

James Rogers Retirement, 14 December 2016

Founders Professor Mary Bilder

My remarks today are made with delight and sadness. Delight for Jim that he has reached this date of retirement in precisely the careful manner that he planned several years ago – and sadness for the law school, and particularly for me, in saying farewell to such an esteemed and wonderful colleague.

When historians want to know what the ideals of a profession were, they look to speeches and comments made on occasions such as retirements. Communities often use these occasions as ways to remind themselves about their aspirations, about what they think the very best would look like. James Steven Rogers – Jim to us—has been the epitome of the law professor.

Jim came to the law school in 1980. He was a graduate of the University of Pennsylvania and Harvard Law School. He received the Fay diploma, to the highest GPA in the class. He had clerked for Bailey Aldrich on the First Circuit and then worked for several years at Sullivan and Worcester.

At BC Law, despite teaching corporations and con law on occasion, he came to center his work on commercial law. He early on wrote a quite extraordinary article in the *Harvard Law Review* on takings and bankruptcy, which boldly declared that a statement by Justice Brandeis seen as a truism “was in fact false.” The article showed Jim’s reluctance to accept truisms simply because everyone accepted them. Jim went on to rethink various myths and truisms in articles published in major law reviews.

Jim’s consistent interest in refusing to accept things on faith and his determination to think things through appeared also in his magnificent work *The Early History of Bills and Notes*. Jim explained that he had “come to believe that the basic conceptual structure of twentieth-century law was itself a relic of the past and fundamentally ill-suited even to the paper-based cheque system.” In 1995, Jim foresaw the end of the world in which electronic media replaced paper as the basis

of negotiable instrument law. To solve the problems of the future of commercial law, he looked to the past.

He worried about criticism of dilettantism but he should have had no fear. His book was received as an extraordinary work of legal history—and one that has helped to reinvigorate scholarly interest in the history of money, payment systems, and commercial law – in short in the underpinnings of the modern commercial economy – with a focus on commercial practice – that is how lawyers and merchants had actually operated – rather than how the things had been written down in books. Indeed, if Jim’s work could be summed up in one insight, it is that just because something appears in a law book, doesn’t mean that anything actually worked that way or should work that way.

Jim’s important contributions to commercial law were not limited to the past. He was the Reporter for the UCC Article 8 revision and then the US Delegate to the Hague Conference on international securities issues. He brought these strands together in his recent book, *The End of Negotiable Instruments: Bringing Payment Systems Law Out of the Past*. Here again, Jim hammered home his belief that old law was needlessly and harmfully limiting payment systems.

Jim brought these same convictions to teaching. He was always prepared – and continually modernizing his class to keep up with new generations of students. He was not happy with traditional contracts materials and so created his own. Katie Young and he are publishing the materials as a casebook with Foundation Press. She notes that they are a pleasure to read and teach with – Jim chose the best stories, often classic cases, to demonstrate precision in language and common law legal argument and reasoning.

Everyone knows it is contracts teaching day when Jim sports his contracts tie collection – a carefully curated collection of ties that I have urged him to donate to the rare book room. Students love his class and several shared with me what they

adored about him as a professor. He taught them to be precise in their language and understand the problems of ambiguity. He insisted on the facts as “Who Sued Whom for What.” They recounted in an enormous detail (including sending photographs) of Jim’s teaching the Frigalment case in which the issue involved the meaning of “chicken”—Jim showed photos of roasted chickens, live chickens, brought in several different stuffed animal chickens and even wore his chicken tie. He turned a topic expected to be dull into something entertaining and relevant.

Jim’s hard-work and precision has been essential to the operation of the law school over the last three and a half decades. Jim has long been the only person who remembers what the rules and practices are – and his interpretation of the rules and his restating of rules have solved many a faculty dilemma and shorted many a faculty meeting. Some of Jim’s interpretations have become famous – for example, his great oration on the grading curve and his suggestion we switch to the L, M, N, O, P approach to grades; his interpretation of the boomerang rule; and his effort to bring some consistency to tenure and promotion.

Jim served as associate dean and interim dean – and led the law school successfully through significant challenges. Perhaps one of the most important was Jim’s administrative leadership in opposition to the Solomon Amendment, for which he won the National Lesbian and Gay Law Association’s “Allies for Justice Award.” Behind the scenes, Jim worked to promote so many of us as young scholars – and celebrated when we got tenure by bringing by his traditional bottle of champagne.

Jim has also been a long-time co-convener of the Legal History Roundtable. For nearly fifteen years, he – along with Frank and Dan—have helped host an extraordinary group of scholars who have come to BC. For paper after paper – and dinner after dinner – Jim was always there with a thoughtful question or funny anecdote. Jim took over the scheduling and convening for a number of years and ran the program far more smoothly and efficiently than I ever had.

And Jim has been a constant present in the cafeteria at our lunch table. While the rest of us ate whatever food the cafeteria offered, Jim brought the most delicious food from home – usually a delicious soup or cookies that he gave full credit to Dorothy.

Dorothy and Emma were never far from Jim's mind. They were the most important people in his life. I think one of the things Jim loved about his family was that they were the source of a certain unexpected spontaneity. Even Jim's analytical brilliance could not prevent the one horse he had bought for Emma suddenly resulting in Jim owning two horses, after the horse spent a long winter boarded in proximity to a stallion. Jim was enormously proud of Emma – and we all took pleasure in her journey from dancing Clara in the Nutcracker to becoming a veterinarian in Vermont -- and now the mother of the much beloved Eleanor.

Several years ago, Jim shared with us that he decided to retire at the end of 2016. Like everything Jim did, Jim approached retirement with a plan. He and Dorothy had vacationed in Italy and had fallen in love with the country. Dorothy had picked up Italian quite quickly. Jim, not so much. And so, he started attending Italian classes on main campus and then attending Italian language school in Italy. Jim's Italian has gotten so good that I have had now to resort completely to Google translate to read his emails.

I know that Jim will enjoy spending time with Dorothy, taking care of Eleanor and watching her grow, working on his woodworking, and getting to stay in Maine over the summer instead of driving back every week for faculty workshops – but his presence will be missed by so many, perhaps me most of all.

Mille auguri per la tua nuova vita