

University of Pennsylvania Carey Law School

## Penn Law: Legal Scholarship Repository

---

Faculty Scholarship at Penn Law

---

2010

### A Wise Man of the Law

Anthony J. Scirica

Follow this and additional works at: [https://scholarship.law.upenn.edu/faculty\\_scholarship](https://scholarship.law.upenn.edu/faculty_scholarship)



Part of the [Civil Procedure Commons](#), [Legal Biography Commons](#), [Legal Education Commons](#), [Legal Profession Commons](#), [Legal Writing and Research Commons](#), and the [Transnational Law Commons](#)

---

#### Repository Citation

Scirica, Anthony J., "A Wise Man of the Law" (2010). *Faculty Scholarship at Penn Law*. 1031.  
[https://scholarship.law.upenn.edu/faculty\\_scholarship/1031](https://scholarship.law.upenn.edu/faculty_scholarship/1031)

This Book Review is brought to you for free and open access by Penn Law: Legal Scholarship Repository. It has been accepted for inclusion in Faculty Scholarship at Penn Law by an authorized administrator of Penn Law: Legal Scholarship Repository. For more information, please contact [PennlawIR@law.upenn.edu](mailto:PennlawIR@law.upenn.edu).

---

## TRIBUTE

---

---

### A WISE MAN OF THE LAW

---

ANTHONY J. SCIRICA<sup>†</sup>

In *The Wise Men*, Walter Isaacson and Evan Thomas wrote about six extraordinary men who were instrumental in reshaping the post-World War II world.<sup>1</sup> These talented men—lawyers, diplomats, bankers—embraced the responsibility of public service during a period of turmoil and uncertainty. Their rich and varied experiences enabled them to understand and bridge different worlds, domestically and internationally. Although they took different approaches, their devotion to the public good was paramount, and they had a profound impact on the course of postwar history.

Few lawyers in the last half century have had a more profound impact on the state of the law than Geoff Hazard. And few have had the ability to bridge and connect the worlds of the academy, law practice, and the administration of justice. The commonweal has always been Geoff's polestar. He is one of the law's wise men.

Law professor at several great law schools, prolific scholar, author of textbooks, legendary teacher, mentor, rulemaker (of federal procedural rules and attorney-conduct rules), and former Director of the American Law Institute (ALI), Geoff continues to leave a huge imprint on the American and international legal systems.

---

<sup>†</sup> Chief Judge, United States Court of Appeals for the Third Circuit; Chair, Executive Committee of the Judicial Conference of the United States; Former Chair, Standing Committee on Rules of Practice and Procedure of the Judicial Conference of the United States.

<sup>1</sup> See WALTER ISAACSON & EVAN THOMAS, *THE WISE MEN: SIX FRIENDS AND THE WORLD THEY MADE* (1986). The men were Dean G. Acheson, Charles E. Bohlen, W. Averell Harriman, Robert A. Lovett, George F. Kennan, and John J. McCloy, Jr.

For fifteen years, Geoff was Director of the ALI. He was an exemplary leader—from recommending Restatement topics and selecting reporters to sagaciously guiding the projects to successful completion. He still serves on the ALI Council.

Working with Geoff on drafting a Restatement was a unique and rewarding experience. The first thing you realized was that Geoff knew the text, understanding its strengths and weaknesses. Then you realized his extraordinary ability as a lawyer, characterized by penetrating insights, historical references, and the ability to foresee consequences and craft wise resolutions. When drafting got stuck, Geoff always managed to move it forward by asking a question that unlocked the conundrum, by suggesting a new approach, or sometimes by deferring resolution for more thought. Whether direct or indirect, his orchestration was masterful.

The ALI/UNIDROIT Principles and Rules of Transnational Civil Procedure<sup>2</sup> was Geoff's creation—from conception to completion. The project took six years. Geoff first engaged as a collaborator Professor Michele Taruffo of the University of Pavia and then, believing that an international partner was necessary, brought in the International Institute for the Unification of Private Law (UNIDROIT). The Reporters for the project were Geoff, Professor Taruffo, Professor Rolf Stürner of the University of Freiberg, and Professor Antonio Gidi.<sup>3</sup>

There was some early skepticism that the project could be accomplished. Understanding those concerns, Geoff expertly navigated a course through the common law and civil law systems—their different philosophies and histories, cultures and traditions, constraints and expectations—to explore and define first principles and to find common ground. The result was a stunning achievement.

The value of the Transnational Principles and Rules lies in several areas. Over time, courts or legislatures may adopt some of the principles and rules for use in commercial disputes between citizens of different countries, or parties may agree to use them as a procedural mechanism for resolution outside the judicial system. The Transnational Principles and Rules may also cause nations to reexamine the foundations of their procedural laws and encourage transnational harmonization of civil procedure.

---

<sup>2</sup> For the final version, see *PRINCIPLES OF TRANSNATIONAL CIVIL PROCEDURE* (2006).

<sup>3</sup> *Id.* at xiii, xv.

As noted by Professor Lance Liebman, Geoff's successor as Director of the ALI, "regardless of the possibilities for official implementation, the project has already contributed, and will in the future contribute additionally, to worldwide consideration of efficient and fair procedures for resolving commercial disputes in the context of the vast expansion of transnational commerce that now drives the comparative study of law."<sup>4</sup> But something else was at work besides the possible harmonization of commercial law or dispute resolution. As noted by the project's Reporters,

In this era of globalization, the world is marching in two directions. One path is of separation and isolationism, with war and turmoil: In such a world, this project is useless and unwelcome. The other path is increasing exchange of products and ideas among the peoples of the world; this path underscores the need for a transnational civil procedure.<sup>5</sup>

The ALI has long been recognized worldwide as a uniquely valuable institution. Other countries considering whether to create a similar model have asked Geoff for advice and counsel. Within the last year Geoff has been sought out by legal institutions in the European Union and in Latin America.

Geoff's sage counsel has not been confined to the national and international stages. He is also an exemplary teacher. For more than a decade, Geoff and I have collaborated in teaching a seminar at the University of Pennsylvania Law School on advanced civil procedure. A few years ago, we had the good fortune to be joined by Professor Catherine Struve. The course focuses on mass claims, pleading, and discovery, although students have leeway to explore any aspect of civil procedure.

Each year, early on in the semester, the students awaken to Geoff's peerless tutelage and marvel at their incredible good fortune. Few teachers can match his vast knowledge, trenchant analysis, or the way he deftly places legal problems in historical context, plumbs underlying principles, and ties together the procedural and substantive law. He teaches students to understand the indeterminacy of law and how to work with it.

An apostle of rigorous thinking and clear exposition (as he would say, "describe the metes and bounds"), Geoff takes ample time to help students develop and refine their analytical skills. He is also a wonderful mentor to young law professors.

---

<sup>4</sup> PRINCIPLES AND RULES OF TRANSNATIONAL CIVIL PROCEDURE, at xix (Proposed Final Draft 2004).

<sup>5</sup> PRINCIPLES OF TRANSNATIONAL CIVIL PROCEDURE, at xxvii-xxviii (2006).

One of the country's notable scholars of civil procedure, Geoff is also a rulemaker. For several years, we served together on the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States. Commonly called the Standing Rules Committee, it is the parent committee of the five advisory rules committees—civil, criminal, appellate, bankruptcy, and evidence. All rules promulgated by the Supreme Court must first pass through the Standing Committee and the Judicial Conference.

In my more than a decade of experience on the rules committees, no member has made a greater contribution than Geoff. He still serves as a consultant. Sensitively bridging the worlds of academia and law practice, Geoff brings an unusually fresh and grounded perspective, always focused and uncannily wise.

He has observed and praised one of the unique features of American rulemaking: lawyers, academics, and judges all working together in the same room with as little self-interest as humanly possible, and working together in a public forum that invites comment and criticism. As Geoff has noted, each group brings an essential ingredient: the academics, new ideas and analytical rigor; the lawyers, superior knowledge and innovation; and the judges, responsibility for the institutions and the rule of law. This dynamic also animates the ALI, where lawyers, professors, and judges write the Restatements of the Law.

Recently, Geoff initiated a new law course, different from his customary classes on civil procedure, federal jurisdiction, and legal ethics: the Foundations of Western Moral Thought. Drawing heavily from the Bible, Plato, and Aristotle, the seminar moves to an exploration of St. Augustine, Maimonides, and beyond. The seminar is a natural outgrowth of a concentrated and profound course of study that Geoff commenced some years ago.

For decades, Geoff has been at the center of legal ethics scholarship and reform, developing and deliberating upon the rules of attorney and judicial conduct. He has made seminal contributions, largely through different committees of the American Bar Association, including the ABA Ethics 2000 Commission, which resulted in a comprehensive revision of the model rules, and also through the *Restatement (Third) of the Law Governing Lawyers*. The new ABA Model Rules of Professional Conduct were well received. But one of the lingering problems has been Rule 4.2, the no-contact provision prohibiting a lawyer from communicating with a person the lawyer knows is represented by another lawyer in the matter. Besides its intrinsic dif-

faculties, it is an area in which Congress has also intervened.<sup>6</sup> Geoff has worked assiduously to untangle the knots, most recently in a comprehensive article with Professor Dana Remus Irwin entitled *Toward a Revised 4.2 No-Contact Rule*.<sup>7</sup>

Given Geoff's wide-ranging and profoundly productive career as a scholar, teacher, rulemaker, and institutional leader, his contribution to the law is impossible to quantify. He has directly enriched it through his writings and has underwritten its future development through his teaching, mentorship, and institution building.

---

<sup>6</sup> See 28 U.S.C. § 530B (2006) (setting ethical standards for government attorneys).

<sup>7</sup> Geoffrey C. Hazard, Jr. & Dana Remus Irwin, *Toward a Revised 4.2 No-Contact Rule*, 60 HASTINGS L.J. 797 (2009).