

tion. On the other hand, the accidental and involuntary explosion of powder or ammunition in a building occupied by Government forces might destroy it, and just because the act was accidental it would not relieve the State from the obligation to indemnify for the damage. Basis of Discussion No. 21 of the Preparatory Committee is also somewhat indefinite in certain respects: it affirms the obligation to "Make good damage caused to foreigners by acts of its armed forces or authorities where such acts manifestly went beyond the requirements of the situation or where its armed forces or authorities behaved in a manner manifestly incompatible with the rules generally observed by civilized States." It can easily be understood without much effort that a subsequent inquiry into the requirements of a particular situation during war operations might give rise to all possible sorts of conclusions. With such formulas the code would be subject to all kinds of varied and capricious applications. The purpose of codification is to establish definite and specific obligations. And there is a possibility of accomplishing this end within certain confinements. There are only three situations to consider: first, war damage; secondly, damage that has not been caused in battle, but which is incidental to the insurrection; and thirdly, acts that result in enrichment or profit to the State. The first, for the time being, is not entitled to reparation, although there is a tendency to improve the situation of the victims irrespective of their nationality. The second is subject to the general principles of responsibility for the acts of officers or agents of the State, although keeping in sight the inevitable disturbance caused by the cruel reality of civil war. The third comes under the common law. All of the States assume responsibility for expropriations, occupations, requisitions, etc., either in time of peace or of war, to the detriment of nationals or foreigners.

(f) Damages caused by mob violence, popular riots or disturbances, occupy an intermediate position between those caused by private persons and the ones incident to insurrection. These damages resulting from mob violence are the most frequent ones. They are caused, as a rule, by the outburst of racial, political or religious feelings. No special rule applicable to these cases has been established by practice. Quite often the States have accorded indemnity to the victims of mob violence without prejudice to their right to disclaim responsibility. The underlying principle is the same hereinbefore stated, subject to the duty of the State to exercise due diligence.¹ In

¹ The State is responsible, however, when it fails to use due diligence to prevent or suppress the riot, or when the circumstances indicate insufficiency of the measures of protection, or connivance of the government officers or agents at the disturbance. Borchard, *Diplomatic Protection*, p. 224. It is maintained, therefore, that if due diligence is exercised to prevent or suppress sudden uprisings, and to punish those implicated, there is no obligation to make reparation . . . Moore: "The Responsibility of Governments for Mob Violence," *Columbia Law Times*, V, 212. See Hyde, Inter-