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LETTERS TO A LAW STUDENT

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剑桥法学教授写给法学院学生的32封信 (第3版)

[英] Nicholas J. McBride with Jason N. E. Varuhas

著名法学家江平教授、许章润教授联袂推荐!



华中科技大学出版社

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藏书章

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(按姓氏笔画为序)

方流芳 刘春田 张 军 郭寿康

*To the magical
Isabel, Ines and Luca
I miss you very much, dear friends;
you are my joy and my crown
(Phil. 4:1)*



导读

由英国 PEARSON 出版社授权华中科技大学出版社出版的培生法律课堂之《剑桥法学教授写给法学院学生的 32 封信》一书已经与读者见面了。本书主要为希望成为法学院的学生以及已经进入法学院的学生们详细介绍了有关法学学习的林林总总。是一本非常适合中国法学院学生系统地了解与学习法律内容的经典读物。

《剑桥大学法学院教授致法学院学生的 32 封信》一书以书信这种富有趣味性的阅读方式，以本书虚构的学生艾利克斯为范例，从为什么要选择法学这门学科作为大学的专业讲起，一直贯穿了其入学申请至毕业职业规划的整个过程。在这其中，作者为这个虚构的人物详细地讲解了选择法学作为专业的重要性以及意义，同时在学习法学的全部过程中，为其介绍了林林总总的知识，例如：申请的准备，面试的技巧，论文写作的要领，复习的方法，未来的职业选择等内容。通过此书的阅读，不仅可以为还在头疼于如何选择专业的同学提供有效的参考信息，同时也为业已成为一名法学院的学生后如何学习法学提供了大量的学习建议。不仅如此，本书在写作风格上，打破以往大家对于法学类读物很是枯燥无味的印象，作者以生动的语言将那些晦涩甚至是令人生畏的法学知识转化为生动而令人感到有启发性的经验性话语，有助于读者们了解法学学习的真谛。

同时，作为《剑桥法学教授写给法学院学生的 32 封信》一书的编者，我认为本书最大的亮点不仅是书信的这种新颖的编写方式，同时为了减轻和更加便于读者的阅读，编者将每一封信的开头和结尾部分翻译成中文，希望以此帮助读者们更好地理解书中所述的内容。再有，本书另一亮点为，书中为大家提供了大量的法学知识方面的参考资料和资源索引（详见附录），以帮助读者们更好地领略到法学这门学科的魅力所在。

PREFACE

出版者希望采用该系列教材的广大读者们，喜欢我们的影印改编方式，并从中受益，也期待着大家对此出宝贵意见！

王梓



Preface

This book has been written for anyone who is doing, or thinking about doing, a law degree at university. The book comprises a series of letters to a law student, Alex. The first letter is sent to Alex while Alex is doing A-Levels and thinking about doing a law degree at university. The final letter finds Alex just about to graduate from university, having done a law degree. The thirty letters in between track Alex's progress from school to university, giving advice to Alex on various issues such as how to study law, how to write legal essays, and how to revise for exams.

Alex does not exist, and no one who is thinking about studying law or actually studying law will share all of the concerns that prompt the letters to Alex set out in this book. Some letters will be of more relevance to you than others. If you are considering studying law at university then you should read chapters 1–6, 10, and 24 to get a feel for what law is about and what sort of skills studying law will require you to have and develop; and chapters 11–12, and 14 to get more of a sense of what studying law is like. If you have made up your mind to study law at university, and are in the process of making applications to study law, then chapters 1–6 would still be useful as reinforcing and deepening your choice to study law, and chapters 7–10 will be highly relevant to you. If you have been accepted to study law at university, then you should still read chapters 1–2 and 4–6 to help you get ready for the experience of studying law; you should also read chapters 10–23 before you go to university, chapters 24–25 and 27–28 in your first few days at university; and chapters 26, 29–32 as required.

One of the themes of this book is that to remember information, it is not enough to read it; you have to use it as well. Anyone who reads letters 12–30 just the once is likely to forget quite quickly what they have to say about how to study law and how to write well as a lawyer, and as a result their studies and their legal writing will not benefit at all from the advice contained in

those letters. Aim instead to re-read constantly letters 14–16, 19, 23, 25 and 27 in the early stages of your legal studies, to ensure that you are putting the lessons of those letters into practice. If you do this, you'll soon find that you'll never have to read those letters again to remember what they say; the habits of study and writing that they seek to inculcate will have become completely natural to you.

Because Alex doesn't exist, it was necessary to give Alex an identity – to make certain assumptions about Alex. I've assumed that Alex is doing a normal three-year law degree. So Alex is not doing a mixed law degree, such as a degree in Law & Politics or Law & Criminology; and Alex is not doing a degree that involves going somewhere on the Continent for one or two years to find out what the law says over there. I've also assumed that Alex is studying law at an English or Welsh university, and not a university in Northern Ireland or Scotland.

The third edition of this book was written against the background of an admissions round at Cambridge where a number of colleges – including mine – that had plenty of applicants for law found themselves unable to fill the number of places they had to offer those applicants. The problem, it seems to me, is that we live in a society that does very little to help students leave school with the sort of skills that would make them naturally suited to studying law at university. It seems to me that there are nowadays fewer and fewer students who leave school equipped with the abilities to argue properly, to think rigorously, and express themselves persuasively – precisely the sort of skills that law students need to have in order to perform well as law students. For anyone who is concerned for the future health of our country, this is profoundly worrying. I am, of course, not arguing that what the country needs is more law students, or more lawyers – that is certainly not the case. But we will face a very bleak future if we do not equip many more people with the kinds of skills that studying law encourages students to develop and which we look for, and too often fail to discover even in rudimentary form, in those applying to study law at university.

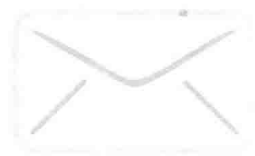
I hope the third edition of *Letters to a Law Student* will help make some small contribution to reversing this decline in our country's intellectual capital – at least among students who are thinking of studying law, and those who are actually studying law.

There are only a handful of books in this world that are incapable of being improved and this book is definitely not one of them. Students or teachers who have read this book and have constructive suggestions as to how it might be changed for the better shouldn't hesitate to get in touch with me at njm33@cam.ac.uk. I would very much welcome hearing from you.

— Nick Barnes

Pembroke College, Cambridge

18 March 2013



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My family – my mother and my brothers Chris, Ben and Damian.

My best friend Isabel; her adorable son Luca; and her amazing daughter Ines – the little master from whom I have learned so very much.

Pearson Education, who publish this book and my textbook on tort law (co-authored with Roderick Bagshaw); Owen Knight, the commissioning editor who worked on this book; Priyadharshini Dhanagopal who oversaw production of this book; Anne Henwood who efficiently copy-edited the book; and Kelly Miller who produced the book's cover.

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The Law Faculty at Hong Kong University, which employs me to teach an introductory course on studying law and helped stimulate a number of the new chapters in this edition.

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My little girl, and my wonderful father.



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What Is Law?

- From: Nicholas J. McBride [dearnick@pearson.com]
 - To: Brown, Alex
 - Subject: What Is Law?
-

亲爱的艾利克斯：

感谢你的来信。你的问题——为什么我应该在大学中学习法学？——是一个很庞大的问题，它值得用一封信来解答而不是写在邮件中的一个简单的答复。因此，对于这个问题我认为其讨论的意义和对其简单地回应是：人们应该攻读法学学位的原因在于，法学是一门趣味十足、极其重要以及具有教育意义的学科。但这并不意味着你一定要学习这门学科。法学并不适合于每一个人。但是作为一门学科去学习，我个人认为很难可以再找到一门比法学更加令人感到着迷、重要以及极具变化性的学科了。因此，这就是我对为什么要学习法学的一个简单的答复。不过，我仍旧会用两封信的内容，仔细地为你解读选择这门学科的原因。为了能够使你了解法学学习的重要性，首先，你需要去做的是了解什么是法学。这个问题我将在这一封信当中为你阐释。并会在下一封信中，向你解释为什么要在大学选择学习法学这门学科，这是你需要认真考虑的事情。

○ Law as a conversation

The question of ‘What is law?’ is one that continues to vex philosophers. But we might be able to make the concept of law more understandable through the following analogy. Suppose that you and I and a whole bunch of other people decide that we are going to go on holiday together. We all like each other, and we like spending time with each other, and a holiday is a great opportunity to do more of that. So – we’re going on holiday, but we still have