

## V

### ACTS OF THE LEGISLATIVE ORGAN

(a) In the Bases of Discussion of the Preparatory Committee, the damages caused by the legislative or executive organs in connection with contractual relations, or by violence or attempts of the authorities against personal liberty, are deemed to belong in a special category. It is explained that damages caused by rebellions, civil wars or riots should be given special consideration, inasmuch as the circumstances under which they are caused should have some bearing upon the proper rules applicable. This is not the case, of course, as regards imprisonment, deportation and other action usually taken against aliens. These might be either authorized acts under the municipal law, or illicit acts while performing official functions in accordance with such law. However, from the international point of view, these acts should be in no wise considered different from all the other acts of either competent or incompetent authorities. The rules to which they are subject are very well known. Likewise, the cases which, for special reasons involving a denial of justice or extraordinary injustice, become the subject of international cognizance, as well as all the other activities of the State organs. Consequently, there is no special reason to place any of these acts in any particular group or category. To do so would establish a tendency towards class regulation, a system that is most undesirable in codification work.

(b) The cases of *ex contractu* responsibility are, however, different from the others mentioned, inasmuch as they involve contractual relations between the State and private individuals. There have been instances in which financial conditions have been interposed, or coercion exercised by powerful nations against their inferiors. This fact has given contractual relations between the State and private individuals special prominence in the history of international jurisprudence, and has invested them with a certain peculiar characteristic. It is for this reason that various doctrines have been advanced for the classification of these contracts, and others purport to explain why certain ones, according to the opinion of some authorities, should be excluded from the general principles that govern the obligations undertaken by the State.