itself is the only one upon which law between nations can ever be made effective. It is the principle that the community as a whole must accept the obligation to maintain the general peace by prohibiting individual violence and substituting its own decisions for the old right of individual states to be the judges in their own case. It may be that for the time measures of collective force, or even of collective economic action, are inadvisable; it may be that it is inexpedient for the present to do more than rely upon public opinion as the sanction of decisions; it may be that in view of the divisions of opinion among the leading Powers the other members of the community of nations may find it necessary to see wrongdoing prevail for want of means to prevent it. But the principle itself must be maintained intact. The community as a whole must assert its claim to be the judge of disputes and must seek in its collective character the measures for correcting wrongs. It is unfortunate that those who now insist so strenuously upon neutrality should have gone so far at times as to repudiate the principle upon which an adequate organization of the nations must necessarily rest. It will not do to restore the law of 1914 because we have thus far failed to put the new law of nations into effective operation.

C. G. Fenwick

SALM v. FRAZIER: DIPLOMATIC IMMUNITY

Reappearance of contentions in regard to the non-exemption of ambassadors from jurisdiction of receiving states is reminiscent of the sixteenth and seventeenth centuries. In those days there were many volumes of controversial literature upon the rights over ambassadors as to both criminal and civil jurisdiction. The writers usually refer to Roman law principles, as does Gentilis in 1585, when he says, "if the time for bringing a suit is about to expire, a judgment may, after investigation, be given against an ambassador, which shall provide for legal or some similar procedure, on the basis of which action may subsequently be taken against the ambassador, where and when it is possible," but the problem then became one of "where and when it is possible" as well as what are the liabilities of the diplomatic agent.[1]

A case brought in the French courts in 1931–33 by Elrich Salm, "landed proprietor," Austria, on account of a lease by Arthur Frazier of premises for the American Embassy in Vienna, and in order to execute in France a judgment against Frazier, given by the Austrian courts in 1923–24, is a modern illustration of some of the early controversies.

The Civil Court of First Instance of Les Andelys, France, on December 11, 1931, after reciting that judgments were given against Frazier in Vienna and that France is asked to prosecute these judgments, decides that the French court has the right to examine the validity of the Austrian judgment. Considering that the suit brought on account of the lease of the embassy building

[1] On Embassies, Chap. XVI.

was made on account and in the interest of Frazier's government, and considering among other reasons "that diplomatic immunity is peremptory; that the diplomatic agent of a foreign country can never, therefore, be submitted to the jurisdiction of the country to which he is accredited without there being need to consider if he is being sued as a public individual or as a private individual"; this court rejects the request for an order enforcing the sentence of the Viennese courts. The Court of Appeal at Rouen on July 12, 1933, properly confirms the judgment of the lower French court, but regards it as unnecessary to go further than to consider that the suit was brought upon claims arising from "the leasing of real estate and consequential chattels, rented in November, 1920, by this diplomat for the housing of himself, his family and his servant personnel *during the course* of his mission"; and that to hold Frazier as acting as a private individual would render "illusory the very principle of immunity."

This case, somewhat similar to the Prussian case against Henry Wheaton in 1839, seems at this late date to justify the clause on the title page of the book of Gentilis, 1585, *On Embassies* which reads, "Useful and very necessary for all students of all classes, but especially in the reading of Civil Law."

GEORGE GRAFTON WILSON

A SQUARE DEAL FOR THE FOREIGN SERVICE

Everyone is familiar with the history of the long battle to secure an effective foreign service: how, upon the basis of the early Executive Orders of Presidents Theodore Roosevelt and Taft, legislation was enacted to remove the spoils system; how the two branches of the service were combined under the Rogers Act; and how various enactments were secured to provide for rent, heat, light, and living quarters. Then in 1931 and 1932, additional appropriations were obtained for the purpose of increasing the compensation of subordinate employees, and finally the Moses-Linthicum Act provided for orderly promotions and supplementary post and representation allowances. By the beginning of the fiscal year 1932, the Foreign Service had finally attained the goal for which Presidents, Secretaries of State, and the business men of the country had striven for years, namely, a reasonably adequate provision in the way of pay and allowances for the men who serve the United States in a diplomatic or consular capacity in foreign countries.[1] Then, when the country began to feel the full effects of the depression and to recognize the necessity of making an effort to balance the budget, Congress enacted various measures intended to effect savings in all appropriations, and the haste with which this had to be carried out made it impossible to take into account the needs of the Foreign Service in so far as they were affected by the various enactments. This legislation proved disastrous to those serving abroad.

[1] Wilbur J. Carr, in The American Foreign Service Journal, Vol. XI, No. 2 (February, 1934), p. 66.