international courts. The individual action of the State cannot be upheld as against the presumption of fairness and regularity which the international community attributes to the judicial functions of the various States. The solution might consist in organizing a special body to establish whether the facts warrant proceedings to fix international responsibility. This body could not, of course, pass upon the fundamental issues involved. It should determine, in the first place, whether or not the facts may justify a State in bringing up for discussion the regularity or fairness of a court decision.

The usual current practice tends to solve the difficulties of this important issue by means of treaties. There is a form of treaty, like that between Poland and Switzerland (March 7, 1925), which submits to international adjudication certain matters which international law leaves entirely to the national jurisdiction of the States. But when under the municipal law one of these matters comes within the jurisdiction of the local courts, the defendant may object to the international jurisdiction until a final decision has been rendered by the competent national court. There is another type of treaty, as for instance the one between Switzerland and Spain, which submits all controversies, regardless of their nature, to the international jurisdiction. However, if any of these should come within the jurisdiction of the national judiciary, the defendant may object to the institution of international proceedings until a final local decision has been rendered in the matter.

(d) The definition of a denial of justice has been very ambiguous. John Bassett Moore feared that it might not be possible to set forth some formula that would actually serve to solve the problems arising in concrete cases. De Lapradelle and Politis remarked that the complicated and uncertain characteristics of a denial of justice seem to challenge all definition. Actual practice, however, has greatly contributed to bring about a relatively clear conception of the doctrine. One of the difficulties is due to the fact that such a broad conception used to be entertained in connection with the denial of justice that it comprised the action of all the State organs. As regards the action of the judicial authorities, the doctrine included the typical cases of denial of justice, as well as those involving deficient procedure or a manifest injustice. Another serious difficulty arose from the confusion between the possible error of the decision which does not entail responsibility, and unusual deficiency or manifest injustice. No lines of distinction can very well be drawn between the various phases of a denial of justice, except by careful consideration of the facts of each concrete case. If the question involved is the lack of the indispensable organs for the proper administration of justice, or lack of laws authorizing the legal actions required by international law, or refusal of access to the courts, or wrongful delay, or decisions influenced by ill-will against all foreigners as such or against the