

and passenger traffic to and from Poland which does not pass the land frontier and the transit traffic through Poland is transhipped in the harbour of Danzig.

“ Nor does it involve a general and unconditional obligation on the Polish Government to take the necessary measures to ensure that the risk of full use not being made of the port of Danzig should fall, not on the port of Danzig, but on the ports opened by Poland on the Baltic coast;

“ 5. In interpreting the obligation under Point VII, regard must be paid to the state of development of the port of Danzig which at any time will result from a reasonable application of Article 26 of the Paris Treaty of November 9th, 1920.

“ (b) To suspend judgment on Point D of the High Commissioner's decision of October 26th, 1931,

“ (c) To refer the question back to the High Commissioner, asking him to request the parties to supplement their statements where necessary and to formulate, with a view to his decision, their detailed conclusions on the question whether the Polish Government is actually making full use of the Port of Danzig as provided in Point VII of the decision of August 15th, 1921, and, if not, how and to what extent.

“ (d) To request the Secretary-General to convey the Council's thanks to the Committee of Jurists for its valuable assistance. ”

M. ZALESKI accepted the report and thanked the Rapporteur for the work he had done. He desired, however, to make a few observations.

As Poland had maintained repeatedly and still maintained, she had need of the port of Danzig. She used it and would always use it. Its development was no less advantageous to the Polish State than to the Free City

The use of the port of Danzig, viewed in this light, was a question of fact in the economic sphere, and M. Zaleski could only observe that the Polish Government accepted the opinion of the jurists, in so far as it appeared to give special attention to this aspect of the matter, by which the jurists had apparently been guided more especially

With regard, however, to the legal standpoint, the Polish Government reserved its right to take its stand on the principle embodied in the Treaty of Versailles and the Convention of Paris, according to which the free use of the port of Danzig was a right confirmed to Poland.

M. ZIEHM understood the Polish representative's statement in the sense that it made no change in the report in regard to the finding as to Poland's obligation to make use of the port. Subject to this observation, he accepted the report.

The draft resolution was adopted.

3064. Free City of Danzig “ Direct Action ” in Customs Matters.

Mr. EDEN presented the following report and draft resolution: ¹

“ I. On March 29th, 1932, the High Commissioner gave a provisional decision as to whether there had been direct action within the meaning of the report approved by the Council on March 13th, 1925 ²

“ The relevant passage of the report reads as follows:

“ There is one matter, however, on which the Council could take a decision now. I refer to the question of preventing a dispute between Danzig and Poland from being prejudiced by means of direct action of any kind, and of preventing such action from giving rise to incidents which might involve serious political consequences. The Council certainly realises the importance of this question, and I am sure we all agree that the Governments of the Free City and of the Republic of Poland should never resort to direct action against each other. This necessarily follows from the special relations created by the treaties between Danzig and Poland. The real difficulty is to decide what constitutes direct action in any particular case. Such an action would, I consider, be one which might endanger or prove a serious obstacle to the maintenance of public security in Danzig or which might jeopardise good relations between Danzig and Poland. Such direct action might take the form of passive resistance as well as active measures.

“ The Council, which is the final court of appeal in disputes between Danzig and Poland, is also, of course, the competent organ to decide whether either Government has resorted to direct action instead of employing the methods of redress provided for in the treaties. If, however, any serious case of direct action arose, it might be dangerous to wait for a Council

¹ Document C.450.1932.I.

See *Official Journal*, April 1925, pages 468 and 564.

meeting. The Council should then, I think, leave it to the High Commissioner at Danzig to decide provisionally whether there has been direct action or not. The Government concerned would, of course, be entitled to appeal to the Council, but the High Commissioner's decision should be accepted until the Council has either confirmed, modified or rejected it.

" I need hardly add that the High Commissioner would naturally exercise his authority with great discretion, in order to avoid any undue restriction of the freedom of action either of the Polish Republic or the Free City

" Being anxious to assure the Council that he had scrupulously observed the instructions contained in the last paragraph of the report mentioned and quoted above, the High Commissioner on April 13th, 1932, sent to the Council a special report giving a detailed statement of the circumstances which caused him to give the decision in question.

" In view of the fact that, according to the terms of the report of March 13th, 1925, the Council reserved in principle its competence to decide in matters of direct action and that its competence in this respect is delegated to the High Commissioner only provisionally and in urgent cases, the High Commissioner, in view of the near approach of the Council's session, forwarded to the latter, in a letter dated May 1st, 1932, a request from the Danzig Senate, dated April 24th, asking the High Commissioner to decide that Poland had taken direct action in two ways: first, by the non-execution of the provisional decision of March 29th, 1932, and, secondly by the issue on April 21st, 1932, of the Financial Penalties Law dated March 18th, 1932. The Polish Government has lodged an appeal on May 8th, 1932, against the High Commissioner's provisional decision and, by a letter dated May 9th, submitted its observations on the Danzig request of April 24th.

" II. Occasion for the High Commissioner's provisional decision of March 29th, 1932, arose during the proceedings regarding a request for a decision submitted by the Polish Government on September 15th, 1931. In this request, Poland had asked, among other things, that it should be found that *l'octroi arbitraire de permis touchant le trafic passif pour des buts de finissage* on the part of the Danzig Customs authorities constituted a breach of treaty provisions.

" The Polish Finance Minister, however, without awaiting the High Commissioner's decision on the point, instructed the Danzig Customs Administration, by a letter dated October 30th, 1931, to put a stop, within a specified time-limit, to the passive finishing trade which was disapproved by the Ministry. Poland stated that the non-observance of these instructions by the Danzig Customs Administration would be regarded as direct action.

" The Customs Administration, relying upon the instructions of the Danzig Senate, which regarded this request as an interference in the proceedings pending before the High Commissioner, did not comply with the instruction of the Polish Finance Ministry.

" On January 9th, 1932, the *Monitor Polski* then published a regulation of the Polish Finance Ministry which stated that steps would have to be taken to establish supervision to prevent goods coming from the passive finishing trade at Danzig, regarded by the Finance Ministry as illicit, from entering Poland. The regulation enumerates fifteen classes of goods, and adds that the recipients of such goods in Poland will be required to submit proof of the regular Customs clearance of each consignment.

" On January 29th, 1932, the Government of the Free City requested the High Commissioner to give a provisional decision to the effect that:

" (1) The Decree (*Verfügung*) of the Polish Finance Ministry published in the *Monitor Polski* of January 9th, 1932, constitutes direct action,

" (2) The Polish Government shall be bound to withdraw the said regulation without delay and, pending a decision in regard to the proceedings before the High Commissioner, not to restrict in any way the finishing trade as hitherto conducted,

" (3) The Polish Government should instruct the Polish Customs inspectors to refrain from any action going beyond the limits laid down in Article 201 of the Warsaw Agreement, and, in particular, any action based on the Regulation of the Polish Finance Ministry dated January 9th, 1932.

" In a memorandum to the High Commissioner dated February 29th, 1932, the Polish Government expressed the opinion that the regulation of January 9th, 1932, could not constitute direct action in respect of the Free City as the regulation in question was merely a measure necessitated by the direct action of the Danzig Customs authorities, which had not complied with the order of October 30th, 1931.

" Already at the beginning of January the parties had agreed to resort to the assistance of experts, one to be appointed by each of the parties and the third by the High Commissioner, for the examination of the request submitted to the High Commissioner on September 15th, 1931. The High Commissioner having appointed M. Fattinger, Counsellor at the Hungarian Ministry of Finance, the committee was constituted on March 13th at Danzig. The parties having meanwhile agreed that the requests for a provisional decision submitted to the High Commissioner should first be referred to the neutral expert, the High Commissioner, put to the latter the following questions:

" (1) Do the order of the Polish Finance Ministry dated October 30th, 1931, and the regulation of that Ministry dated January 9th, 1932, constitute direct action on the part of Poland? and

“ (2) Does the non-execution of the Polish Finance Ministry's order of October 30th, 1931, by the Danzig Customs Administration constitute direct action on the part of Danzig ?

“ M. Fattinger communicated his opinion to the High Commissioner on March 23rd, 1932. In this opinion, he arrives at the conclusion that in the refusal of Danzig to conform to the orders of the Polish Finance Ministry of October 30th, 1931, which are not justifiable by strict law, no “ direct action ” can be established, but that, on the contrary, the order of the Polish Finance Minister of October 30th, 1931, and the regulation of January 9th, 1932, do constitute “ direct action ”

“ Upon receiving this advisory opinion, the High Commissioner, being anxious in the general interest to avoid these questions being settled by a decision, submitted a draft compromise to the parties. This compromise was approved on March 24th by the experts, subject to the approval of their Governments. The Danzig Senate signified its approval on the same day. Having received no communication from the Polish Government on March 29th, the High Commissioner, upon the urgent representations of the Senate, gave the following provisional decision.

“ After carefully considering it, I have adopted the advisory opinion communicated to me at my request by Ministerial Councillor Fattinger, and, in reply to the request for a provisional decision which was submitted to me on January 29th, 1932, by the Danzig Government, I have decided as follows: the Decree (Verfügung) of the Polish Finance Ministry published in the *Monitor Polski* of January 9th, 1932, constitutes direct action within the meaning of the resolution of the Council of the League of Nations, dated March 13th, 1925.

“ III. The High Commissioner's provisional decision aroused extremely violent attacks in the Polish Press against the High Commissioner's attitude, as stated by the latter in his above-mentioned special report of April 13th.

“ On April 12th, the following communiqué appeared in the *Monitor Polski*

“ The nature of the statement concerning the passive finishing trade, published in the unofficial section of the *Monitor Polski*, No. 6, of January 9th, 1932, may have been misunderstood.

“ It is explained that, although this statement was issued by the Ministry of Finance, it was of a purely informative character creating no legal rule and is therefore to be regarded as non-existent from the legal standpoint.

“ In connection with the foregoing, it is pointed out that, in regard to the passive finishing trade only the relevant legal provisions which are binding in that matter apply

“ IV In its request of April 24th, 1932, submitted to the Council by the High Commissioner's letter of May 1st, 1932, referred to above, the Senate asks for a finding that Poland has taken direct action both by failing to comply with the High Commissioner's decision of March 29th, 1932, and by the promulgation on April 21st, 1932, of the Financial Penalties Law dated March 18th, 1932.

“ The Senate is of opinion that the communiqué quoted above from the *Monitor Polski* of April 12th, justifies the conclusion that the Polish attitude is as follows: (a) the Decree of January 9th, 1932, though abrogated in form, is regarded as being in accordance with the existing legal position, (b) in spite of the formal abrogation of the Decree of January 9th, 1932, the existing legal position (as interpreted by the Polish Government) is to be adhered to. The Senate finds itself accordingly bound to conclude that Poland has not created a *de jure* position in conformity with the decision of March 29th, 1932. The Senate's view is that, under the decision in question, it was entitled to expect the free entry into Poland of all articles produced in the passive finishing trade. In spite, however, of the fact that the Polish Inspectors of Customs, with the approval of the Senate of the Free City have made extensive inspections of the Danzig chocolate factories, and that the inspectors in question have given a whole series of certificates attesting that the products of the chocolate factories do not include any object manufactured in the passive finishing trade, new seizures have been effected. Up to the present, 121 consignments in all have been seized. All transactions of the jewellery trade have been brought to a complete standstill. Poland is preventing the entry into Polish territory of all articles in the passive finishing trade, even when imported in small quantities or brought in by passengers. In the small frontier traffic, the goods trade is at a complete standstill. In view of this situation, the Senate considers that it is justified in concluding that the Polish Government is not complying with the High Commissioner's decision of March 29th, 1932.

“ Under Article 210 of the Warsaw Agreement, the provisions with regard to Financial Penalties are to form the subject of a separate agreement. The Polish Republic, without hearing the views of Danzig, has established separate provisions for its own territory by the Polish Financial Penalties Law. On April 21st, 1932, Poland published the new text of this law which is dated March 18th, 1932. Under the new text of the law Poland has established a legal provision by which articles imported into Danzig under the Customs regime applicable to the finishing trade or the warehousing trade are fraudulently imported, if the finishing or warehousing in question are not regarded by Poland as conforming to the current provisions. But Poland, by note of September 15th, 1931, had submitted a number of disputes to the organs of the League for decision.

These disputes relate both to the passive finishing trade and to the warehousing trade. The measures proposed in the new text of the Financial Penalties Law which are obligatory on the administrative and judicial authorities of Poland, constitute a flagrant prejudging of the decision of the organs of the League.

“ The Senate accordingly asks that the following decision should be given.

“ (a) The Polish Republic has taken direct action by taking action contrary to the High Commissioner’s decision of March 29th, 1932, and, further, by issuing the Financial Penalties Law printed in *Dziennik Ustaw* of April 21st, 1932

“ (b) The Polish Republic has taken further direct action by prejudging the settlement of the question of the passive finishing trade in Danzig by its Financial Penalties Law printed in *Dziennik Ustaw* of April 21st, 1932

“ (c) The Polish Republic has taken further direct action by prejudging the High Commissioner’s decision in regard to the dispute in connection with the bonded trade of Danzig by its Financial Penalties Law printed in *Dziennik Ustaw* of April 21st, 1932

“ (d) The Polish Republic has taken further direct action by prejudging the difference of opinion between Danzig and Poland in regard to the regulation of the trade in Danzig quota goods, by the Financial Penalties Law printed in *Dziennik Ustaw* of April 21st, 1932.

“ V On May 8th, 1932, the Polish Government appealed from the High Commissioner’s decision of March 29th, 1932. The Polish Government maintains that, before an act or passive attitude can be described as direct action, two conditions are absolutely essential—namely that the positive or passive act in question shall be prejudicial to a case in dispute, or that it shall be such as to give rise to incidents entailing serious political consequences. The Polish Government is of opinion, however, that neither of those two conditions is fulfilled in the case under consideration. In the first place, the decree of January 9th, 1932, was simply a communiqué, issued for purposes of information, concerning the instructions based on the general provisions of the law of December 14th, 1923, whereby the Customs administration authorities have the right, within the limits of the Polish territory to examine even goods which have already been cleared. Secondly the communiqué relates exclusively to the entry of certain classes of goods from the Free City into Poland and the supervision exercised as regards their consignees in Polish territory. The Polish Government at once notes that there can be no question of the second condition mentioned above, since no one can maintain that the supervision contemplated in the communiqué would be of a nature to give rise to serious political incidents. It remains then to examine the first condition. An attempt has been made to establish a relationship between the measures in question and the dispute submitted to the High Commissioner by the Polish Government on September 15th, 1931. That request, however, does not in any respect or in any way affect the question of the disposal in Polish territory of goods which are the products of the finishing trade. Whatever decision may be given by the High Commissioner in this dispute, it can never concern the measures of supervision which the Polish Government has felt obliged to take as regards the entry of certain goods from Danzig into Poland, just as the measures themselves do not in any way prejudice the issue of the dispute now pending. The Polish Government is of opinion, therefore, that the provisional decision of March 29th, 1932, is devoid of all legal foundation and that it should be rescinded.

“ VI. In a letter of May 9th, 1932, submitted to the Council, the Polish Government emphasises the fact that the Polish Fiscal Authorities simply applied, in the cases at issue, the provisions of the Polish laws in force previous to September 15th, 1931, and applicable uniformly to the whole territory of the Polish Republic (more particularly the law of December 14th, 1923, Article 2, and the law of August 2nd, 1926, Article 132).

As regards the publication of the law of March 18th, 1932, concerning fiscal offences, the Polish Government declares that that law does not modify the legal provisions of the law of August 2nd, 1926, which it simply defines more precisely. In support of this statement, the Polish Government quotes a judgment of the Supreme Court dated June 2nd, 1930. The Polish Government is thus of opinion that the law of March 18th, 1932, passed by the two legislative Chambers and promulgated in the *Dziennik Ustaw* on April 21st, cannot, in so far as it is applied in the territory of the Polish Republic, be regarded as being contrary to the High Commissioner’s decision of March 29th, 1932.

VII. It is manifest from the report approved by the Council on March 13th, 1925, that the procedure concerning direct action constitutes an exceptional procedure and one of extreme gravity. That was why the Council, when instructing the High Commissioner to give provisional decisions in such questions, stressed the fact that the High Commissioner would naturally exercise his authority with great discretion, in order to avoid any undue restriction of the freedom of action either of the Polish Republic or the Free City. I desire to point out that, from the report which the High Commissioner addressed to the Council on April 13th, 1932, relating the circumstances in which he found it necessary to give his provisional decision, it is clear that the High Commissioner spared no effort to effect a compromise between the parties and thus avoid taking a decision on the question of direct action. It became apparent, during the negotiations which took place here in Geneva, that it is most important in the general interest that the questions of substance which form the subject of the Polish request of September 15th, 1931, and in regard to which the questions concerning direct action arose, should be settled definitely at the earliest possible date.

"It seems to me advisable, then, that the High Commissioner should be asked to give his decision as soon as possible on the request of September 15th, 1931, with the assistance of the necessary experts. The parties have informed me that they will be prepared to give immediate effect to that decision, without prejudice to the possible exercise of their right of appeal to the Council.

"As regards the question whether the promulgation, on April 21st, 1932, of the Polish law of March 18th, 1932, concerning fiscal offences constitutes direct action in the case of traffic in Danzig quota goods, which question was submitted to the Danzig High Commissioner by the Senate for decision on April 13th, 1932, I propose that a committee of jurists, which might be named by your Rapporteur, be asked to give an opinion which could be considered at a later meeting of the present session of the Council.

"I propose therefore the adoption of the following draft resolution.

"The Council,

"Having regard to the High Commissioner's provisional decision of March 29th, 1932;

"Having regard to the Danzig request of April 24th, 1932;

"Having regard to the appeal lodged by Poland on May 8th, 1932, against the above-mentioned decision,

"Having regard to the observations put forward by Poland on May 9th regarding the above-mentioned Danzig request;

"Re-affirming its decision of March 13th, 1925, in virtue of which a provisional decision of the High Commissioner in regard to direct action becomes immediately executive in letter and in spirit;

"Noting that it is highly important in the general interest that a settlement should be effected as soon as possible in regard to the concrete questions in connection with which the question of direct action forming the subject of the High Commissioner's decision of March 29th has arisen.

"Requests the High Commissioner to give as soon as possible, with the assistance of experts, his decision concerning Points I to IV of the request submitted by Poland on September 15th, 1931, on the understanding that that decision shall be immediately put into effect by the parties, without prejudice to the possible exercise of their right of appeal to the Council,

"Requests a committee of jurists, to be named by the Rapporteur, to examine the question whether the promulgation, on April 21st, 1932, of the Polish law of March 18th, 1932, concerning fiscal offences constitutes direct action" in relation to the question of trade in Danzig quota goods, which question was submitted by the Danzig Senate to the High Commissioner for decision on April 13th, 1932.

"Poland withdraws the appeal lodged on May 8th, 1932, against the High Commissioner's decision of March 29th, 1932: that decision shall remain in force until the High Commissioner shall have given his above-mentioned decision on the Polish request of September 15th, 1931."

M. ZALESKI said that he had not had time to consult his Government on this subject, and asked that the matter might be postponed to a later meeting of the session.

Mr. EDEN said he had hoped to be able to report to the Council that agreement had been reached by all concerned upon the terms of the draft resolution now before it. He understood, however—and the representative of Poland had just confirmed this—that the Polish Government could not see its way to accept the resolution without a further opportunity of examining it. On the other hand, Mr. Eden felt sure the Council would agree that the matter was so important that a decision must be arrived at in the course of the present session.

Before pronouncing finally upon the question, the Council would doubtless wish to have the advice of jurists, and, in order that the latter might have adequate time to examine the question and that their advice might be available with the least possible delay he proposed the following resolution.¹

"The Council,

"Having regard to the provisional decision of the High Commissioner dated March 29th, 1932

"Having regard to the Danzig request of April 24th, 1932.

"Having regard to the observations on this subject submitted by Poland on May 8th, 1932.

"Having regard to the appeal against the above-mentioned decision lodged by Poland on May 8th, 1932.

"Requests a committee of jurists, to be appointed by the Rapporteur, to examine the questions raised in the above-mentioned documents and to submit an opinion to the Council on the subject for a subsequent meeting of the present session of the Council."

It was understood that, if, on examination, the Polish Government found itself able, when the Council resumed, to accept the original draft resolution, it should supersede the resolution Mr. Eden had just submitted. In that event, the report of the committee of jurists would need to be submitted to the Council in respect only of the question referred to in the penultimate paragraph of the original resolution.

M. ZALESKI was very anxious that this matter should be settled amicably as had been the Council's invariable practice in all questions submitted to it with regard to the Free City of Danzig.

¹ Document C.450 (a).1932.I.

It was for that reason that he had asked for a postponement. He feared that the Rapporteur's proposal was in contradiction to the Polish Government's intentions, and urged that time should be given to settle this question before the jurists formulated their opinion.

M. MASSIGLI appreciated the great importance of the question before the Council, and likewise realised the need for a rapid decision by the Council. It was, however, the importance of the matter that made it necessary for the Council to be able to consider it at leisure. He had not yet been able to examine in detail the report, which he had received only on the evening of the previous day.

The Rapporteur had proposed a draft resolution in terms differing slightly from that originally contemplated. It was, M. Massigli supposed, of a provisional nature, but it nevertheless affected the whole question.

He pointed out that, in matters of this kind, the Council's normal rule was to allow the negotiations to continue during the session. In regard to Danzig, many important questions had been raised which had been settled only on the last day of the session. Would it not be possible, in accordance with the normal practice, to comply with the Polish representative's wish and postpone the discussion on this point to a later meeting?

Mr. EDEN desired to clear up what was, he thought, a misapprehension. He was equally anxious that the question should be amicably arranged, and had no desire to rush matters unduly. At the same time, he felt he ought to point out that in the second resolution the Council was not asked to come to any decision. Nor did the resolution in any way prevent the continuation of the discussions and consultations. It would simply place the Council in a position, when it met again, to come to a decision. Mr. Eden thought it right to submit the resolution to the Council, because he was convinced of the importance of a decision being reached, not by any means on that day but during the present session.

Count WELCZECK desired to support the Rapporteur's proposal, which would certainly make it easier to settle the question at a later meeting.

M. ZIEHM entirely accepted the Rapporteur's proposal. He emphasised that a settlement of the question was a very urgent matter for the Free City. He was ready to give any additional explanations that might be required and hoped that a friendly solution would be found with the help of the jurists and the Secretariat.

M. ZALESKI had listened with interest to the Rapporteur's expression of hope that the proposal to submit the dispute to the jurists would not hamper the negotiations for a friendly settlement between the parties. Notwithstanding the great respect M. Zaleski felt for the Rapporteur's experience in this kind of question, his own experience of the Council was somewhat different, and he did not think that that mode of procedure would facilitate a friendly settlement.

M. MASSIGLI wished to define the object of the Rapporteur's proposal. The Rapporteur was asking for authorisation to appoint a committee of jurists. Was that for the purpose of his own enlightenment and to enable him to submit to the Council a properly grounded opinion with regard to points on which he had some doubt? Was it, in that case, necessary for him to apply to the Council, seeing that, under the resolution proposed, the Rapporteur would himself appoint the jurists whom he wished to consult? He could, M. Massigli thought, take the opinion of such jurists without any resolution and then inform the Council of the conclusion he had reached as a result of his study of the matter with the assistance of qualified persons.

If, however, the opinion of the committee of jurists was to be submitted to the Council as such, the question assumed a different aspect. It was quite certain that an opinion submitted in those circumstances—and there might perhaps be reason to doubt whether the appointment of the committee by the Rapporteur alone was in conformity with the precedents—already prepared and, if it did not prejudge, at any rate committed the Council's action. If that were so, M. Massigli entirely appreciated the Polish representative's misgivings. It was desired to settle the matter amicably. Was it a good method to appoint at once a committee which would consider the matter from the legal standpoint? A legal basis was not always the best for arriving at a practical arrangement.

In other words, if the only object was the enlightenment of the Rapporteur, he could, M. Massigli thought, seek that enlightenment without asking the Council's authorisation to consult the jurists and without a formal resolution by the Council. Otherwise, the whole aspect of the question was changed and a postponement would, in M. Massigli's opinion, be necessary.

M. ZIEHM pointed out that the question was of very great economic importance to the Free City of Danzig. It was consequently essential that a decision should be reached as rapidly as possible. M. Ziehm was sure that the co-operation of jurists would be very valuable, and he asked the Council to take a decision in that sense as soon as possible, in some form or another.

Mr. EDEN assured the Council that his only anxiety in this matter, as he felt sure the parties concerned appreciated, had been to arrive at an early solution, because of the inevitable seriousness of the consequences of delay and because of the responsibility which must rest upon the Council. He was equally anxious to secure agreement in the most satisfactory conditions possible, and would therefore suggest the following compromise for the Council's consideration. If the Council would authorise him to consult jurists so that he could found or reinforce his opinion

upon their judgments, he would be glad to accept his French colleague's suggestion and to return to the matter in the following week.

M. MASSIGLI thanked the Rapporteur. His proposal appeared to remove the scruples M. Massigli had felt, and he had no difficulty in accepting it.

M. ZALESKI also accepted the Rapporteur's proposal.

The Rapporteur's proposal was adopted.

M. Ziehm and Count Gravina withdrew.

3065. Greco-Bulgarian Emigration. Advisory Opinion given by the Permanent Court of International Justice on March 8th, 1932.

M. Politis, representative of Greece, and M. Mikoff, representative of Bulgaria, came to the Council table.

M. MASSIGLI presented the following report and draft resolution. ¹

" I. On August 7th, 1931, the Bulgarian Chargé d'Affaires at Berne addressed the following letter to the Secretary-General of the League of Nations:

" On July 31st last the Greek Government was due to pay to the Bulgarian Government, in accordance with Article 4 of the Caphandaris-Molloff Agreement of December 9th, 1927 a sum amounting to some 63 million leva. This payment was not made.

" The Greek Government states that it is entitled to connect its debt to the Bulgarian refugees with the Bulgarian Government's debt on reparation account and to set off one against the other. These debts are, however, entirely different in character, and it is legally inadmissible to set off one against the other.

" As the Caphandaris-Molloff Agreement was concluded under the auspices of the League of Nations, I am instructed by my Government to request you to be good enough to bring the question referred to before the Council at its next session, with special reference to Article 8 of the Agreement.

" II. The Bulgarian and Greek Governments having expressed their views in a series of Notes communicated to the Council and by verbal declarations at the Council's meeting on September 7th, 1931,³ the Council, at its meeting on September 19th, 1931,⁴ adopted the following resolution.

" The Council,

" Having noted the points of view stated by the representatives of Bulgaria and Greece;

" Considering that the Bulgarian Government has raised the question whether the Greek Government was entitled to establish a connection between, and set off one against the other, its debt to the Bulgarian refugees under the Caphandaris-Molloff Agreement and the Bulgarian Government's reparation debt;

" Considering that the Bulgarian Government maintains that these two debts are totally different in nature,

" Considering that, in the Greek Government's opinion, no dispute as to the interpretation of the Caphandaris-Molloff Agreement is involved,

" Noting that the respective financial obligations of the two Governments, in regard to which the difficulties thus submitted to the Council have arisen, were incurred in virtue of international instruments which are equally binding on both Governments and the execution of which can in no case be suspended except by agreement between all the signatory parties;

" Being convinced that such an agreement must be sought with extreme urgency on a practical basis in respect of the payments of the current year, all questions of law being reserved.

" Invites the two Governments to confer together in order to attain this result as soon as possible, the service of their above-mentioned debts being carried on in the interval,

" Subject to the foregoing, decides to request the Permanent Court of International Justice to consider, from the legal point of view whether there is, in fact, a dispute between Greece and Bulgaria under Article 8 of the Molloff-Caphandaris Agreement, and, if so, to give an advisory opinion on the nature of the obligations arising out of the said agreement;

Document C.397.1932.I.
Article 8 reads as follows:

Any difference as to the interpretation of this Agreement shall be settled by the Council of the League of Nations, which shall decide by a majority vote."

³ See *Official Journal*, November 1931, page 2059.
⁴ See *Official Journal*, December 1931, page 2261.