

means at its disposal" was argued. In the solution of this question, consideration was given to the fact that the State had done everything that it would have or could have done had the claimant been one of its own nationals, which is all that the law and custom of nations require to be done on behalf of an alien. The defendant State was not responsible, under its promise, when the means available proved ineffective. In the *Alabama* claims the question of guilt was one of the three main points of the argument. The greatest effort known in international procedure was made in this case to determine the scope of the phrase "due diligence". The Washington rules were drafted in very ambiguous language, attributing responsibility if the neutral State should fail to exercise due diligence to prevent the violation of international obligations within its jurisdiction. However, they did not specify what degree of diligence such duty involved. In the decision, no principles of international law were applied; it was merely confined to the application of the usual principles of guilt under private jurisprudence. The British doctrine of *diligentia quam in suis rebus*, whereby failure to use due diligence would consist in not taking the steps usually resorted to for the safety of the nation and its citizens, was rejected. However, the degree of guilt was not estimated by the amount of the damage, but by the extent and apparent imminence of the danger involved. This construction has been followed in the resolution of the Institute of International Law in 1875, in the Thirteenth Hague Convention and in the decision of the Hague Court in connection with the Casa Blanca deserters. When dealing with the obligation of neutral States, the Institute refers to *manifest negligence*. The Hague Convention provides that the State should use *all the means at its disposal* to prevent the violation of its international duty of neutrality within its jurisdiction. In order to determine the responsibilities of the German Government, the decision goes into the willful neglect of its agents.

This is as far as we have gone as regards the question of guilt. This is established: either by the failure to use all the necessary means, or those which the State should usually have at its disposal, or those which the State actually has at its disposal, to prevent the violation of international law. The distinction is quite important. The first case involves absolute responsibility; while the second only entails a relative responsibility, because it is in a way subject to the circumstances of the case and of the State in question. This difference was clearly pointed out at the 1927 session of the Institute of International Law by professors Strisower, De Visscher and Politis. Professor Strisower, who was the reporter, proposed that the responsibility of the State for acts resulting in damage to private individuals should depend upon its failure to adopt the measures that it is usually advisable to adopt under the circumstances in order to prevent or repress such acts. As regards