

II

ACTS OF STATE ORGANS

(a) In the enforcement of responsibility, the following features have to be considered: first, its general characteristics; secondly, its various forms; thirdly, its application; and fourthly, its judicial sanction. The general characteristics of responsibility refer especially to the acts of State organs which are to be deemed wrongful *per se* or because of a misfeasance. The forms of responsibility would cover both the direct obligation of the State in respect of the acts of its own organs and its indirect responsibility arising from the act of another State with which it maintains a special relationship. The application would involve the responsibility of the various State organs, regardless of their functions as defined by its municipal law, and even though their acts may have been performed in accordance with the municipal law and in pursuance of the powers thereby granted, or otherwise. The State may also become responsible on account of the attitude it may assume in respect of undue injury inflicted upon aliens by private citizens. The judicial sanction covering State responsibility would, of course, provide also the proper remedy.

(b) The wrongful nature of the act in respect of which responsibility is sought to be established is, naturally, a condition precedent thereof. The common law requires that the agent to whom the consequences of the alleged wrongful act are imputed should possess certain qualifications. Likewise, in the Law of Nations it is necessary to establish, in accordance with the law, special qualifications in reference to the agent charged with the alleged injury, as well as the basis of distinction between the acts of the individual in his private and in his official capacity as an officer of the State.¹ Not all

¹“On what grounds will certain individual acts be imputed, not to the individual who executed them, but through him, to another entity, in fact, an artificial entity in some way supposed to be behind him, namely: the State? We can, of course, perceive through our senses only physical acts of individuals; however, the nature of the ‘State act’ does not possess the perceptible properties characteristic of certain acts. This conception of the State as the ‘power behind’ or the constructive ‘perpetrator’ of these acts, can only be attained by a process of reasoning which we will term ‘imputation’. However, there is only one notion which permits such individual acts to be considered as acts of the State and attributable to the latter: their conforming to certain valid