

ARTICLES

1984 Theberge Private International Law Award: Richard D. Kearney†

In the summer of 1982, the Board of Governors of the American Bar Association approved the proposal of the Section of International Law and Practice to present annually "a medal . . . to an individual judged by the Section to have performed distinguished services in the field of private international law." The award "would serve to recognize the ever growing importance of the private international law field." Recipients are selected "on the basis of long standing contributions to the development of private international law through active participation in the formulation of international agreements or otherwise developing public understanding in this area." Candidates for the award are nominated by the Section's Private International Law Award Committee and selected by the Council of the Section.

On May 4, 1984, Ambassador Richard D. Kearney received the second annual Private International Law award at a dinner of the Section's spring meeting in Philadelphia. At that time also the award was officially renamed the Leonard J. Theberge Prize for Private International Law in memory of Leonard J. Theberge, chairman of the Section during the 1979-80 association year and later the Section's member of the House of Delegates.

It is almost inevitable that Ambassador Kearney should have been given the award because of his unique contributions to private international law. To be sure, Dick Kearney's achievements in the Department of State were not limited to private international law. He was at one time the principal deputy legal adviser, achieved the personal rank of ambassador, extraordin-

*Chairman, Committee on Private International Law Award, ABA Section of International Law and Practice.

†A commemorative volume of the occasion of the award will be available from the Section of International Law and Practice. It includes Ambassador Kearney's biography and letters from distinguished persons honoring his illustrious career.

ary for a Department of State lawyer, and became president of the International Law Commission.

Among Ambassador Kearney's greatest achievements, however, and the ones for which we honor him, are those in the field of private international law. In 1960, he became convinced that congressional authorization should be sought for official participation by the United States in private international law activities. Collaborating with members of the organized bar, especially those within our own Section of International Law and Practice, he marshalled efforts that resulted in enactment of Public Law 88-244, authorizing the President to accept membership for the United States in The Hague Conference on Private International Law and the Rome Institute for Unification of Private International Law (UNIDROIT), the two international organizations then dealing with unification of private law. Within two months following approval of this legislation, Ambassador Kearney devised and effected the establishment of the Secretary of State's Advisory Committee on Private International Law, which for more than two decades has enabled the Government and the private sector to collaborate in developing positions to be taken by United States representatives in the private international law field. The mechanism has been so successful that other countries have established similar committees based on this model.

As chairman of the Advisory Committee, Ambassador Kearney also guided the work of the United States in the United Nations Commission for International Trade Law (UNCITRAL) during the first twelve years of its operation, after its formal establishment in 1966. UNCITRAL's practical achievements from that period included its rules on arbitration, the Convention of International Sale of Goods, and many other initiatives. During his tenure as chairman of the Advisory Committee, he brought back from The Hague the first private law convention, the Convention of the Service of Documents, to which the United States was to become a party. In 1973, Ambassador Kearney chaired the Washington diplomatic conference on a convention for an international will, the first private international law conference held in the United States.

Altogether Ambassador Kearney's has been a very distinguished career. In the words of former Secretary of State Cyrus Vance, he "guided the United States from uncertain beginnings to mature leadership in the accelerating international activity to unify and clarify private law."

Brief Biography of Richard D. Kearney

Richard D. Kearney was born on January 3, 1914, in Dayton, Kentucky and received his A.B. from Xavier University (1935) and his LL.B. from the University of Cincinnati (1938).

Mr. Kearney served the United States Occupation Military Government in Germany in 1947 and went on to become an assistant legal adviser for European Affairs to the Department of State. He was promoted in 1962 to principal deputy legal adviser to the Department of State. In 1964, the first U.S. delegation to attend a plenary session of The Hague Conference on Private International Law as a member of the conference was led by him.

Mr. Kearney held the position of principal deputy legal adviser until 1967 when the government called upon him for greater service. In that year, he was designated Ambassador Kearney and became a member of the United Nations International Law Commission; five years later, Ambassador Kearney served as President of the Commission. He became a member of the Governing Council of the International Institute for Unification of Private Law, a position he retained until 1978, when he became an honorary member of the Council.

Ambassador Kearney acted as president of the Washington Conference on International Wills in 1973, the result of which was a Uniform Wills Convention, which entered into force on February 9, 1978, but has not yet been ratified by the United States.

Honoring his many accomplishments, the Department of State presented him with an Award for Outstanding Service in 1979.

