

Sovereignty*

HANS KELSEN

I. THE CONCEPT

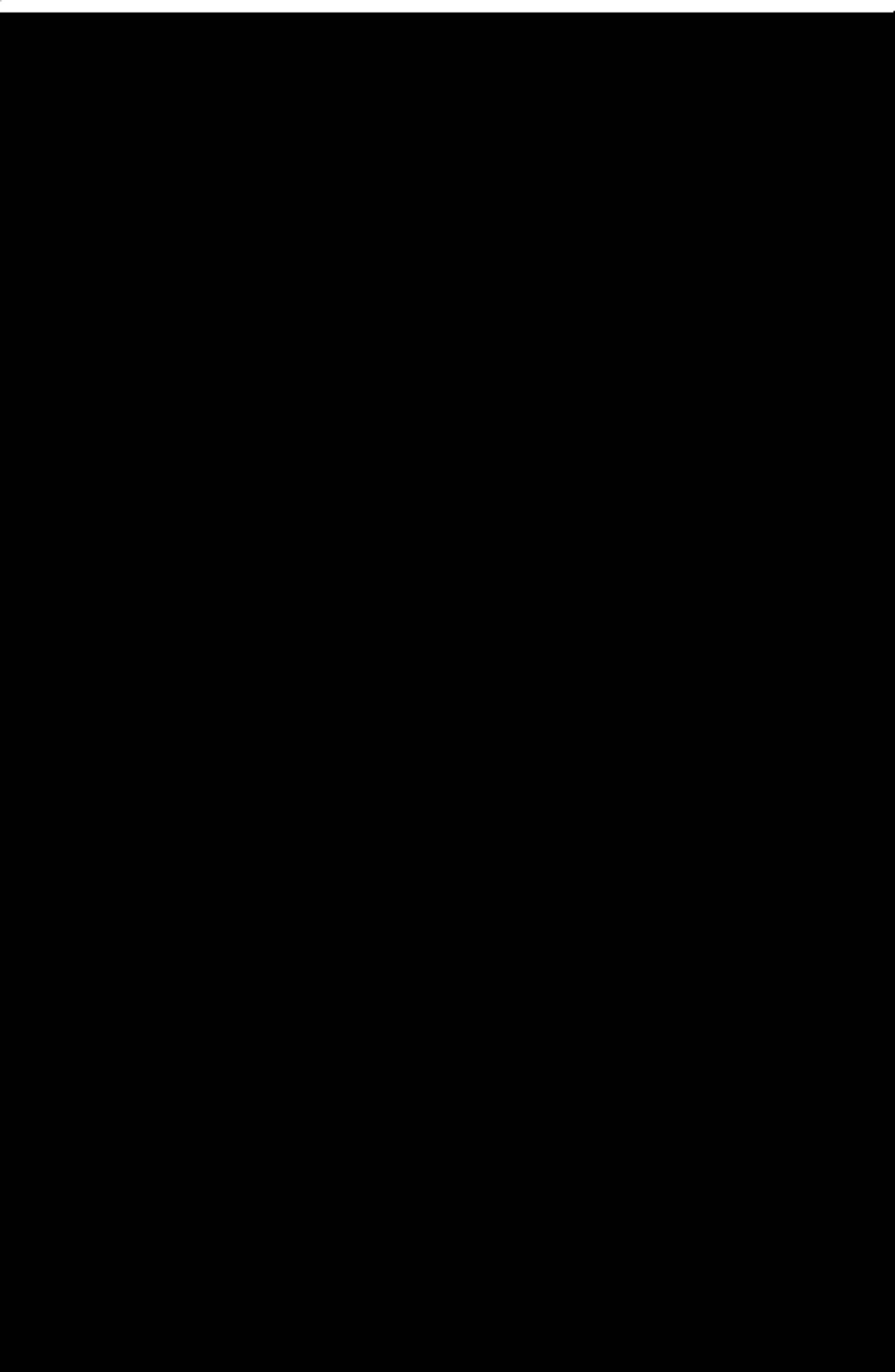
Although the expression 'sovereignty' denotes one of the most significant fundamental concepts of both the traditional theory of state law and that of international law, it is fraught with an ambiguity of dire consequence in the controversy over its meaning. The generally accepted

meaning of sovereignty is that it is the supreme power within a state. It is the power which is not subject to any other power within the state. It is the power which is not subject to any other power outside the state. It is the power which is not subject to any other power within or outside the state.

THE AUTHOR

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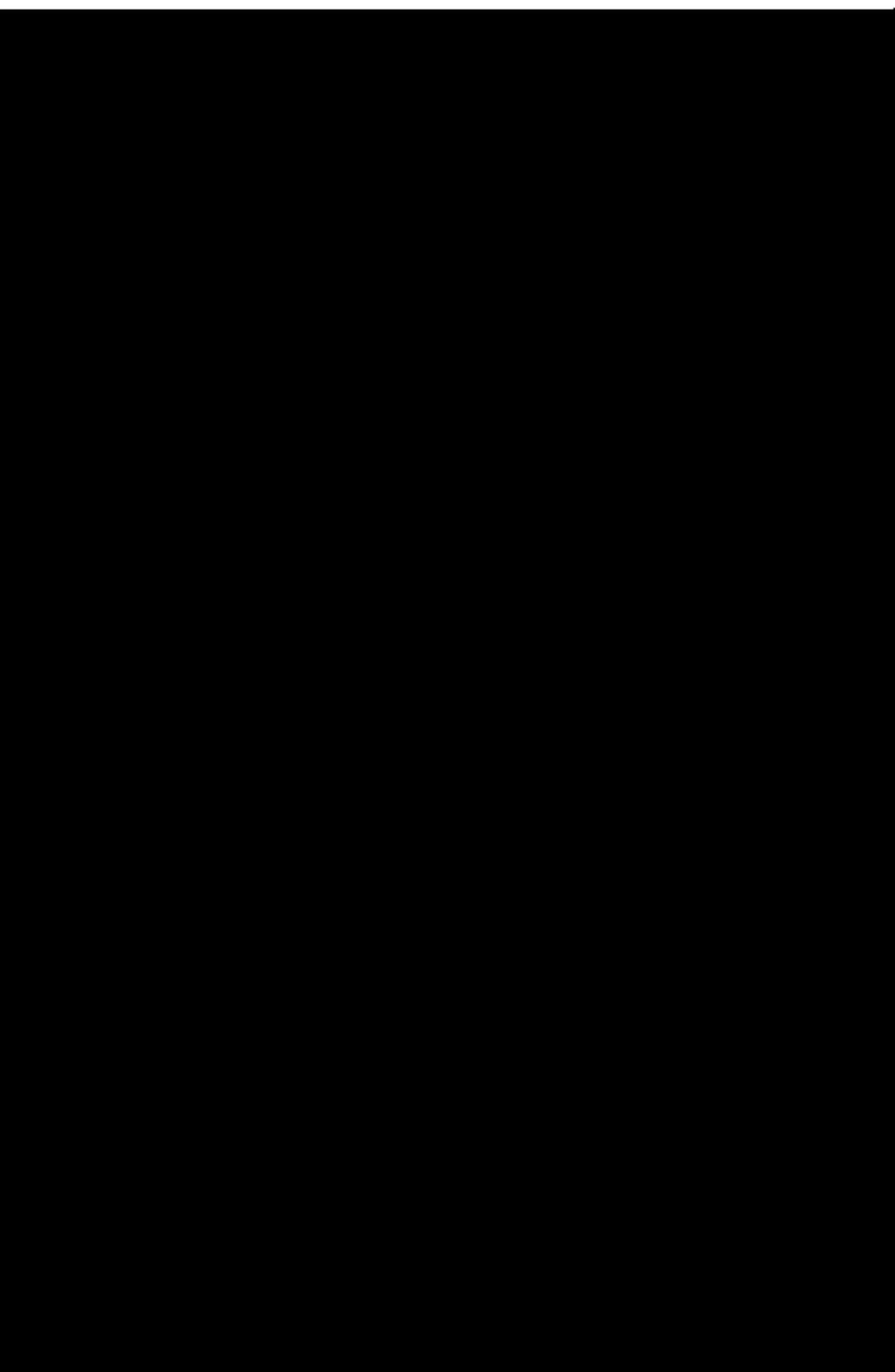
confers rights on a being that is not human but a kind of superman or superhuman organism. There is no such superman or superhuman



construction. For according to this construction only the sovereignty of a single state can be presupposed, and this is the sovereignty of the state of all other states. But this sovereignty is not the sovereignty of a state in the sense of foreign equality and equal sovereignty of all states, but rather that in terms of their sovereignty all states are equal — that is, to be respected by one another as legal persons possessing their own state law. The point of departure for this construction is, indeed, in any state whatever, but always only in a legal state. The original law of a state is the

expressed when one says that the state that recognizes international law

subject to international law and since international law is the higher legal system in relation to state law, it follows that in case of a conflict between international law and state law international law has priority and so the conflicting part of state law is subject to nullity and void. Moreover, it is not a violation of international law if a state does not apply international law.



state. An international treaty can create an international organization or

Normativity and Norms

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