

“ Decides that the present report shall be circulated to the States Members of the League, together with the report of the Committee of Experts. ”

1977. Free City of Danzig. Transport of Polish Munitions and War Material in Transit through Danzig Utilisation of the Westerplatte.

Dr. Sahn, President of the Senate of the Free City of Danzig, and Dr. van Hamel, High Commissioner of the League of Nations at Danzig, came to the Council table.

M. VILLEGAS read the following report <sup>1</sup>

“ By its resolution of March 14th, 1924<sup>2</sup> the Council of the League of Nations decided that the Westerplatte Peninsula in the territory of the Free City of Danzig should be placed at the disposal of the Polish Government for the purpose of unloading, storing and forwarding to Poland war material and explosives in transit.

“ In a memorandum submitted to the Council on May 30th, 1927, the High Commissioner of the League of Nations at Danzig requested the Council to give a final decision on various questions which had been raised by the Government of the Free City of Danzig and that of the Polish Republic in connection with the utilisation of the Westerplatte depot for Polish munitions and war material in transit. The High Commissioner states that he had settled these questions provisionally by decisions contained in the memorandum of April 8th, 1927 and in his letters to the two parties of May 21st, 1927. He requests the Council to be so good as to regard his memorandum of April 8th and his letter of May 21st as constituting a reasoned statement of his opinion on the various matters at issue.

“ According to the High Commissioner's statement the questions at issue are the following:

- “ 1. Right of admittance of Danzig authorities to the Westerplatte area in the discharge of their official duties;
- “ 2. Control and supervision of the observance of the safety regulations in this area,
- “ 3. Manner in which the Customs clearance is to be regulated;
- “ 4. Regulations applicable to consignments of war material and explosives leaving the Westerplatte area,
- “ 5. Definition of war material which may be transported via the Westerplatte.

“ In document C.280.1927.I, the Secretary-General communicated to the Council the above-mentioned statement of the High Commissioner, his memorandum of April 8th, 1927 and his letter of May 21st, 1927 addressed to the two parties. He has also communicated to us the observations of the Danzig Government dated May 18th, 1927 and June 11th, 1927, as well as those of the Polish Government dated May 30th, 1927.

“ The Danzig Government has requested that this matter should be dealt with at the present session of the Council, but I regret to say that the short time left to me for the examination of the problem has not made it possible for me to take full account of all the aspects of each of the questions which have to be solved. Under these circumstances, and in view of the fact that we already have a provisional arrangement made by the High Commissioner which can be applied until the Council has an opportunity of giving its decision, I beg to ask the Council to adjourn this question to our next session. ”

The PRESIDENT said that the only question at present before the Council was whether the Council approved the proposal of the Rapporteur to adjourn the discussion until September. Until that question was decided, any discussion on the substance of the matter would be out of order. He added that, in giving that ruling, he was following the ruling of one of his predecessors in a similar case which had occurred at a previous session.

Dr. SAHM, President of the Senate of the Free City said that, in spite of the motion for the adjournment of the question to the next session of the Council, it seemed to the Government of the Free City to be important that it should be able to present its views in order that the Rapporteur might be in a position to study in the interval between the present session of the Council and its September session all the observations now presented by Dr. Sahn.

The PRESIDENT expressed the hope that the President of the Senate of the Free City would conform to the ruling which had just been given. He would repeat that, in giving that ruling, he had followed exactly the precedent set by one of his predecessors and then approved by the Council, and it seemed to him inexpedient, in the interests of the ordinary conduct of the business of the Council, that, on a proposal to adjourn a discussion, the discussion itself should take place. He felt unable to be a party to such a procedure, which would involve the Council in inextricable difficulties.

The President added that he was quite sure his colleague, the Rapporteur, would be glad to give the President of the Senate of the Free City an opportunity to submit to him, between the present time and the time when the discussion took place in September, any supplementary observations which Dr. Sahn wished to make.

<sup>1</sup> Document C. 335. (I) 1927. I.

<sup>2</sup> See *Official Journal*, April 1924, page 536.

M. VILLEGAS said he was entirely at the disposal of Dr. Sahn, and would gladly receive any information which the latter might wish to communicate to him. He was also at the disposal of the representative of Poland for the same purpose.

Dr. STRESEMANN entirely agreed with the President that if it were the desire of the Rapporteur to have the question adjourned until the next session of the Council, owing to the fact that he had not been able to give it as careful a study as he would wish, the Council ought to concur in that desire. He felt sure, however, that the President would agree with him that, in the discussion of the question whether the Council ought to adjourn the problem or not, it would be necessary to consider all the arguments which might be put forward as regards the dangers which might arise from such an adjournment. Dr. Stresemann thought that a similar procedure had been adopted on previous occasions. The reasons for or against an adjournment could not be considered without embarking on the question itself.

The PRESIDENT agreed with Dr. Stresemann that, if exception were taken to a motion for adjournment, the person taking exception to it was entitled to give his reasons, but he wished to emphasise very clearly — and he thought it essential for the orderly conduct of the discussion to bear that distinction in mind — the distinction between bringing forward an argument against an adjournment and entering into a discussion on the substance of the question which the Rapporteur had asked should be adjourned. He would ask all who might take part in the discussion on the motion for adjournment strictly to observe that distinction.

Dr. STRESEMANN did not quite understand what was meant by putting forward arguments "for" and "against" an adjournment apart from those which might be presented regarding the substance of the question.

If he understood the President aright, he wished to avoid raising any questions to which reference was not made in the report of the Rapporteur. Legally it was indispensable, in a discussion on a proposal for adjournment, that the reasons for or against that adjournment should be explained. Undoubtedly those arguments would touch on the substance of the question. Without an indication of the reasons for or against adjournment, that adjournment could only be decided upon if the lack of sufficient time or similar circumstances demanded it. The President certainly did not wish to imply that this was the case in this instance. In the present case, he personally had no intention of dealing with the substance, and he was speaking quite generally.

The PRESIDENT wished again to remind the Council that, in suggesting the above procedure—naturally the decision which he had given was subject to its acceptance by the Council—he was following a precedent already set at the Council table.

His own country was an old Parliamentary country and it so happened that the precedent to which he had referred coincided with the Parliamentary practice there. In his view there was no subject, no motion regarding which it was more difficult to keep within the limits of order than a motion for the adjournment of a discussion. His Parliamentary experience had shown him that the members were always inclined to try to treat the discussion on a motion for adjournment as if it were a discussion on the substance of the question itself and, if he were allowed to support his attitude by a reference to Parliamentary precedence, he would emphasise that, in the case of his own country the seat of the oldest of Parliamentary institutions, that rule was strictly maintained by the President.

Resuming his view of the proper course of procedure, the President said that anyone who opposed a motion for adjournment was entitled to give the reasons which in his opinion made the adjournment inexpedient, but he must carefully avoid, under guise of opposing the adjournment, making a statement which he could have made if the Council had decided to proceed at once with the discussion of the substance of the question. It was a difficult line for an orator to draw, but in the opinion of the President it was the duty of the Chair to interrupt any speaker who transgressed that line.

Dr. STRESEMANN recalled that the President had referred to the procedure in the British Parliament. He himself had been a deputy for more than twenty years and had never yet been interrupted by any President, because he knew exactly the limits of a discussion on procedure and a discussion on the substance of the question itself. It would take a very long time to find out all the different Parliamentary procedures which were applicable to the case in point. The best course would be, he thought, to start the discussion at once and to see if any difficulty arose. It would not be easy in the present case for the speaker or for the President himself to fix the line of demarcation to which the latter had referred. He would venture to add that he had been somewhat surprised that the President had referred to the matter even before the discussion on the subject had begun.

The PRESIDENT wished to add one word with regard to the last sentence of Dr. Stresemann's remarks. He had followed attentively the speech of the President of the Senate of the Free City of Danzig and had thought that he saw indications that Dr. Sahn intended to pass beyond the limits which he, as President of the Council, felt it his duty to impose on the discussion. He had felt therefore that it was a matter of courtesy and convenience to call Dr. Sahn's attention to the point at once. He agreed with Dr. Stresemann that the President of the Senate of the Free City should resume his speech, and expressed the hope that the latter would, taking into account the difficulties, conform to the rules which the President had ventured to lay down.

Dr. SAHM said he would do his best to follow the rule which had just been laid down, and he would not enter into the substance of the question. That course appeared to him to be all the easier, as the Rapporteur had assured him that it would be possible to forward his observations after the present session of the Council.

He believed that the Council would agree with him that an adjournment, and the provisional measures which it might involve, ought not to expose the Free City of Danzig to any danger. It would be seen from the memorandum addressed to all the members of the Council by the "Danziger Heimatdienst" that such a danger existed.

Moreover, a serious explosion had recently taken place in Poland in the neighbourhood of Cracow, a town full of many beautiful old buildings. There had been many victims, and a considerable destruction of property. The Free City of Danzig well understood the reasons why the administration of Cracow had asked the Polish Prime Minister that the warehouse for munitions should be established as far as possible from the city. If he might believe the information which had appeared in the Polish Press, the President of the Polish Republic was proposing to give a favourable answer to that request. He thought that what was right for Cracow was right also, and in an equal degree, for the Free City of Danzig. If the danger of an explosion was so great, the Council should realise that an adjournment of so important a question would involve a very real risk and this risk would be considerably increased by the fact that the proposal of the Rapporteur contemplated a new procedure different from that which had been applied successfully hitherto. The Free City did not yet know how this new procedure would work. The responsibility of all concerned would be considerably increased if it accepted that procedure. For this reason, he ventured to ask the Council to decide, in the event of the question being adjourned, that the old procedure of control and supervision should be maintained.

The PRESIDENT thanked Dr. Sahn for the way in which he had conformed to the rule which he had felt it his duty to lay down. He invited the representative of Poland to speak and asked him to conform to the same rule.

M. STRASBURGER said he would endeavour to comply with the President's request.

Poland also keenly desired that the question submitted to the Council of the League of Nations by the High Commissioner and by the parties should be settled at the present session. He had given the Rapporteur all the assistance he could with a view to the rapid settlement of the matter. Unfortunately the Rapporteur had not been able to study the question with sufficient thoroughness and M. Strasburger had felt obliged, from motives of courtesy, to accept the proposal for an adjournment.

One of the disadvantages, as it seemed to him, of postponing the question to the next session of the Council was the fact that the discussions which had already taken place before the Council on this matter had always had disagreeable consequences in Danzig, and this was particularly to be feared in the period which would precede the elections of next November.

He would accordingly have preferred that this question should be finally settled at once. He would venture to remind the Council that it had already come before it on some ten different occasions. It was desirable that the discussions should be concluded. He ventured to remind the Council also that it had sent to Danzig a special Commission composed of the most distinguished experts in such matters. This Commission, which had been composed of a Swede, a Dane, an Englishman and a Frenchman, who were military experts, had examined the question on the spot and had formulated its views.

The PRESIDENT observed that M. Strasburger was in danger of departing from the question before the Council.

M. STRASBURGER wished merely to say that the explanations he had proposed to give formed one of the reasons why he would have liked the question not to be adjourned.

He would add that he did not see what danger could be feared by the President of the Senate of Danzig from the application of the solution contemplated by the High Commissioner.

He would accordingly propose either the adjournment of the whole question or the adoption of a complete solution. The suggestion of Dr. Sahn for the application at Danzig of another procedure than that which had been fixed by the High Commissioner appeared to him to be unacceptable and dangerous, owing to the position of Danzig, since it involved collaboration between the Polish military authorities and the police authorities of Danzig, which, in his opinion, might lead to friction and to dangers which at present did not exist.

Dr. VAN HAMEL said that it was not for him to give an opinion on the question of adjournment, since this was a question which the Council would decide. The only question which it seemed to him necessary to discuss was whether the adjournment might entail the application of another regime than that which he had established. He personally was fully convinced that such a course would be dangerous. The regime which he had set up was in conformity with the various decisions taken by the Council on the advice of experts. He had described this regime in the memorandum which had been communicated to the Members of the Council. It had been established provisionally pending the time when it would be possible to bring into operation a permanent regime. The maintenance of the old regime in the Free Port would therefore be much less safe than the new system. The site of the Westerplatte was ready. Safety regulations had been drawn up by a Commission and he had consulted personally impartial experts. All the equipment which had been prepared was, according to his information, entirely up to date. The Polish Government had accepted complete responsibility for what had been done or would be done on the spot. He would emphasise that there was no question of having in that place a depot where

munitions would be warehoused for a long time. The Polish authorities had agreed to ensure that the munitions should remain there as short a time as possible.

Dr. STRESEMANN objected that this touched upon the substance of the question.

The PRESIDENT understood that the High Commissioner was giving the Council his advice on the request made by the President of the Senate of the Free City as regards the interim period if it were decided to adjourn the discussion of the substance of the question. The High Commissioner was explaining why he thought it would be dangerous to adopt the proposal made by Dr. Sahn with regard to the regulation of the transport of war material during this period. If that were so, the President did not think he could raise any objection, since the High Commissioner's remarks were a direct reply to what the President of the Senate of the Free City had been permitted to say

Dr. VAN HAMEL said he thought it was his duty to give the Council any necessary information on the present position, since the President of the Senate of the Free City had asked that it should be modified. He was not discussing the substance of the question nor even the question whether there should or should not be an adjournment. He was merely proposing to settle the regime to be applied in the event of the Council deciding upon an adjournment. He had no intention of going further.

He would merely say that the new regime which had come into force with the utilisation of the Westerplatte was, in his opinion, the regime which offered the maximum of security for the population of Danzig. For this reason he felt that a return to the former regime would be a mistake, since the new site could at once be utilised.

He would add one word on the matter of security. He had already said that there was no question of the permanent warehousing of munitions. He had also said that experts had found that the regulations had been drawn up with very great care. He would add that, for the period of transition, he had appointed an observer who would act as his representative. He desired to be morally sure that nothing which ought to or could be done should be omitted. This fact would not in any way diminish the absolute responsibility of the Polish authorities. All those who were dealing with this question assumed a certain moral responsibility which, so far as he was concerned, he was prepared to accept. For this reason, he desired to be kept informed of all that was taking place.

In conclusion, he would say that, during the period of transition, Danzig would not be in a less favourable position than other international ports where explosives were imported. It was to the interest of Danzig that the port should not acquire the reputation of being especially dangerous. This was very important from the point of view of the prosperity of its merchant shipping.

Dr. SAHM asked whether he might be allowed to refer to the observation made by the representative of Poland, who had referred to a connection between the question with which the Council was dealing and the forthcoming elections at Danzig. This observation would certainly cause considerable surprise at Danzig, since all parties, whether of the right or left, were unanimous in condemning the establishment of an ammunition depot in Danzig. This question of the ammunition depot was lying like a shadow not only on the relations between Poland and the Free City but also on those between the Free City and the League of Nations.

As regarded the measures to be taken during the transition period, it was difficult for him not to reply to the observations made by the High Commissioner. In order, however, not to go beyond the line of demarcation drawn by the President, he would abstain from entering into detail and would merely state that the provisional regulations which he had proposed had already worked satisfactorily for two years. The measures contemplated by the High Commissioner, on the contrary had only been applied once. He accordingly asked the Council to decide whether in its opinion, it was not better to apply a system which had already been applied for two years and had proved satisfactory rather than introduce a method which had only been applied once.

The PRESIDENT thought that the question with which the President of the Danzig Senate had concluded his last speech was the only one which was really before the Council at the moment. On that question he would like first to have the High Commissioner's views, after which the Rapporteur would perhaps submit his conclusions.

Dr. VAN HAMEL said he wished to avoid a misunderstanding which might arise from what the President of the Senate of the Free City had said.

It would appear from the declarations of Dr. Sahn that the High Commissioner had established, on his own initiative and arbitrarily a new system though the old system might have continued to work. This, however, was not the case. The system which had hitherto existed in the free port of Danzig was only transitional. Vessels carrying munitions unloaded explosives in the commercial harbour, surrounded by other vessels, because the equipment of the dock intended for the unloading of the munitions had not been completed. The site of the Westerplatte had, however, now been equipped and made it possible to isolate munition transports. It only remained to make use of it, since it was specially intended for the unloading of ships carrying explosives.

This was the first time he had heard the President of the Senate state that the former regime might be preferable. The Danzig Press, also, asked that vessels carrying explosives should no longer be unloaded in the commercial harbour, which was already overcrowded. The vessels had to wait outside the harbour before being allowed to enter. For these reasons it had now been proposed to use the peninsula of the Westerplatte.

It was nevertheless understood that if the Council, after having considered the substance of the question, decided to take other steps, it was entirely free to do so, and it was not for him to

intervene. He did not wish, nor was he able, to exercise any influence on the Council, but only to apply its decisions as they stood. Nevertheless, he could not believe that it could be considered preferable to continue to apply a defective system when there at present existed a system which afforded more security.

Dr. STRESEMANN said he entirely agreed with the views expressed by the President of the Danzig Senate and by the representative of Poland, namely that it would have been desirable if the legal question — the question of international law — could have been settled at once. If, however, the Rapporteur considered the question of such importance that he could not, with the data at present before him, give a final report immediately, the Council could do nothing but accept the motion for adjournment. Before agreeing, however, to the proposal for adjournment, Dr. Stresemann wished to make his point of view quite clear.

The High Commissioner had said that he had taken his decisions on the basis of decisions adopted by the Council at former sessions. The question which interested the Council, however, was not the situation prevailing in former times but the present situation, which was the result of the utilisation of the Westerplatte for the unloading of ammunition without the control and supervision of the Danzig administration, that was to say the question whether unloading of munitions should take place on territory which would by that operation become quasi-external or on territory where, in the future as in the past, supervision would be effected by the Danzig authorities.

In his letter and memorandum, the High Commissioner had stated that he wished this question to be decided by the Council of the League of Nations, and the latter should therefore be left entirely free to take a decision. Neither the letter nor the memorandum should be allowed to prejudice that decision. Dr. Stresemann wished to make this point quite clear and to place it on record.

He wished to speak of the transition period during which the Westerplatte could be used for the discharge of munitions. He would like to bring out two points which he considered particularly important: If it were not possible at this moment to take a decision based on the particular considerations mentioned by the Rapporteur, and if the unloading took place in the interval without the Danzig authorities having any hand in the matter, it must be clearly established, in conformity with the spirit of the Council's previous discussions, that the fact could not be interpreted by Poland as a *fait accompli*. It should not be possible to say that a precedent had been created, which could afterwards be invoked. He wished to lay special emphasis on the point, in order to avoid any chance of giving rise to false impressions.

It was, of course, very difficult for anyone not acquainted with the conditions existing in the Free City to have a clear idea of the actual situation. Dr. Stresemann thought that the President of the Senate had made his declaration as a result of a feeling of responsibility because he feared that if the administration of the Free City no longer had a hand in the control and supervision of the operations on the Westerplatte he would be unable to take the same responsibility *vis-a-vis* the Senate and the population of the Free City as he had previously taken when its authorities still took a hand in the supervision.

The High Commissioner had stated that he was fully satisfied with the security offered by the installations on the Westerplatte and thought it necessary to use them. Nevertheless, Dr. Stresemann wished that, during the transitional period before the Council took a decision, nothing should be done to prejudice in any way what that decision would be.

Without encroaching upon a sphere which was within the competence of the President of the Danzig Senate, and if he were sure of the assent of the Polish representative, Dr. Stresemann thought that the best solution would be to use — but with the participation of the Danzig administration — this new regime during the transition period, thus, however, should not constitute a precedent.

M. VILLEGAS said it was quite true that, not only the representative of the Polish Government, but also the representative of the Senate of the Free City and even the inhabitants of Danzig, had asked him to hasten the solution of this question. Nevertheless, as he had pointed out in his report, the matter had been brought before the Council and the documents had only reached him two or three days before the present session. It had therefore been impossible for him to examine the problem, which involved the most serious questions of principle, sufficiently thoroughly to make it possible for him to ask the Council to settle the matter immediately. For this reason he had asked that it should be adjourned.

As regarded the system to be applied during the transition period, he believed, after having heard the observations of the High Commissioner, that the wisest course was to maintain the existing provisional regime. He thought it should be understood, however, as Dr. Stresemann had pointed out, that this regime must be regarded as provisional, that it could not be considered as a precedent, and must not in any way prejudice the final decision which the Council would take at its next session.

The PRESIDENT said that the conclusions of the report of M. Villegas were adopted, it being clearly understood that the decision did not prejudice in any way the rights of the parties to bring all the facts of the case before the Council when it decided to consider the substance of the question and did not prejudice the rights of the Council to settle this question as it might think fit.

*The Council decided to postpone the discussion of the question to its next session.*

Dr. VAN HAMEL said he would venture to refer to an expression used during the discussion. It had been said that the territory of the Westerplatte was quasi-external. This was not

the case. The Westerplatte remained Danzig territory. He would not like this expression to give rise to misunderstanding.

The PRESIDENT wished to thank all those who had taken part in the discussion for the help they had given him in conducting the proceedings in an orderly way

Dr. Sahm and Dr. van Hamel withdrew.

The Council went into private session.

**1978. Nomination of a Fourteenth Member of the Governing Body of the International Institute for the Unification of Private Law in Rome.**

M. SCIALOJA, Rapporteur, requested that this item might be postponed, because the work of adapting the Villa Aldobrandini would require some time. He thought it hardly possible for the Governing Body to meet elsewhere than at its seat.

M. Titulesco had enquired whether the five years prescribed for the mandate of the Governing Body should date from the first session or from some other date. M. Scialoja personally thought that appointments to this body should date from its first meeting.

The PRESIDENT thanked M. Scialoja for his statement, which was entirely satisfactory and proposed that the Council should postpone this question.

*It was decided to postpone the question.*

**1979. Free City of Danzig Question of a Loan for the Free City**

Dr. Sahm, President of the Senate of the Free City of Danzig, Dr. van Hamel, High Commissioner of the League at Danzig, M. Pospisil, Chairman of the Financial Committee, and M. de Loes, President of the Danzig Harbour Board, came to the Council table.

Dr. SAHM, President of the Senate of the Free City of Danzig, reminded the Council that in its report of March 9th, 1927 on the financial situation of the Free City — which report had been adopted by the Council on March 10th, 1927<sup>1</sup> — the Financial Committee made the following statement under paragraph (e)

“ The Financial Committee sees no objection to the issue of a Harbour Board loan, provided the issue takes place after that of the Free City loan.

It was probable that the Free City loan would be approved by the Danzig Parliament that day at the third reading. In order, however, to prepare for all eventualities, Dr. Sahm wished to request the Council to authorise the Chairman of the Financial Committee to withdraw at the request of the Government of the Free City if the former thought necessary the condition by which the Free City loan was given priority over that for the Harbour Board.

M. STRASBURGER said that the extension of the port was a very urgent matter: the work involved was essential and advantageous both for Poland and for Danzig. Poland would be very glad if the loan for the construction of the port could be floated at the earliest possible moment. He warmly supported the proposal that the Chairman of the Financial Committee should be empowered, in case of need, to authorise the issue of the Harbour Board loan before that for the Free City

M. POSPISIL, Chairman of the Financial Committee, said that he was authorised by the Financial Committee to approve the issue of a loan on behalf of the Free City. From information in his possession he was justified in believing that this loan would probably be issued at a relatively early date. If, however, contrary to all expectations, the loan could not be floated within the time-limit anticipated, an eventuality which would have the consequence of delaying the work of construction in the port, he was in a position to state, on behalf of the Financial Committee, that the latter would have no objection to falling in with the request made by the President of the Danzig Senate.

M. DE LOES, President of the Danzig Harbour Board, said that he had but little to add. In all his letters and reports he had emphasised the urgency of the work of improvement in the port of Danzig at the present time, in order to adapt the port to the exigencies of its import and export traffic, and in particular of the Polish transit traffic, which represented virtually 90 per cent of the goods passing through the port. There was a shortage of basins, and traffic was disorganised because goods had to be unloaded at various places and even the smallest available areas had to be utilised. Moreover, movement in the port was restricted. For instance, the coal trade amounted at present to 350,000 tons a month, whereas the port should be in a position to ensure the export of 600,000 tons of Silesian coal a month.

<sup>1</sup> See *Official Journal*, April 1927, page 386.