

3061. Free City of Danzig Organisation of the Railways situated in the Territory of the Free City

Mr. EDEN presented the following report and draft resolution. <sup>1</sup>

" 1. The Polish Government and the Government of the Free City of Danzig appealed, on February 29th and March 4th, 1932, respectively, from the decision given by the League of Nations High Commissioner on January 14th, 1932, on the question of the organisation of the railways situated in the territory of the Free City. This question had been brought before the High Commissioner by a request from the Senate dated November 18th, 1929. The texts of the High Commissioner's decision, the appeals of the two Governments, and the opinion given to the High Commissioner by the Permanent Legal Committee of the Communications and Transit Organisation on September 30th, 1930, have been communicated to the Council. It is therefore unnecessary to give a detailed summary of the arguments advanced on both sides. It will suffice to make a brief survey of the development of the question, and to refer to the terms of the cases put forward by both parties.

" 2. On November 18th, 1929, the Government of the Free City of Danzig submitted the following request to the High Commissioner of the League of Nations:

" We request that it may be decided that the Polish Railway Administration is obliged.

" (a) To effect a separation, both as regards the matters dealt with (*sachlich*) and the personnel, between the Administrations of the railway lines of the Danzig and Polish territories, the said Administrations having been amalgamated in the Danzig Directorate of Railways and in the Danzig railway offices;

" (b) To organise the Administration of the Danzig railways, which has to be constituted in the territory of Danzig, in such a way that its competence shall be restricted, both territorially (*örtlich*) and as regards the matters dealt with (*sachlich*), to the railways of Danzig;

" (c) To fill the posts in the Administration, which has to be constituted for the Danzig railways (as in paragraph (b)), with due regard to Article 22 of the Paris Treaty of November 9th, 1920, the Decision of September 5th, 1921, the Agreement regarding officials (*Beamtenabkommen*) of October 22nd, 1921, and the Executive Regulations of November 24th, 1921.

" 3. On the basis of an advisory opinion given to the High Commissioner, in accordance with the procedure in force, by the Permanent Legal Committee of the Advisory and Technical Committee for Communications and Transit of the League, assisted by the Administrative Section of the Permanent Committee for Transport by Rail of the same Committee, the High Commissioner gave the following decision on January 14th.

" A. It is not admissible that the various railway lines situated in the territory of the Free City of Danzig should be completely absorbed into the Polish Railway Administration in such a manner as to lose thereby the character of a separate unit of the Polish Railway Administration.

" B. The Polish Railway Administration is obliged to set up without delay at Danzig a Polish railway organisation responsible for the administration of all the railways situated in the territory of the Free City (except tramways and narrow-gauge railways), which will have the character of a separate unit of the Polish Railway Administration.

" C. Whatever methods may be adopted by the Polish Railway Administration in setting up the railway organisation provided for under B, these methods must at all times permit Poland to observe the obligations devolving upon her in virtue of the agreements and decisions in force.

4. In its appeal dated February 29th, 1932, the Polish Government asks:

- (1) That the High Commissioner's decision of January 14th, 1932, be reversed,
- (2) For a ruling that:

(a) Neither the Treaty of Versailles or the Paris Treaty nor the decisions or agreements in force oblige Poland to set up for the railway lines situated in the territory of the Free City a separate administrative unit corresponding territorially and as regards the matters dealt with, to the limits of the Free City's territory.

(b) Poland is entitled to administer the railways in the territory of the Free City as a part of the Polish railway system, jointly with the lines situated in Polish territory within the framework of such administrative sector as it may consider best adapted to the requirements of rational administration and operation.

The Polish Government is of opinion that the High Commissioner's decision is, generally speaking, insufficiently grounded in law. It is contrary to the provisions in force, and it is inexpedient as, on the one hand, it hampers the Polish Railway Administration in administering and operating the Danzig railways, and, on the other hand, it affords no advantages to the Free City.

5. In its appeal dated March 4th, 1932, the Senate asks:

That points A and B of the High Commissioner's decision of January 14th, 1932, be modified as follows:

A. It is not admissible that the Administration of the railways situated within the territory of the Free City of Danzig should be absorbed into the Administration of the railway lines in Poland. The Administration of the railway lines situated in Danzig territory should, on the contrary, have the character of a separate unit of the Polish Railway Administration.

B. The Polish Railway Administration is bound to set up immediately at Danzig a Polish Railway organisation which will be responsible for the administration of the whole railway system situated within the territory of the Free City (except tramways and narrow-gauge railways) and which will have the character of a separate unit of the Polish Railway Administration with all the powers and functions of a district direction (Bezirks-Direktion) of the Polish State Railways.

"The Senate quotes a passage from the preamble to the High Commissioner's decision, in which, after endorsing the opinion pronounced by the Legal Committee, he makes the following remarks:

"It clearly shows that, while Poland is not obliged to maintain on Danzig territory a railway direction having substantially the same powers and functions as the present direction of Eastern Pomerania, she is nevertheless obliged to set up at Danzig an organisation which (while taking into account the obligations devolving upon Poland as regards the railway service in Danzig territory which obligations she must at all times be in a position to observe) will ensure that the Danzig system does not lose the character of a separate unit of the Polish Railway Administration.

"In this connection, the Senate says that, if the text of the decision is considered in itself, it looks as if the body to be set up as a separate unit at Danzig must have *all* the powers and functions ('attributions') connected with the administration of the Danzig railways. Considered in conjunction with the High Commissioner's above-mentioned remark, however, it appears that the text is to be understood as meaning that the organisation to be set up need not have all the powers and functions ('attributions') connected with the administration of the Danzig railways. Such a meaning for the text of the decision is not, in the opinion of the Danzig Senate, in harmony with the legal situation.

"Lastly the Senate states that the Legal Committee has offered no justification for its opinion which, in the Senate's view, is less a legal opinion than a proposal for a practical settlement from the point of view of railway technical considerations and expediency.

"6. The High Commissioner based his decision on the opinion given to him by the Permanent Legal Committee of the Communications and Transit Organisation, assisted by the Administrative Section of the Permanent Committee for Transport by Rail of the same Committee. In other words, the opinion given to the High Commissioner was given by persons with special qualifications in the matter. The objection made that the opinion is less a legal opinion than a proposal for a practical settlement from the point of view of railway technical consideration and expediency seems to me, far from being a reproach, to be the best evidence that the High Commissioner's decision is well grounded from every standpoint.

"With these remarks I would propose that the Council simply confirm the High Commissioner's decision in the terms of the following resolution.

"The Council.

"Confirms the decision rendered by the High Commissioner on January 14th, 1932."

*The draft resolution was adopted.*

### 3062. Free City of Danzig Personnel of Danzig Nationality in the Service of the Polish Railway Administration.

Mr. EDEN presented the following report and draft resolution.<sup>1</sup>

"1. The Polish Government on February 26th, 1932, lodged an appeal against the decision given by the High Commissioner of the League of Nations at Danzig on January 15th, 1932, in the matter of the personnel of Danzig nationality in the service of the Polish Railway Administra-

<sup>1</sup> Document C.448.1932.I.