

Count GRAVINA thanked the Council for its mark of confidence in unanimously asking him to accept a renewal of his term of office.

He also wished to thank the Council for having approved the attitude and line of conduct he had hitherto adopted, particularly in circumstances which had led him to submit a special report to the Council. He also thanked the British representative for having in his report given so clear a statement on the very important question of the High Commissioner's powers. That statement would doubtless assist him in carrying out his difficult task. It could not be denied that, at the present time, Polish-Danzig relations were passing through a crisis; indeed, the situation had recently become rather disquieting. He would, nevertheless, return to Danzig hoping that he might be able to say in his next report to the Council that relations had improved. No improvement could be possible without the goodwill of both parties.

Finally he thanked the representatives of the two Governments for the confidence they had again shown in him. He could assure them for his part that he was doing all in his power to render the situation at Danzig more satisfactory than it was at present.

M. FRANÇOIS-PONCET wished, on behalf of France, to associate himself with the terms of the report submitted by the British representative. He also expressed the French Government's sincere thanks to the High Commissioner and assured him that the French member on the Council would do all he could to maintain unimpaired the authority of the High Commissioner, which was none other than the authority of the League itself.

The draft resolution was adopted.

Mr. HENDERSON sincerely hoped that the report he had presented and the decision of the Council would contribute effectively towards the improvement of the situation in Danzig.

Certain statements made by the High Commissioner in his report had caused him some misgiving. It was clear that conditions in Danzig could not be regarded as satisfactory. A state of unrest existed, in which incidents might easily be provoked which would gravely compromise the maintenance of good order and security. In such conditions, it seemed to Mr. Henderson that demonstrations by nationalist organisations of the territory of the Free City must involve serious risk.

There was, in the particular case of Danzig, the added danger that incidents and breaches of the peace might affect seriously the relations between Poland and the Free City and he would address an earnest appeal to the Danzig Senate to consider whether, in the interests of the Free City itself, it should not take measures to avert, so far as lay in its power, the possibility of disorder and disturbance.

The PRESIDENT said that, as President of the Council, he would venture to offer one or two observations to conclude the debate on the question. The Members of the Council were very grateful to the High Commissioner for having done all in his power, in a difficult situation, to maintain normal relations between the Free City of Danzig and Poland. The Council was also particularly grateful to him for having agreed to remain at his post in these difficult circumstances and for the intentions he had expressed.

The President thought it might be useful to state, on behalf of the Council, that, if satisfactory relations were to be restored between the Free City of Danzig and Poland, both sides would have to show impartiality: both parties must abstain from any provocation and must make every possible effort to maintain peace in that part of Europe. In making that appeal, which certainly represented the views of all the members of the Council, he hoped he could close the discussion on that difficult question.¹

2846. Free City of Danzig Treatment of Polish Nationals and Other Persons of Polish Origin or Speech at Danzig Request for an Advisory Opinion from the Permanent Court of International Justice.

Mr. HENDERSON presented the following report and draft resolution.²

"The following letter from the High Commissioner of the League of Nations at Danzig, dated March 31st, 1931, has been communicated to the Council.

"On September 30th, 1930, the Polish Government communicated to me, under the terms of Article 39 of the Treaty of Paris of November 9th, 1920, a request for a decision concerning the treatment of Polish nationals and other persons of Polish origin or speech at Danzig. The Polish Government based this request, in particular, on Article 104, paragraph 5,

¹ Subsequent to this discussion, an exchange of letters between the President of the Council and the representative of Poland was communicated to the Council in document C.393.1931.I (Annex 1308a).
Document C.388.1931.I.

of the Treaty of Versailles¹ and Article 33 of the Paris Treaty² concluded in virtue of Article 104.

“ The exchange of documents in conformity with the procedure in force has shown that the views of the two Governments are still sharply divided, particularly with regard to the interpretation of Article 33 of the Paris Treaty as had already been noted in Article 229 of the Warsaw Agreement of October 24th, 1921,³ and Chapter III of the Danzig-Polish Agreement of September 1st, 1923.⁴

“ It would serve no useful purpose to examine the numerous concrete points submitted to me for decision in the above-mentioned request of the Polish Government before the legal problems involved have been settled beyond dispute. As I have had occasion to note, the procedure established by the Council on June 11th, 1925, to the effect that the High Commissioner may consult experts before giving his decision is of little help in this instance. Owing to the weighty consequences of an interpretation—one way or the other—of the article in question, the party whose arguments are rejected will certainly appeal from my decision to the Council unless my decision is based upon a legal opinion of indisputable authority. In view therefore, of the decision I am called upon to take, I venture, in agreement with the parties, to draw the Council's attention to the eminent desirability of asking the Permanent Court of International Justice to give forthwith an advisory opinion on the legal points on which the two Governments differ. In view of the possible submission of the question to the Court, each Government has attached a memorandum setting out its arguments (Appendices I and II).

“ In the Polish Government's memorandum, the Polish point of view is presented in the following terms:

“ 1. The Free City of Danzig is prohibited by paragraph 5 of Article 104 of the Treaty of Versailles, by the second clause of paragraph 1 of Article 33 of the Treaty of Paris, and by the Constitution of the Free City from making any discrimination in administration and legislation between the German majority on the one hand, and Danzig citizens of Polish origin, or Polish citizens or other persons of Polish origin and speech on the other hand. This means in particular that:

“ (a) Polish citizens in Danzig, in accordance with the Danzig Constitution, enjoy full and entire equality of rights in every domain of public life and of private law relations, and, in particular, by Article 4 of the said Constitution, their national development and, above all, the use of the mother tongue in education, in internal administration and in the administration of justice are guaranteed to them,

“ (b) Polish citizens enjoy full and entire equality of rights except political rights. In particular, the Free City of Danzig is bound to guarantee to them their free national development and especially the use of the mother tongue in education, internal administration and the administration of justice, on the same footing as Danzig citizens

“ (c) All other persons of Polish origin and speech enjoy the same rights as Polish citizens.

“ 2. It is for Poland to submit to the organs of the League of Nations, by the method provided for in Article 103 of the Treaty of Versailles and Article 39 of the Treaty of Paris, any dispute arising out of the execution of paragraph 5 of Article 104 of the Treaty of Versailles and Article 33 of the Treaty of Paris in particular, Poland has the right to submit to the organs of the League of Nations disputes concerning the observance of the Danzig Constitution and the application of the laws of Danzig in regard to Poles who are Danzig citizens.

¹ Article 104. — The Principal Allied and Associated Powers undertake to negotiate a Treaty between the Polish Government and the Free City of Danzig, which shall come into force at the same time as the establishment of the said Free City, with the following objects:

(5) To provide against any discrimination within the Free City of Danzig to the detriment of citizens of Poland and other persons of Polish origin or speech.

² Article 33. — The Free City of Danzig undertakes to apply to racial, religious and linguistic minorities provisions similar to those which are applied by Poland on Polish territory in execution of Chapter I of the Treaty concluded at Versailles on June 28th, 1919, between Poland and the Principal Allied and Associated Powers, to provide in particular against any discrimination, in legislation or in the conduct of the administration, to the detriment of nationals of Poland and other persons of Polish origin or speech, in accordance with Article 104, paragraph 5, of the Treaty of Versailles.

³ Article 229. — In view of the fact that the Polish Republic deduces from the provisions of Article 104, No. 5, of the Treaty of Peace of Versailles and of Article 33, paragraph 1, of the Polish-Danzig Treaty of November 9th, 1920, more extensive rights than the rights stipulated in the present Agreement, and that the Free City of Danzig does not recognise them, the Polish Government expressly reserves to itself these more extensive rights, more particularly as regards the measure of the minority rights of Polish nationals in the Free City of Danzig and the prohibition of residence.

(2) It is understood between the two parties that, should occasion arise, each of them is entitled to call for a decision with regard to the points in question, as provided for in Article 39 of the Treaty.

⁴ Chapter III. — Both parties state that the interpretation by each party of Article 33 is so widely divergent that there appears to be no possibility of reconciling their different points of view on this fundamental question, which will therefore have to be answered by means other than an agreement between the two Governments.

In the meantime, certain disputes arising out of this difference of opinion as to the meaning of the paragraph are in need of settlement as a provisional measure without prejudice to the final decision on the point at issue.

“ The point of view stated in the Danzig Government’s memorandum may be summarised as follows:

“ Article 33 of the Paris Treaty of November 9th, 1920, forms the sole legal foundation for the settlement of the minorities problem between the Free City of Danzig and the Republic of Poland.

“ Article 33 of that Treaty in accordance with the spirit and letter of the Treaty of Versailles, fulfils and takes the place of Article 104, paragraph 5, of the Treaty of Versailles.

“ Under Article 33, paragraph 1, of the Paris Treaty Danzig is bound to apply to the Polish minorities treatment which does not involve any discrimination as compared with the other minorities, so that the members of the Polish minority possessing Danzig nationality must be treated in accordance with provisions similar to those which Poland applies in Polish territory in execution of Articles 7 8 and 9 of the Polish Minorities Treaty while the members of the Polish minority not in possession of Danzig nationality must be treated according to provisions similar to those which Poland applies in Polish territory in execution of Article 2 of the Polish Minorities Treaty

“ After examining the question, I can only endorse the opinion expressed by the High Commissioner that it would be eminently desirable for the settlement of this question that an advisory opinion should be obtained from the Court on the legal points in dispute.

“ I therefore venture to propose to my colleagues the adoption of the following resolution.

“ The Council,

“ Having regard to the letter of the High Commissioner of the League of Nations in Danzig, dated March 31st, 1931;

“ Having regard to the contentions set out in the memorandum of the Polish Government, annexed to the said letter.

“ Having regard to the contentions set out in the memorandum of the Danzig Government, also annexed to the above-mentioned letter.

“ Requests the Permanent Court of International Justice to give an advisory opinion, in conformity with Article 14 of the Covenant, on the two following questions:

“ (1) Is the question of the treatment of Polish nationals and other persons of Polish origin or speech in the territory of the Free City of Danzig to be decided solely by reference to Article 104 (5) of the Treaty of Versailles and Article 33, paragraph 1, of the Convention of Paris (and any other treaty provisions in force which may be applicable), or also by reference to the Constitution of the Free City and is the Polish Government accordingly entitled to submit to the organs of the League of Nations, by the method provided for in Article 103 of the Treaty of Versailles and Article 39 of the Convention of Paris, disputes concerning the application to the above-mentioned persons of the provisions of the Danzig Constitution and other laws of Danzig ?

“ (2) What is the exact interpretation of Article 104 (5) of the Treaty of Versailles and of Article 33, paragraph 1, of the Convention of Paris, and, if the reply to Question 1 is in the affirmative, of the relevant provisions of the Constitution of the Free City ?

“ The Council requests the Governments of Poland and Danzig to hold themselves at the disposal of the Court with a view to supplying it with all relevant documents and explanations.

“ The Secretary-General is authorised to submit this request to the Court, to give the requisite assistance in the examination of the question, and, if necessary to make arrangements to be represented before the Court. ”

The draft resolution was adopted.

(The Council went into private session.)

2847 Free City of Danzig Appointment of the President of the Danzig Port and Waterways Board.

Mr. HENDERSON presented the following report and draft resolution ¹

“ In a letter dated April 8th, 1931, the High Commissioner of the League of Nations at Danzig requested the Council to appoint a President for the Danzig Port and Waterways Board, in accordance with Article 19, second paragraph, of the Polish-Danzig Treaty of November 9th, 1920, as the Polish and Danzig Governments have been unable to agree upon the choice of a successor to Colonel de Loes.

“ Colonel de Loes was appointed by the Council as President of the Danzig Port and Waterways Board on March 14th, 1925, for a period of three years dating from April 24th, 1925. In 1928, the Danzig and Polish Governments agreed to appoint him for a further period of three years as from April 24th, 1928. I am sure that the Council for its part will desire to express to Colonel de Loes its appreciation of the services he has rendered during his period of office at Danzig.

¹ Document C.369.1931.I.