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## Bill Jones: An Appreciation

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# BILL JONES: AN APPRECIATION

DONALD C. CLARKE\*

One of the most rewarding aspects of being an academic in the Chinese law field has been the pleasure of associating with Bill Jones. Not only has Bill enriched our understanding of everything from the criminal law of the Qing dynasty<sup>1</sup> to sales contracts in the People's Republic of China,<sup>2</sup> but he has shared generously with his friends and colleagues his fine appreciation of the ridiculous both inside and outside the field.

All who have benefited from Bill's work will no doubt have their own ideas as to his chief contributions. At the risk of slighting some areas, I shall highlight two here.

First, Bill is one of the few people writing in English on Chinese law who is familiar with the theory and practice of the civil law systems on which the Chinese legal system is modeled. This familiarity has given him an understanding unavailable to those of us trained only in the common law. Thus, when the Supreme People's Court issued its interpretation of the General Principles of Civil Law (the "Opinion"),<sup>3</sup> most commentators welcomed it as a further refining of the rather vague formulations of the General Principles, and thus as a step forward. Bill, on the other hand, recognized that the very idea of a document such as the Opinion, with its detailed instructions, was completely at odds with the principles of the civil law system upon which the General Principles were based. Bill concluded that the issuance of the Opinion was a symbol not of progress, but of the continued strength of entrenched ideas about how a legal system should operate in China.<sup>4</sup>

Second, Bill is noted for his skepticism about how much we can say with confidence about the Chinese legal system, given the pervasive secrecy and other obstacles to understanding that, while greatly reduced over the last decade and a half, remain considerable. While others were analyzing the new statutes of the post-Mao era as if the legal system of which they were a part

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1. William C. Jones, *Theft in the Qing Code*, 30 AM. J. COMP. L. 499 (1982).

2. William C. Jones, *An Approach to Chinese Law*, 4 REV. SOCIALIST L. 3 (1978).

3. Opinion (for Trial Use) of the Supreme People's Court on Questions Concerning the Implementation of the General Principles of Civil Law of the People's Republic of China, January 26, 1988, translated in DOMESTIC LAW REFORMS IN POST-MAO CHINA 109 (Pitman B. Potter ed. 1994).

4. William C. Jones, *The Significance of the Opinion of the Supreme People's Court for Civil Law in China*, in DOMESTIC LAW REFORMS IN POST-MAO CHINA 97 (Pitman B. Potter ed. 1994).

was essentially no different from that of France or Germany, it fell to Bill to remind us of the critical role played by behind-the-scenes actors and the fact that things are not always as they seem. He once observed, for example, that “[t]he constitution seems to bear no relation to the actual government of China.”<sup>5</sup> This statement is almost embarrassing in its directness. But we need such reminders because it is so tempting to ignore such facts. To acknowledge them might lead to uncomfortable questions from our colleagues—if the textual material we were trained in law school to work with is so irrelevant to the actual functioning of the Chinese legal system, what do we have to offer to the field that better-trained colleagues in sociology or political science do not? (Bill’s work is, for his own part, a sufficient rejoinder to the question.)

As this issue of the *Law Quarterly* shows, Bill’s friends and admirers are many, and through his personality as well as his scholarship, he has made the Chinese law community simply a much better place with him than without him. Bill’s retirement from active teaching will be a loss to the students who will not have the opportunity to be taught by him, but it will be a gain to the world of Chinese law scholarship. His retirement marks not the end, but the beginning of an even more productive period for him. I look forward to the results.

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5. William C. Jones, *The Constitution of the People’s Republic of China*, 63 WASH. U. L.Q. 707, 710 (1985). By a stroke of academic good fortune, the study of PRC law in this country began in the 1960s when little written material was available, and scholars were thus forced to use a wide variety of source materials, from interviews to *People’s Daily* editorials, where they might otherwise have confined their analysis to appellate opinions.