

ing franchises for public utility services or monopolies, or for the construction of public works, there are others relating to domestic and foreign loans, in other words, the public debt. It is proposed to apply special principles to this latter question. It is deemed that a national loan is not, properly speaking, a civil contract; and that, in any event, it is only a special kind of obligation: a debt of honor which the debtor State should meet if it would avoid its financial ruin and the impairment of its national credit. Such a contract, therefore, has no other binding force than the fear of the consequent impairment of the national credit and dishonor of the State that fails to meet its obligations. There is another doctrine, which considers government loans identical to any other form of civil contract. When the State negotiates a loan, it is not acting as the sovereign, but as any other person subject to the municipal law. Government loans, therefore, are not comprised within the scope of State sovereignty. The obligations arising therefrom should be discharged like those provided by other contracts.

(d) The Calvo clause, the so-called Drago Doctrine and the Porter Convention of the Second Peace Conference at The Hague deal with this subject. The purpose of the first one is to eliminate international responsibility from contractual matters between the State and private individuals, leaving same to the exclusive jurisdiction of the local laws for proper redress. The second one purports to eliminate the use of coercive measures to secure payment of the principal or interest due on a loan. The third sets forth this latter provision with certain limitations, sanctioning the use of coercive measures to secure payment of contractual obligations only when the debtor State should refuse to submit the matter to arbitration, or to abide by the arbitral award. The replies of the governments lodged with the Preparatory Committee have specifically referred to the Calvo clause. All the governments, with the exception of that of the Netherlands, have considered it inappropriate. Great Britain has adopted in regard to this clause the views set forth in the recent ruling of the General Claims Commission in the case of the North American Dredging Company vs. The United Mexican States. None of the replies to the inquiry have made special reference to the Drago Doctrine or the Porter Convention. They may be considered, however, implicitly contemplated in the replies concerning the use of reprisals. But the Government of Switzerland states that reprisals should be subject to the condition that the States should have no other peaceful means of reaction to violations against them. This condition would specifically cover the due regard for outstanding obligations which the Porter Convention provides. Basis of Discussion No. 25 of the inquiry should be amended along these lines.

(e) In our estimation, however, all of these chapters covering responsibility in respect of contracts of every kind (including government loans) and reprisals, should be governed by other principles than those set forth in