

breach and should be held responsible for the resulting injury. The very same consequences should follow the cases in which the authority is exceeded, or the usual rules disregarded. If the personality of the State embodies that of its organs, whose action renders its being manifest and concrete, for otherwise it would be a non-entity, it has to be recognized that the limitation consists merely in the fact that the official may not have acted in his capacity as such. If the agent who exceeds his authority has, in fact, acted in his official capacity, using the means placed at his disposal by the State, the responsibility of the latter has in such case been grounded for practical purposes upon the necessity to afford security to international relations. It is considered necessary and just, because the State should bear the risks incident to its activities.

This question gave rise to a very interesting debate at the Lausanne session of the Institute of International Law. Mr. Strisower, the reporter of the Institute, offered a formula which recognizes the responsibility of the State in connection with the illicit acts of its organs, when the acts are performed under color of official authority. He excepted, however, the case in which the alleged act should be so clearly beyond the authority of its perpetrator that no mistaken impression could have been reasonably conveyed. Mr. de Lapradelle and Mr. Politis raised objections to the latter exception. Mr. De Visscher supported it, stating a doctrine similar to the one of State risks. He believes that from the very moment that official connection is established between the State and the delinquent organ the State becomes *prima facie* responsible. However, the State may overcome this presumption by showing that in the performance of the alleged act the agent has not made use of the powers vested upon him; because it is his use of his official character, or of the means at his command by virtue of such character, which involve the responsibility of the State.

Mr. de Lapradelle then proposed the following amended formula: "The State is responsible for the acts of its organs even when they have exceeded their authority, provided they have performed the same under color of authority as official organs of the State, and making use of the means placed at their disposal."

(c) The other condition precedent to responsibility in reference to the manner in which the acts of the agents of the State have been performed, involves the question of culpability. The main difficulties of this question arise from the attempt to apply to the State the psychological doctrine of culpability derived from the Law of Rome, which, as it is well known, referred to the conduct of persons and not of legal entities. Naturally, this attempt to apply to the body politic the same rules laid down in respect of the acts of individuals, has given rise to a series of more or less irreconcilable objections. The eminent professors Triepel and Anzilotti