

THE UNIVERSITY OF CHICAGO LAW REVIEW

VOLUME 16

SUMMER 1949

NUMBER 4

APPRECIATIONS

I

GEORGE GLEASON BOGERT, after four years of practice at the New York Bar and a teaching career at Cornell University Law School that had led to his appointment in 1921 as Dean of that school, joined the faculty of the University of Chicago Law School in October 1925. For almost a quarter of a century he has lived and worked with the School as one of the outstanding members of the faculty, recognized as such both within and without the law school world. This year he becomes Emeritus.

There are various aspects from which may be judged the value of the services and contributions of the person who takes for his vocation what may be loosely designated as the teaching branch of the legal profession. "Loosely designated" because one who enters upon it soon recognizes that it is a Protean calling. The aspect most obvious is that of instruction by the direct method of the classroom and personal conferences; the critical examination and exposition in print of one or more phases of the law in greater fullness than the classroom will permit is another; the correlating of law with other elements in our social and economic structure is another; work for the rectification of socially undesirable or inconsistent elements in the legal system is another. It is hardly necessary to observe that these fields are neither exhaustive nor mutually exclusive. The classifications may, however, serve as a sufficient basis for this brief examination of the career of the one to whom this number of the Law Review is dedicated.

The success of an instructor in the classroom may be measured by various criteria. In the long run the most valid one seems to me to be how much the intelligent student feels that he "got out" of the course. Two of the main elements underlying his judgment in this regard will be the extent to which his analytical abilities were stimulated or how much he was

made to think like a lawyer, and how great was his confidence in the definiteness and extent of the instructor's command of the subject matter with which he was dealing. One of the outstanding characteristics of Professor Bogert is the untiring thoroughness with which he attacks any subject. Manifest in his exhaustive work on Trusts, it is no less so in his immediate command of the material as a background to his classroom work. One former student expressed it by saying, "If Professor Bogert said that it was so, you never had any doubt about it." The corollary to this extensive knowledge of his subject is a fund of cases "not in the book" from which a selection at the conclusion of a general discussion or at a deadlock in argument would keep the interest of the class at the peak. With this completeness of grasp of the subject on his part has come an expectation of cooperation and alertness on the part of the student. Kindly of heart though Professor Bogert is, he does not suffer fools gladly, and the unlucky wight who attempts to substitute talk for understanding has short shrift. Yet, equally emphasized by his students is his patience outside the classroom in devoting whatever amount of time may be necessary for the clearing up of matters that the classroom discussion has left obscure. With this background and attitude, it is not surprising that the high grades in his courses are sparingly bestowed and thoroughly earned.

It is a commonplace today in legal instruction to recognize and, with varying degrees of emphasis, to insist on a consideration of and a correlation with other related aspects of the subject matter of the course. There are usually numerous possibilities of such affiliation. All through the many years of Professor Bogert's life as a teacher, he has sought to vivify for the students the problems with which they were dealing. The supreme court case, the decision of which they are studying, was once a trial court case; before that it was a transaction, commercial, familial, or otherwise, and that is where the source of the litigation is to be found. In emphasizing the desirability of bringing home to the potential lawyer the arrangement problems that permeate everyday dealings between individuals and the various devices that have been adopted to cope with these problems, Professor Bogert both by his classroom work and in his publications has been one of the pioneers in a technique that has become progressively more common. A good illustration of his method is given in the seminar in Consumer's Credit which he gives from time to time. The seekers of credit may be purchasers of anything from a radio to a railroad. Professor Bogert introduces to his seminar representatives from household finance companies, auto dealers, and banks to discuss the difficulties of their respective strata of credit financing, and their devices for meeting those difficulties.

The subject of Trusts of course presents many problems and opportunities in which he has employed similar methods.

The strong desire of Professor Bogert to tie "law in books" to "law in action" that has just been mentioned has led him inevitably to take a vigorous part in activities devoted to legislative changes where the common-law doctrines were too definitely fixed for change by judicial action, or where previous legislation was no longer adequate. His work as a member of the Commission on Uniform State Laws, first from New York and then from Illinois, which first began in 1920, and more particularly his work in the drafting of the Uniform Conditional Sales Act, are instances of his efforts in this aspect of the profession. As to his writing, *res ipsa loquitur*, it ranges in subject matter from the masterly and perennially renewed treatise on Trusts to magazine articles dealing for the most part with one or another of the multifarious problems of trusts and business relations. These contributions to the law began in 1911 and are still continuing. They all have a careful exposition of the law on the subject so far as it has taken definite form. They also have an ever present consideration of the extent to which the Law harmonizes with business practice; they evaluate the effectiveness of the current legal devices, and, when the need exists, they consider the possibility and method of remedying the situation. The treatises on trusts as well as his other publications on a somewhat more limited scale exemplify another of his characteristics already referred to, namely, his untiring thoroughness in the work at hand.

Thus, during all of his professional career, Professor Bogert has had a well rounded life; his activities have been manifold and he has gained distinction in them all. In the council chamber of school policies, local or national, his approach has been that of thoughtful consideration. An educational policy is not necessarily good because it is well established; on the other hand that fact does not necessarily make it bad: this expresses, I think, his general point of view. His careful weighing of considerations, his forthrightness of expression of his position assure him always of attention irrespective of what may be the final solution of the problem at hand.

Of the man I have said nothing. To the many who know well the quiet voice, the acute observation and the dry humor behind it, any comment is superfluous. Judging him from either or both points of view, professional or human, we can only regret that time has made this inroad upon the faculty and, with the certainty that our wish will be fulfilled, wish him success in his next professional adventure.

HARRY A. BIGELOW*

* Dean Emeritus, University of Chicago Law School.

II

I have been a colleague of George Bogert for almost twenty years, but I remember clearly his encouragement and help in my first year at the Law School. We took weekly rides together on the bridle paths of the Midway and Washington Park. Riding and teaching were both new to me, and both seemed unduly hazardous. I needed his counsel, and I remember particularly his injunction that one should immediately remount if thrown by a horse—or by a class.

I am glad of the opportunity to add a few comments to the words of Dean Bigelow who speaks for all of us on the faculty. I want to mention Mr. Bogert's extraordinary power of oral exposition. I remember a state bar association meeting at which he explained one of the uniform acts in the field of trusts with a clarity and force and persuasiveness which I have not seen equalled.

Practitioners in the fields of his specialization do not always agree with the views he expresses with such independence and vigor. He is always listened to, however, for he adds balanced judgment to competent analysis and scholarship.

"Bogert on Trusts and Trustees"—how many of the lawyers who use it regularly realize the years of patient work which went into these volumes and the continuing effort which still keeps them up to date? The truth is that few of the present generation of law teachers are willing to undertake a task of these proportions. Comprehensive treatises are being left to the editorial staffs of law publishing firms while academic men are usually satisfied with occasional law review articles. To be sure the material in most fields has swollen to a formidable mass, and it takes unusual devotion and self-discipline to bring a large treatise to completion.

When a man of Professor Bogert's ability and vigor becomes Emeritus, it raises sharply the question of academic retirement policy. This may be a problem which defies satisfactory solution, but it is a curious system which enables the Hastings School of Law to reach national fame through the rigid policies of other schools. In his teaching at Hastings and in continuing his writing and consultative practice, Mr. Bogert will have the warm good wishes of faculty, students, and alumni of the University of Chicago.

WILBER G. KATZ*

* John P. Wilson Professor of Law and Dean, University of Chicago Law School.