

DIPLOMATIC CONFERENCE ON WILLS

Washington, D.C. October 16-26, 1973

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ADDRESS BY AMBASSADOR RICHARD D. KEARNEY
UPON HIS ELECTION AS CHAIRMAN OF THE
DIPLOMATIC CONFERENCE ON WILLS
OCTOBER 16, 1973

As this is the first diplomatic conference in the field of private international law to be held by the Government of the United States, you have paid me particular honor and a sincere compliment in choosing me to preside over your meetings. I will do all that is within my power to justify your confidence and to bring this conference to a successful conclusion.

To achieve this result in the short space of time that is allotted for our conference it is necessary that we work together in a spirit not only of cooperation but of determination to overcome those obstacles that make all efforts to establish uniformity of law through international agreement such a difficult process. The differences among the major legal systems of the world, the internal differences within each of those legal systems, the natural preference to prefer the legal procedures to which one is accustomed, the absence of corresponding legal concepts in varying juridical orders all oppose international efforts to bring about uniformity. These complications have been the shoals upon which a number of prior efforts to simplify transnational law have foundered.

If we are to avoid these dangers cooperation must be accompanied by a high level of intellectual and professional competence. On the basis of the delegation lists as we have received them this requirement of a high level of competence has been met by the attorneys selected to represent their governments at this conference. Accordingly we can look forward with confidence to the completion by October 26th of a convention and a uniform law on wills that will greatly simplify procedures regarding estates of decedents who have left assets in two or more States.

The draft convention and uniform law which will be the basis for our work during the next two weeks have been prepared under the aegis of the International Institute for the Unification of Private Law, known familiarly as UNIDROIT. The Institute, with its long career, has produced a series of important and far-reaching draft conventions and uniform laws. We cannot pretend that our present subject possesses either the complexity or scope of such projects as the uniform law on international sales transactions or certain of the treaties in the field of transportation. Nevertheless, the drafts which are before us represent a most practical and most useful contribution by UNIDROIT to the simplification of legal procedures. In addition they are a recognition by UNIDROIT of one of the greatest changes in the world of the 1970s from, let us say, the pre-World War II world. That change is an enormous shift

from a life for almost all people that was lived entirely in one place to a life where movement between two or more places of living has become almost habitual. It would be possible to state that man, having gained the ability to fly, is now adopting the pattern of migratory birds.

While this may sound somewhat fanciful there is no doubt that the number of people who have their permanent residence in one country and a condominium on the Costa del Sol, or a chalet for skiing in the Alps or a retreat in Acapulco or a villa on the Aegean is continually increasing. Moreover, the tremendous increase in international trade as well as the changing methods of carrying on international commercial operations have resulted in a new species of international businessman who works abroad for a firm for many years and of necessity accumulates property in a number of different States. There is the new class of the international civil servant as well as the vastly expanded class of various government officials who spend long tours of duty abroad.

This conference is based upon the recognition that new patterns of living require new patterns of law. These new legal patterns should aim at simplifying the legal complications that inevitably result from the greater mobility of mankind. The draft uniform law and convention which we have before us are well designed to attain that objective. The experts who have prepared the draft have worked well. It augurs well for our Conference that some of these who worked out the original theory of the drafts are among us - Professor Blagojevic, Professor Lalive, Secretary Hayes and Deputy Attorney General Yadin. There is also Secretary General Matteucci of the Institute, whose comments have already demonstrated the worthy contributions which he will be able to make in the course of our work.

With a sound draft convention and uniform law to work from, with the availability of sound advice, and with a high level of professional competence we should succeed in producing a final text that will be widely adopted. Nevertheless, it will be necessary for us all to work energetically. The time limits of our conference are relatively short and we must strive within that time to ensure not only to agree upon a uniform law and treaty but to produce a uniform law and treaty that will rank as an outstanding contribution to the development of international private law.

In conclusion may I thank Professor Blagojevic for his kind words in nominating me, my other friends who have spoken in support of that nomination, and all of you for your gracious support in choosing me as Chairman of the Conference.