



2005

A Tribute to Frederic L. Kirgis

Joan M. Shaughnessy

Washington and Lee University School of Law, shaughnessyj@wlu.edu

Follow this and additional works at: <https://scholarlycommons.law.wlu.edu/wlufac>



Part of the [Legal Biography Commons](#)

Recommended Citation

Joan M. Shaughnessy, *A Tribute to Frederic L. Kirgis*, 62 Wash. & Lee L. Rev. 856 (2005).

This Tribute is brought to you for free and open access by the Faculty Scholarship at Washington and Lee University School of Law Scholarly Commons. It has been accepted for inclusion in Scholarly Articles by an authorized administrator of Washington and Lee University School of Law Scholarly Commons. For more information, please contact christensena@wlu.edu.

indicate and confirm that Rick was indeed very astute in observing as early as 1995 that new phenomena were emerging.

Another example of Rick Kirgis's foresight about developments in international law is his analysis of the treatment of a material breach of a treaty under the VCLT, one of the most puzzling phenomena in international law. His 1989 articles about the unclear relationship between material breach and other provisions of the VCLT emphasized a "hazily-defined relationship between the treaty law of material breach and the more general law of state responsibility."⁵¹ In 2001, the International Law Commission's Articles on State Responsibility confirmed this statement, although the relationship remains as opaque as ever.⁵²

Rick's innovative and visionary scholarship, only a sample of which is described in this tribute, has provided fertile soil for many subsequent academic writings and inspired many international lawyers, including myself.

Joan M. Shaughnessy*

When I joined the Washington and Lee law faculty in 1983, I was fortunate to be surrounded by an extraordinary group of senior colleagues, people of fine minds and generous spirits. They were led by Rick Kirgis, whose five years as dean coincided with my first years as a law teacher. Rick's predecessor as dean, Roy Steinheimer, was (and is) a larger-than-life figure. His fourteen years as dean led to a host of colorful stories about his tenure. From his colorful sports jackets to his love of flying a private plane on University business, Roy Steinheimer provided many vivid cues for those who sought to pay him tribute.⁵³

Rick is a very different person. His sport coats are in quiet shades of browns and blues, and although he served three years in the United States Air Force as a Judge Advocate General, I never knew him to pilot a plane as dean. The facts that he is a longtime Cubs fan and that his favorite lunch is a peanut

51. Frederic L. Kirgis, *Some Lingering Questions about Article 60 of the Vienna Convention on the Law of Treaties*, 22 CORNELL INT'L L.J. 549, 572 (1989).

52. See generally INT'L LAW COMM'N, UNITED NATIONS, THE INTERNATIONAL LAW COMMISSION'S ARTICLES ON STATE RESPONSIBILITY (James Crawford ed., 2002).

* Professor of Law, Washington and Lee University School of Law.

53. See generally Robert E.R. Huntley et al., *A Tribute to Roy Steinheimer*, 40 WASH. & LEE L. REV. 1 (1983).

butter and jelly sandwich may give the reader some sense of Rick's character, but they do not capture the qualities that made him such a magnificent dean and senior colleague.

Unlike his predecessor, Rick assumed the deanship from the ranks of our faculty. Perhaps as a result of that beginning, the hallmark of Rick's deanship was a genuine spirit of collaboration. In Roy's era, the dean made many important decisions on his own. Rick's style was different. The dean and the faculty worked together to administer the law school and to plan for its future. We met as a group every other week or so during the term to decide questions about faculty appointments, student life, curriculum, admissions, and a host of other matters. The sense of teamwork that prevailed during Rick's deanship cemented the deep loyalty and commitment so many of my senior colleagues have shown to Washington and Lee. It also created an atmosphere in which junior faculty were trusted members of the team from the outset. I could not have asked for a better dean to guide my early years as a law teacher.

In reflecting on Rick and remembering the years of his deanship, I kept coming back to an author I first encountered in those years. In his work on legal ethics,⁵⁴ Tom Shaffer, then of our faculty, returned again and again to Shirley Letwin's study, *The Gentleman in Trollope*.⁵⁵ In that work, Letwin attempted to capture the moral qualities that define a gentleman. The description which Letwin gives of the gentleman's world captures something of the vision that, I believe, animated Rick's deanship:

Nothing stands still but there is no sign of chaos. Order rests on proportion, harmony and continuity, not uniformity or changelessness. Men are not bound together by domination or submission but by affections, habits, duties and aspirations, as well as friendship, love, loyalty, obedience, respect and admiration. They can alter and remain consistent. They can be amiable without being dishonest. Deference is no bar to independence nor respectability to originality. Firmness does not exclude sensitivity and moral clarity is one with compassion.⁵⁶

We are very fortunate to have had a leader who set an example of duty and aspiration and who bound us together through friendship and respect (obedience is perhaps too much to expect of a law faculty, even at its most harmonious).

54. See THOMAS L. SHAFFER, *AMERICAN LEGAL ETHICS: TEXT, READINGS AND DISCUSSION TOPICS 54-57, 407-12, 502* (1985) (referencing Shirley Letwin's work).

55. SHIRLEY LETWIN, *THE GENTLEMAN IN TROLLOPE: INDIVIDUALITY AND MORAL CONDUCT* (1982).

56. *Id.* at 268.

Of course, Rick's career included many years spent as a faculty member and a leading scholar of international law. It strikes me that Letwin's description of the gentleman's world helps describe Rick's scholarly work as well as his administrative work. Rick's extensive studies of the United Nations and other international organizations, together with his leadership role in the American Society of International Law, represent a sustained effort to move the world a bit closer to a one where people and nations are not bound together by domination or submission but by mutual respect. As one would expect, Rick's work is that of a gentleman scholar—tempered and balanced, revealing a keen awareness of the legal complexities under discussion. Rick's scholarship achieves its aims not through sweeping rhetorical pronouncements but rather through thorough investigation and informed analysis. His sustained attention to the legal structure and operation of international organizations is itself a mark of respect for them and for the international legal order. Washington and Lee is grateful for what Rick has brought to this law school and proud of what he has contributed to the field of international law.

Brian C. Murchison*

Rick Kirgis—scholar, teacher, dean, mentor—embodies the highest values of the legal academy. It has been an honor to observe, work with, and learn from this gentle, extraordinary man for over twenty years at Washington and Lee.

The first of the values I associate with Rick is selfless commitment—to the varied persons who walk the hallways of Washington and Lee, labor in its offices and libraries, and fill its classrooms. Put simply, Rick's door has always been open. When he was director of the school's research arm, the Frances Lewis Law Center, I could always ask him to comment on drafts or help me think through an impasse; when he was Dean, I frequently sought his wisdom and advice on the host of matters that trouble a young professor; when he returned to a regular faculty position, I continued to tap on his door with concerns small and large. Never once did he plead lack of time or shrug me off. His students have always said the same, whether they were beginners with questions about Contracts or upper-level veterans puzzling through the labyrinths of International Law or Conflicts. Rick saw this institution as a

* Charles S. Rowe Professor of Law, Washington and Lee University School of Law.