as evidence and to facilitate the proof of the right or obligation rather than to create it. To quote the phrase of the note of protest, the provisions of the treaty of 1856 "emphasize" the existence of the international law obligation to afford adequate protection to the respective nationals and representatives of the high contracting parties.

The preamble of this same treaty describes the Shah as: "His Majesty as exalted as the planet Saturn; the Sovereign to whom the sun serves as a standard; whose splendor and magnificence are equal to that of the skies; the Sublime Sovereign, the Monarch whose armies are as numerous as the stars; whose greatness calls to mind that of Jeinshid; whose magnificence equals that of Darius; the heir of the crown and throne of the Kayanians; the Sublime Emperor of all Persia." It is interesting to compare this hyperbole of 1856 with the humble confession of the Persian note that "the Persian Government would ship the remains of the deceased consul to America aboard a Persian man-of-war if Persia possessed one." But by her diligent efforts to make amends and scrupulously to fulfil her international law obligations Persia in 1924, honors herself truly in deed.

ELLERY C. STOWELL.

REORGANIZATION AND IMPROVEMENT OF THE FOREIGN SERVICE

By an act of Congress passed at the last session the United States has followed the example of a number of European states since the war and provided for the reorganization of its foreign service. The act was passed after long discussion and it embodies recommendations made by various recent Secretaries of State, including Mr. Bryan, Mr. Lansing, Mr. Colby, and Mr. Hughes; by Mr Wilbur J. Carr, formerly Director of the Consular Service and now an Assistant Secretary of State; by the Hon. John W. Davis, former ambassador to Great Britain, and other persons interested in the reform of the foreign service. The author of the act was the Hon. John J. Rogers of Massachusetts, to whose deep interest and untiring zeal the passage of the law was mainly due.

For a long time complaints had been multiplying that our foreign service was no longer equal to the demands made upon it, nor its organization in harmony with the admitted standards of efficiency. Some tentative efforts had already been made at different times in the direction of improvement, but they by no means met the situation. By an executive order issued by the President in 1905 it was provided that vacancies in the office of secretary of embassy or legation should thereafter be filled by transfer or promotion from some branch of the foreign service or by appointment after examination of qualified persons from outside the service. This order marked the beginning of a much needed reform, but being only an executive order it was of course binding only on the President who issued

it. The order was followed by the act of 1906 for the reorganization of the consular service and in 1909 by another act providing for the reorganization of the Department of State.

These measures, while introducing some improvements, left others still unprovided for. In the first place, the foreign service was criticized for its inflexibility resulting from the rigid separation of the diplomatic and consular services, and for the lack of uniformity of salaries as among officials of corresponding rank in the two branches of the service. Thus a consul-general of Class I received a salary of $12,000 a year while a counselor of embassy, the corresponding grade in the diplomatic service, received a salary of only $4,000, which was the maximum salary for diplomatic officials below the rank of minister. Salaries in the consular service ranged from $12,000 down to $2,500, whereas those in the diplomatic service below the rank of minister ranged from $4,000 downward to $2,500. In consequence mainly of this disparity of pay, transfers of officials from one branch of the service to the other were impracticable, although it not infrequently happened that by reason of the special aptitude of an official in the one branch for service in the other, such transfers were highly desirable. Furthermore, the existing scale of salaries in the diplomatic service was so low that only persons possessing independent means were in fact eligible to appointment. This situation was not peculiar to the United States, for in England until very recently no one was eligible to appointment in the diplomatic service who did not possess a private income of £400 a year. The virtual limitation of appointments to men of wealth had long been the subject of criticism. President Taft in his address before the National Board of Trade on January 26, 1916, denounced the system as inconsistent with the ideals of democracy and declared that it was "the purest demagogy."

Other complaints were: inadequate allowances for traveling expenses, illiberal rules regarding leaves of absence, especially for officials in tropical and unhealthful countries, and the lack of retiring allowances for superannuated persons in the foreign service.

The new law undertakes to remove or attenuate these defects. It amalgamates the diplomatic and consular services into a common service, hereafter to be known as the "Foreign Service of the United States," and provides for a new and uniform salary scale with a substantial increase, the maximum being $9,000 instead of $4,000 as formerly. The two services are thus put on an interchangeable basis so that transfers may be made from one to the other whenever the interest of the service may be promoted thereby. The act further provides that all persons in the permanent foreign service below the grade of minister shall be appointed after examination and a suitable period of probation and may be assigned to duty at the discretion of the President either in the diplomatic or the consular branch of the service. It is also provided that they shall be subject to promotion on the basis of merit. For this purpose the Secretary of State

is required to report to the President from time to time with his recommendations the names of foreign service officials who by reason of efficient service have demonstrated special capacity for promotion to the grade of minister, as well as the names of officers and employees in the Department of State who have demonstrated special efficiency. It will be noted that these provisions relative to appointment after examination and promotion on the basis of merit do not apply to the higher posts such as ministers and ambassadors. These posts still remain as political appointments and presumably the incumbents will be changed whenever a new administration controlled by a different political party comes into power. In this respect the American foreign service will still be distinguished from that of most other countries. But legislative sanction, for the first time, of the principle of appointment after examination, of officials in the lower posts, and of their promotion on the basis of merit, even to the post of minister, represents progress for which we may well be thankful.

While no provision is made for increasing the salaries of ministers and ambassadors, the President is authorized to grant to diplomatic missions representation allowances out of any money appropriated from time to time by Congress.

Provision is also made for liberal allowances for traveling expenses and subsistence for foreign service officers who are detailed for duty away from their posts, for leaves of absence with traveling expenses of officers and their immediate families (especially liberal provisions for those residing at "unhealthful ports"), and for the establishment of a retirement and disability fund for officers in the service. This fund is created in part by a 5 per cent deduction from the basic salary of all foreign service officers eligible to retirement and partly by a contribution from the treasury of the United States. It is stated that eventually the cost to the government for the maintenance of the fund will be about 28 per cent, while the service itself will defray the other 72 per cent. The age of retirement is fixed at 65 years and the beneficiary must have rendered at least 15 years' service, but the President may in his discretion retain the officer on active duty for a further period not exceeding five years. The amount of the annuity depends upon the length of service and the annual basic salary for the ten years next preceding the date of retirement. In the case of retirement for disability, the fact of disability shall be determined by the report of a qualified physician or surgeon designated by the Secretary of State.

Finally the act abolishes the position of Director of the Consular Service, the salary of which is made available for an additional Assistant Secretary of State, the office of which is created by the new law.

The enactment of this law represents the most important advance yet made in the direction of elevating the foreign service of the United States to a level such as it occupies in other countries and such as has long been demanded by the best public opinion in this country. Unfortunately,

however, the provisions of the law, as stated above, apply only to the lower posts in the service, except as regards representation allowances. The positions of minister and ambassador lie outside the scope of the law. It is true that the Secretary of State is required to report to the President the names of secretaries, counselors and others who have demonstrated special capacity, for promotion to the grade of minister, but naturally there is no assurance that they will be promoted. Whether they will or not depends on the President. It is to be hoped that our Presidents in the future will see the advantage not only of promoting specially qualified experienced secretaries to ministerial posts, but also of rewarding competent ministers by advancing them to ambassadorships.

J. W. GARNER.

NATIONAL SECURITY AND INTERNATIONAL ARBITRATION

The most significant feature of the development of international arbitration during the past generation has been the gradual widening of the field of controversies to which the obligation to arbitrate should apply. The plan of a comprehensive agreement to arbitrate all disputes without restriction seemed at the time of the First Hague Conference the ideal of a far-distant millennium, and to many, indeed, not even an ideal, but an unwarranted restraint upon national progress. At the moment of present writing (September 17) the plan seems to have come within the range of practical possibilities and the Assembly of the League of Nations is discussing ways and means of giving it definite actuality.

So long as agreements to arbitrate were concluded only in the presence of a concrete dispute which diplomacy had failed to settle, no question was raised as to the nature of the national interests involved in the dispute. A boundary controversy could be arbitrated if the parties saw fit to do so, and the vital or non-vital character of the interests at issue did not figure in the agreement. Nor was there any question as to the "justiciability" of the matter under dispute. Any matter was justiciable when the parties had agreed to settle it by arbitration and had determined the principles to be applied by the arbitrators.

It was only when nations began to conclude the so-called "general treaties of arbitration," looking to the arbitration of future disputes, that the question arose as to the character of the cases that it might be feasible to agree in advance to arbitrate. Quite clearly, in a community of nations organized as it then was and advocating the principles which it then advocated, it would not do for a state to commit its most important interests to the keeping of a tribunal not under its direct control. When the proposal of a general treaty of arbitration was made at the First and again at the Second Hague Conference there was no thought that the obligation to