigan Law School, it was awarding two degrees—the J.D. and the LL.M. It was also of course awarding the LL. B. and continued to do so into the 1960s. At first the J.D. was reserved for students who had received another university degree before they entered the Law School. That was the rule in the John Wu years. Later the J.D. was granted in recognition of academic performance in Law School—a “B” average. But the LL. B. remained the standard “undergraduate” law degree until it was superseded by the universal J.D. in the 1960s.

Theodore St. Antoine e-mail to translator, June 12, 2008.

20. Another degree now awarded by Michigan Law School, the J.S.D., was given from 1925.

to the faculty member on research and study progress, take examinations at stipulated times to demonstrate their study and research capabilities, and submit a thesis on an approved topic.

At the time John Wu commenced study, the Michigan Law School Juris Doctor degree was conferred upon students who had already received a degree from Michigan or another recognized university, and who then studied at Michigan Law School for three years (or had studied at another recognized law school for one year with at least two additional years at Michigan Law School), and completed the basic number of credits, achieving superior grades in three quarters of the courses. This was the normal situation. In the same period, the LL.M. was conferred upon those who had already received a legal studies degree from the University of Michigan²¹ or another recognized law school while achieving very high grades, and then completed a fourth year and the requisite number of credits at Michigan Law School. Outside of these, those who achieved especially superior grades could be awarded the Juris Doctor degree.²²

From the foregoing we can see that if after John Wu's one year of study he had received the LL.M. degree, then that would have been the normal situation. His winning the Juris Doctor degree was thus out of the ordinary. This is to say that John Wu, with a Soochow Law School degree recognized by Michigan Law School, and with good grades and conforming to application qualifications, was easily enrolled for the LL.M. degree.²³ Because his results were so good, he was instead awarded the Juris Doctor degree.

We know from his academic records that John Wu was considered a third-year law student at Michigan; thus he entered with the graduating class. He had already completed three years at the Soochow Law School in Shanghai; so this additional year at Michigan was much like the required fourth year of study. In this one year of study, he took five courses: Political Theory, Constitutional Law, International Law, Roman Law, and Science of Jurisprudence, for 20 credits overall. Of these, the first three courses stretched over two semesters, for 4, 6, and 4 credits respectively. The latter two courses were single-semester courses—with Roman Law given in the first semester and Science of Jurisprudence in the second semester—each carrying 3 credits. Between 1912 and 1925, the Law School stipulated that the basic requirement for one year of study was completion of between 4 and 6 courses, for between 20 and 24 credits. Thus, describing his program to this point, by taking 5 courses and receiving just 20 credits, John Wu only completed the basic academic requirements. What is startling however is that he received an "A" in each of these five courses so that in the two semesters he received 8 "A" grades. When students

21. Translator's note: this would be the University of Michigan LL.B.

22. See Brown, *Legal Education at Michigan: 1859-1959*, *supra* note 4, at 746-47.

23. On September 28, 2007, the author visited the University of Michigan's Bentley Historical Society and found the archival file for John Wu. In that file there was a light green card that was John Wu's "diploma fee" card filled out by him. Handwritten into the box for "diploma" is "J.D. or LL.M."

receive an “A” for one course, most would be happy; receiving A’s for all five courses, and by a Chinese foreign student, cannot have been easy and seems rather out of the ordinary. Thus, as a student with particularly superior grades, John Wu in the end was awarded a Juris Doctor degree.

John Wu was not in fact the first graduate of Soochow Law School to go to Michigan Law School for degree study. One year prior, a student in the second Soochow Law School class (Wang Fubi) traveled to Michigan for study, and was awarded the LL.M.²⁴ Nor was John Wu the only Soochow Law School graduate to pursue degree study at Michigan Law School that academic year; Chen Tingrui (Ding Sai Chen) and Lu Dingkui (Ting Kwei Loh) were in his class. Each student needed only one year to receive the Juris Doctor degree. We do not know the courses taken or the results of the other two students, but we can surmise that their grades were particularly good. In the 1920-21 academic year, there were only five foreign students at the Michigan Law School, and a total of ninety-eight students in the third-year class. Because of their excellent academic preparation and their exposure to a completely Anglo-American training conforming to American law schools, the achievements of each of these three black-haired, yellow-skinned youths in the Law School must have been well remarked. This was not only a point of pride for the Soochow Law School, but also for those who work in the law today. Thinking back on that time and all of these circumstances, one cannot help but feel that such excellence will not soon manifest itself again.

Returning to the story: the fact that John Wu’s academic excellence allowed him to receive the Juris Doctor degree may be attributed to his congenial living environment and his wide circle of happy acquaintances. After his arrival at Michigan Law School his interest and faith in Christianity cooled; added to that was his revulsion at the materialism he found among the American youth (once expressing the doubt, “is *this* the America of Washington, Lincoln, and Emerson...?”). Overall, however, it would seem that John Wu’s student life was remarkably happy and rich. The following remembrance evidences this:

My stay in Ann Arbor was among the happiest periods of my life. My teachers, Dean Henry M. Bates, Professor Joseph H. Drake, and Professor Edwin Dickinson, took a personal interest in me. They were so cordial and kind to me, and I was so intensely interested in my studies, that I had no time to feel homesick, although it was the first time that I was ever abroad. Professor Drake called me a “prodigy,” and Dean Bates used to say to me, “Are you again working in white heat?” There was a certain homelikeness and coziness about Ann Arbor, and a warm sympathy about its people. There were also quite a number of Chinese students there, and a nice Chinese restaurant on the campus. My

24. Soochow University—Scholarship in Tiancizhuang 55 (Wang Guoping, ed., Hebei, 2003). In the Bentley Historical Library I reviewed a name list entitled “Catalogue of Graduates, Non-graduates, Officers, and Members of the Faculties: 1837-1921” and found a listing for Ding Sai Chen (Chen Tingrui), and a listing for Ting Kwei Loh (Lu Dingkui) and John Wu (Wu Jingxiong). However, perhaps because of an oversight on my part, I did not see Wang Fubi’s name.

landlady, one Mrs. Hutchison, was very kind to me. Once she had a good laugh over my stupidity in handling the telephone. Someone wanted to talk to me over the phone, and she called me to it. I said "Hello" at the top of my voice for five minutes, but I did not hear a thing. She came down to see what was happening and found me talking to the listening end and listening to the talking end! It was the first time that I ever handled a telephone.²⁵

Dean Henry Bates was John Wu's Constitutional Law professor, Edwin Dickinson taught John Wu International Law, and Joseph Drake was his Jurisprudence professor. The fact that after graduation John Wu successfully applied to the Carnegie Endowment for International Peace for a grant, and then went to the University of Paris as a visiting scholar, was due to Dickinson's recommendation.²⁶ Dean Bates, Professor Drake, and his Political Theory professor Robert T. Crane also recommended John Wu.²⁷ From this angle it seems that John Wu's recollections about the regard he received from his professors are not faulty. Moreover, only people who have wonderful memories of that period can, many years later, use a soft and nostalgic tone in recapturing such a bright picture of life in an alien land.

First Article Published in the Michigan Law Review

During John Wu's one year of study at Michigan Law School, he not only achieved superior grades to comply with the requirements for the Juris Doctor degree, but he also published his first article in the March 1921 issue of the Michigan Law Review.²⁸

In the United States, from 1887 when a Harvard Law School student organized the first student-run and -edited journal, the Harvard Law Review, some famous law schools followed Harvard's lead and published their own Law Reviews. Today these publications embody the best product of legal research. The Michigan Law Review, founded in 1902, has ranked sixth among

25. Wu, *Beyond East and West (Chinese Version)*, *supra* note 14, at 94-95 (Wu, *Beyond East and West*, *supra* note 8, at 89-90).

26. Translator's note: Wu's description of this process is delightful:

Some time in May 1921, as I was reading in the library, Professor Edwin D. Dickinson, who was my teacher in International Law, approached me with an application form in his hand. He asked me, "Do you want a fellowship in International Law?" "Of course, I do!" I said. "Then fill up this form, which I have just received from the Carnegie Endowment for International Peace. It will be a traveling fellowship. You have a good chance of getting it, and you can choose any school in the world except this school." I got the fellowship, and I chose to go to the University of Paris. When I was settled in Paris, I wrote a long letter to [Justice] Holmes...: "My Dear Justice Holmes: Last Spring I was in Ann Arbor; now, I am in Paris...."

Wu, *Beyond East and West*, *supra* note 8, at 90.

27. See John C.H. Wu: *An Autobiographical Sketch in Soochow Niankan*, Wu Jingxiong Yuyan Ji Tici (A Picture of John C.H. Wu: Preface and Tribute), Shanghai Archives, Archives No. Y8-1-206-4.

28. John Wu, *Readings from Ancient Chinese Codes and Other Sources of Chinese Law and Legal Ideas*, 19 Mich. L. Rev. 502 (1921).

the hundreds of similar law reviews, making it one of the original authoritative law reviews. What makes the Michigan Law Review different is that from the time it commenced publication to 1940, it was not entirely student-edited. It was primarily administered and edited by Michigan faculty members. This did not diminish the quality of the articles published or the Law Review's reputation because a capable cohort in the Law School maintained tight control.

During John Wu's time at Michigan Law School, the Law Review published one issue every month of the academic year (from October to June) but not in the first month of the new academic year (October). In addition to the regular sections entitled "Editorial," "Recent Important Decisions," and "Book Reviews," each issue carried just three or four articles. For the Volume 19 in which John Wu published his first article (No. 8 of the 1920-21 academic year), the Editor in Chief of the Law Review was the law school's well-known Professor Ralph W. Aigler.²⁹ There were five Assistant Editors, including Dean Henry Bates and Professor Joseph Drake. In addition, a group of twenty-one students appointed by the faculty assisted in publishing the Review. It cannot be said that this editorial board was weak.

Looking at the articles published in Volume 19, the first issue's authors included Northwestern Law School professor and representative American analytical jurisprudence scholar Albert Kocourek; authors in the third issue included Oliver S. Rundell of the University of Wisconsin School of Law and the Michigan Law School's John B. Waite; and the fourth issue's authors included Professor Drake. With John C.H. Wu in the fifth issue was Pittsburgh University Law School Professor George J. Thompson. We will not comment here on the extent to which John Wu's chosen topic (materials on ancient Chinese legal codes and thought) was appropriate, his translations were absolutely perfect, the logic of his exposition was disciplined, or his academic view was new and well-supported; but we can say that as a Chinese foreign student who had just arrived in America, publishing an article in a Law Review of such high standing, with his name appearing next to some of the United States' most famous legal scholars in the same publication, this can only surprise people—that truly John C.H. Wu was "a dragon among men!"³⁰

There is in fact much to note in John Wu's article.

"Chinese Readings and Sources" excerpts, translates, and introduces multiple legal texts from ancient China, a good portion of which include first translations by the author. John Wu's "ancient China" stretches from 2255 B.C.E. to 630 C.E. At thirty-five pages, apparently the article isn't

29. Ralph Aigler graduated from Michigan Law School in 1907, became an assistant professor in 1910, and a full professor in 1912. He retired in 1954 and was a celebrated property law and commercial law scholar. See Allan F. Smith, Ralph W. Aigler, 63 Mich. L. Rev. 2-4 (1964).

30. See John Wu, Jr., *Gentle Dragon*, Forward in John C.H. Wu, *Studies in Legal Philosophy* (Beijing, 2005). Translator's note: a part of the Chinese translation of the title of the footnoted writing (by John C.H. Wu's son) is "A Dragon Among Men" (Renzhong Zhi Long).

finished because “To Be Continued” is written at the end. It translates legal texts from ancient Chinese sources and describes the legal philosophy of important figures to track and outline the development of ancient Chinese law, and introduces special aspects such as blood revenge, joint and several criminal liability, and the goals of penal law. He also explains why he has selected certain texts and introduces the text’s historical background and the author’s thought, and explains certain very difficult to understand terms. Thus, from its structure to its analysis, the article certainly measures up to its title.

In the preface’s first passage, Wu writes:

With the legal profession today there is a growing interest in the study of universal legal ideas. Legal ideas, it would seem, gain strength by extension both in time and in space. As *ius gentium* is necessarily more congenial to human reason than *ius civile*, so it may be said that the laws of all ages are more deep-seated in human nature than those of a particular generation. The scope of comparative jurisprudence, therefore, embraces all the length and breadth of legal scholarship, so that it cannot afford to ignore any materials that may give us light upon the legal notions of the ancient world.

This proclamation-like statement indirectly expresses his pride for ancient Chinese legal culture. This can also be seen in the last sentence of the article’s second section: “... and this article presents a translation of the Chinese law, by a Chinese bred under the genuine Chinese influence.” The statement implies that the Chinese law translations done at that time by the well-known John H. Wigmore are problematic, and clearly states that translations and description of Chinese law are more appropriately done by those—such as John Wu—with a Chinese upbringing. Moreover, this expresses John Wu’s confidence that he is a Chinese scholar willing to engage in an intellectual dialogue and exchange with Western scholars about the ancient Chinese legal tradition.

The other parts of “Chinese Readings and Sources” clearly demonstrate the author’s wide reading and extraordinary efforts in seeing similarities and identifying differences between the East and West. For instance, he uses Professor Kocourek’s theory of three stages of legal system development with respect to ancient Chinese legal history, pointing out ancient Chinese schools of legal philosophy that are similar to Western schools of legal thought; compares Roman law principles and ancient Chinese law principles; states a belief that Chinese legal philosophy is perfectly able to receive contemporary Western legal principles and theory; and stresses the importance of the spirit of a legal system. Therefore, it is difficult to diminish the scholarly value of this article with respect to the introduction of ancient Chinese legal culture and the enabling of contemporary Western academics to understand China’s ancient legal codes and legal thought. Even though John Wu later expressed some unhappiness with this first article, it not only demonstrated his academic potential but also added luster to the extraordinary academic performance he achieved at the Michigan Law School, and created a basis

for his further scholarly development. The other import of this article is that it introduced John Wu, a Chinese youth just embarking on his legal studies career, to Oliver Wendell Holmes, Jr., a renowned and influential American Justice, for their more than decade-long intellectual exchange and correspondence. After publication of this article, “As I [John Wu] had so often heard my professors speak of Justice Holmes in the most laudatory terms, I sent him a complimentary copy of the *Review*. In the meantime I wrote him a letter telling him that I was sending the *Review*...”³¹ Thus began an international intellectual relationship³² and interactions between John Wu and the legal academy’s greatest personalities, including Rudolf Stammler, Roscoe Pound, and others.

Though Long Gone, His Impression Remains

John Wu came to Ann Arbor in 1920 and he left for Europe the following year. In the years after he visited American universities to research and teach, he never returned to the Michigan Law School to study or take up an academic post. However, after leaving Michigan Wu corresponded with Dean Bates and

31. Wu, *Beyond East and West (Chinese Version)*, *supra* note 14, at 92 (Wu, *Beyond East and West*, *supra* note 8, at 87-88). Translator’s note: the remembrance continues “... and that knowing his interest in comparative jurisprudence I was sure he would be glad to read something on the legal ideas of ancient China, some of which were akin to his own views.”

32. There has been a great deal of scholarly writing on the correspondence between John Wu and Justice Holmes, and so there is no need to describe it here. *Beyond East and West* quotes a great deal from their letters. For a Chinese translation of some of the correspondence, see Guo Lanying (trans), Li Jiaxiong (annotated), *Xiangjiang Law Review*, No. 2, Hunan People’s Publishing House, 1998. Translator’s note: Wu’s description of how the correspondence started is as follows:

Now it happened that my letter reached him before the *Review*, and he was so good as to answer me without seeing the article. That letter is dear to me, because it was the beginning of a lifelong friendship. As it is very brief, I want to quote it in full: [from Justice Holmes] “Your article in the Michigan Law Review is not within my reach at this moment, but I shall try to get a sight of it at the Capitol tomorrow. What you want, I take it, is a word of sympathy. I only venture one bit of caution that very possibly you do not need, but some young men of generous ideas do need. One cannot jump at once to great ends. Therefore I hope you will not shirk the details and drudgery that life offers, but will master them as the first step to bigger things. One must be a soldier before one can be a general.” ...When I received this note, I was already very happy, because it was a letter from a great man and was written in his own hand.... As to the advice, although it was couched in the most general terms, it was very sound anyway. In short, the response was more than I expected, and I thought that was the end of it. What was my surprise when I got another letter from him the next morning! It began with an apology. “Yesterday’s letter,” he said “evidently was written under a misapprehension. I thought I was writing to a beginner, as the heading of your letter was the Law School. I have now your article before me and have nearly finished reading it and perceive that I am addressing a scholar who already knows so much that he probably smiles at elementary counsels. I trust that you will take my ignorance in good part.”

Wu, *Beyond East and West*, *supra* note 8, at 88-89.

his other professors. Their appreciation and praise never diminished even with his absence from their lives.³³

Eighty years have passed and there has been no trace of John Wu for more than twenty years. However, when I arrived at the same Law School where he lived and studied, I could still feel his presence. His outstanding academic record, his rich and varied career as a person of the law; his life experience straddling religion and the law; and his knowledge and influence that encompassed both East and West, enabled him to be a famous alumnus of the Law School. To this day, the impression he left at, and the praise he won from, the Law School cannot be ignored.

While at the University of Michigan Bentley Historical Library looking through the John C.H. Wu archive, I found only several cards and a few reports on his translation of the Bible and other religious activities; however, in the Law School registrar's archives I found his academic transcript. And in the Law School Library, all of John Wu's writings in English and Chinese are available, as are the issues of the "China Law Review" bearing the imprint of his name as a contributor or advisor. One might say that being able to find his archive at the Historical Library and his academic record at the Law School indicates nothing other than that the University of Michigan archives and academic records are well-kept and complete. But, in fact, there are only a few files in the Historical Library on other graduates from more than eighty years ago, and it is impossible to find the academic records of all graduates of that time. Or one might say that being able to review John Wu's writings and the issues of the "China Law Review" he worked on in the Law Library indicates nothing more than the richness of the Library's collection, or that the connection between Republican-era Soochow Law School and the Michigan Law School was a close one (in fact, this close connection is perhaps better credited to William Blume).³⁴ Yet, the Law Library does not have a similar collection of materials on authors from the same time, or [Chinese] scholars of far more impact than John Wu (including those who studied at Michigan).

Soon after the death of John Wu in 1986, the Michigan Law School "Law Quadrangle Notes" carried a special report on his passing. The Spring 1986 issue's "Alumni—In Memoriam" section carried the news of John C.H. Wu's February 1986 death in Taiwan, calling him "a distinguished scholar, statesman, philosopher, and leading cultural figure,"³⁵ with several photographs of John Wu in his later years. In the next year, the Spring issue of the same magazine reproduced some of his correspondence with Justice Holmes, also

33. In a May 26, 1924, letter by Dean Bates to then Harvard Law School Dean Pound, Bates specifically alluded to John Wu, praising him by saying "He has extraordinary ability." Pound, in his June 2, 1924, reply, added even more praise, complimenting Wu by saying "he showed real capacity in everything he did, and I believe has a brilliant future."

34. Michigan Law School graduate William W. Blume who between 1921 and 1927 served as the second Director of Soochow Law School, and afterwards returned to Michigan Law School as a professor.

35. Law Quadrangle Notes 24, Spring 1986, The University of Michigan Law School.

attaching photos of the two (with a photo of John Wu from his student days at Michigan Law School), and setting forth a list of John Wu's major English language works.

Even today, the name "John Wu" is often heard at the Michigan Law School. Among those at the Law School with even a slight interest in early modern (1911-49) Chinese law, or those with an understanding of the historical relationship between Michigan Law School and early Soochow University, there is not one who does not know of this outstanding alumnus. For example, former Dean and Professor St. Antoine, Assistant Dean Virginia B. Gordan, and Law Library Director Margaret Leary all know of John Wu; and my host professor, well-known Chinese law scholar Nicholas Howson, often invoked John Wu's name to encourage me.

If the foregoing is not complete, then let me translate a part of the Law School's "Chinese Legal Studies" webpage to evidence this:

"The University of Michigan Law School has perhaps the richest history of any U.S. Law School in interactions with China: ... In the 100 years between 1859 and 1959, more of Michigan Law School's foreign students came from China than any other country in the world. One of the best known was John C.H. Wu (Wu Jingxiong)—principal drafter of China's 1946 Constitution and the Chinese side of a famed correspondence with Oliver Wendell Holmes—who came to Michigan Law School as part of the exchange with Soochow Dongwu Comparative Law School....³⁶

Only someone with the natural genius and open heart of John Wu could leave such deep traces, with such a long-standing impression. He truly can be seen as a successful person who achieved his youthful ambitions. Whether or not the law is sufficient to comfort the soul,³⁷ seeing law as his idol,³⁸ and having a successful experience that has not been matched for

36. See <<http://www.law.umich.edu/centersandprograms/chineselegalstudies/Pages/default.aspx>> (last visited Feb. 3, 2009).

37. Chapter 3 of Xu Zhangrun's *Wisdom of the Legal Scholar* (Beijing, 2004) entitled "When the Law is Not Sufficient to Comfort the Soul."

38. Translator's note: One chapter of John C.H. Wu's biography is entitled "Law is My Idol." See Wu, *Between East and West*, *supra* note 8, at 107-32. The phrase alludes to Wu's notion of judicial independence in opposition to very serious pressure brought to bear on him, as a sitting justice, when China's Treaty Ports (and the Shanghai Settlement) were still under the (foreign powers-imposed) "extraterritoriality" regime. In his autobiography, he describes the phrase's origins as follows:

In the summer of 1929, I tried the famous "Roulette Case" which stirred the whole population of Shanghai.... I will only reproduce an editorial from the British paper, the *North China Daily News*, on one of my remarks during the proceedings. The attorney for the defense, Dr. Fischer, had said that if I should be too severe with the foreigners, it would delay or impede rendition of extraterritoriality. This argument sounded a bit too political to my judicial ears. My answer is embodied in the editorial: "JUDGE JOHN WU ON LAW THE IDOL ... [O]ne cannot ignore a remark of Judge John Wu,... Commenting upon certain remarks of Dr. Fischer, Judge Wu said: 'However, the facts you have outlined in your application may be taken into consideration as

such a long period—this kind of life is certainly enough to fill us with respect and admiration.

To this point, I have written a good deal, but have no confidence that I have fully or clearly portrayed many different facets of John C.H. Wu's year of study abroad at the Michigan Law School. I have moved innumerable times through the streets and small lanes of the little city of Ann Arbor bearing John Wu's footsteps, and I even found two of the places where he lived. Perhaps I have unknowingly flipped through books in the Law Library that he himself opened. I have also been to two of the places he visited for shorter periods, the campuses of Northwestern University and Harvard University. In the course of my own return to China, I even made sure to visit the University of Hawaii where he taught. I did all of this because of my incomparable respect for him, and how this fired my strong ambition to try to understand his scholarly career. However, because we are so far apart in time, and most importantly because my own scholarly abilities and understanding are deficient, it does not matter how much energy I put into the task, I may not find a way to truly describe this particular "John Wu" at the Michigan Law School. Given his important life experience, and the full breadth of his scholarship, with even more words I would not be able to address adequately other more profound theoretical questions related to his life. And so the best strategy for me is to conclude here.

[Editor: Shi Zhou]

mitigating circumstances when the second charge is tried, but in my opinion your arguments, political arguments, if I may say so, are neither appropriate nor relevant. Law is the only idol of this court, not the rendition or abolition of extraterritoriality. I would rather do justice and by doing so constitute an obstacle to the rendition or abolition of extraterritoriality than perpetrate a miscarriage of justice which might expedite or favor the abolition of extraterritoriality.”

Wu, *Between East and West*, *supra* note 8, at 118-19.