45 N. J. Eq. 215, 16 A. 916, L. R. A. 381), the relief demanded by the Hearn committee should be granted to the extent that a judgment be entered decreeing that these defendants and all other subscribers to the two loans in the United States are entitled to receive, in proportion to their subscriptions, the proceeds of the money and securities in question, together with accumulated interest, after payment of all proper charges and disbursements taxed or allowed by the court."

* * *

ii) Herman et al. v. Apetz et al. Oct. 15, 1927. (224 N. Y. S. 389.)

Diplomatische Immunität.

1. Die diplomatische Immunität der Gesandten und Attachés erstreckt sich auf die Mitglieder ihres Haushalts.

2. Ein Gesandter kann nicht ohne die Zustimmung des Heimatstaats auf seine diplomatische Immunität verzichten. Mitglieder des Haushalts können ohne Erlaubnis des Heimatstaats auf sie verzichten.

3. Das freiwillige Erscheinen der Frau des Gesandten als Beklagte in der Sache bedeutet den Verzicht.

"Frankenthaler, J. Plaintiffs have brought this action against defendants Apetz and Gonzalez to set aside a conveyance from the former to the latter on the ground of fraud against creditors. Defendant Gonzalez, who is a sister of the other defendant, after pleading on the merits in a general appearance, has interposed a separate defense to the effect that she is the wife of the Secretary of Legation of the Republic of Costa Rica and as such immune from process. There is no doubt that the personal immunity of and envoys their attachés extends to members of their domestic suite, on the ground that their protection is necessary for the peace of mind of the envoy in discharging his official duties. Foulke, International Law § 180. But it is urged by the plaintiffs that the defendant has waived immunity by appearing to defend on the merits, and accordingly a motion has been made to strike out this defense. There is no doubt that an envoy may not waive his diplomatic immunity without consent of the sending state. Whether this inability to waive also applies to his wife, family, and domestic servants is a matter of conflict among text-writers. The better view seems to be that waiver on the part of such persons does not require the consent of the home state and is therefore effective. Has the defendant Gonzalez waived her privilege?. ...

While it is true that the defendant Gonzalez during the period of diplomatic immunity cannot be proceeded against by execution in personam, she has nevertheless, by her voluntary appearance and

defense on the merits, invited a judicial determination of the controversy.

The motion is granted. ..."

* * *

3) Supreme Court of Nebraska

In re Buder's Estate. Wellensiek v. Britza. Jan. 24, 1928 (217 N. W. 618)

Konsularbefugnisse — Vertragsauslegung.

1. Nur die im Empfangsstaat entstandenen Urkunden dürfen vom Konsul beglaubigt werden.

2. Wenn alle beteiligten Personen in Deutschland wohnende Deutsche sind oder waren, sind für Fragen des materiellen Erbrechts nur die deutschen Gerichte zuständig. Die Zuständigkeit der amerikanischen Gerichte erstreckt sich nur auf die Verwaltung des Nachlasses, Befriedigung der amerikanischen Gläubiger usw. Der dann verbleibende Rest des Nachlasses ist dem Nachlaßverwalter in Deutschland oder dem in einem deutschen Gerichtsverfahren festgestellten Berechtigten auszuhändigen.

3. Bei der Auslegung einzelner Sätze eines Staatsvertrages ist stets der ganze Abschnitt zu berücksichtigen, in dem der auszulegende Satz enthalten ist.

Tatbestand. In Deutschland wohnende deutsche Hinterbliebene einer in Deutschland wohnhaft gewesenen deutschen Erblasserin klagen auf Verteilung des in den Händen des Alien Property Custodian der Vereinigten Staaten befindlichen Nachlasses. Andere, ebenfalls deutsche in Deutschland wohnhafte Hinterbliebene machen Gegenansprüche geltend. Dem Gericht werden aus Deutschland stammende Urkunden vorgelegt, die von den deutschen Konsuln in Washington und Chicago beglaubigt worden sind.

Aus den Gründen "...We think the county court of Clay county had jurisdiction to appoint the administrator in this proceeding for two reasons: (1) The fund in the hands of the Custodian was ubiquitous, i. e. it had its location in any state or county within the United States, and therefore was, constructively at least, in Clay county, which was a quite appropriate place to initiate these proceedings as the county from which the fund was taken in the first place by the Custodian. United States v. Tyndale (C. C. A.) 116 F. 820...

We think, however, that in view of the facts that decedent was domiciled and died in Germany and her heirs domiciled there, none of them ever having resided in the United States, and the personal property is to be distributed according to the laws of Germany, the authority of the county court should be exercised only for the purpose of collecting the assets of the estate, adjucating any claims of creditors in this state against the estate, providing for their payment, and after payment