

The applicant company had intimated, by a letter of March 4th, 1932, that the Convention of February 28th, 1931, had just been ratified by law in Roumania and that it withdrew its application against the Roumanian Government. The matter having thus been finally settled, the applicant railway company tendered the Council its sincere thanks for the interest taken in the matter.

The Council might accordingly take note of this communication, and finally withdraw the item from its agenda.

The proposal of the President was adopted.

3059. Inclusion in the Council Agenda of the Application submitted by the Zeltweg-Wolfsberg und Unterdrauburg-Woellan Railway Company Vienna, under Article 320 of the Treaty of Saint-Germain-en-Laye. Communication by the President.

The PRESIDENT reminded the Council that, at its last session¹, it had decided to ask the Advisory and Technical Committee for Communications and Transit to submit to the Council at an early date a report which would enable it to take a decision, with a full knowledge of the facts, with regard to the inclusion in its agenda of the application by the Zeltweg-Wolfsberg und Unterdrauburg-Woellan Railway Company Vienna.

As the Communications and Transit Committee had not met since the Council's last session, he proposed that the Committee's report should be placed on the agenda of the Council's next session.

The proposal of the President was adopted.

3060. Free City of Danzig Supervisory Authority (Aufsichtsbehörde) within the Meaning of the Danzig Railway Transport Laws.

M. Ziehm, representative of the Free City of Danzig, and Count Gravina, High Commissioner of the League of Nations at Danzig, came to the Council table.

Mr. EDEN submitted the following report and draft resolution:

" I. On February 27th, 1932, the Senate of the Free City of Danzig appealed against the decision pronounced by the High Commissioner of the League of Nations on January 12th, 1932, on the question of the supervising authority within the meaning of the Danzig Railway Transport Laws. This question had been submitted to the High Commissioner by the Senate's appeal of December 2nd, 1929. The texts of the High Commissioner's decision and of the Danzig Senate's appeal, together with 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 conflicting arguments, and a brief historical account of the question will suffice.

" II. On December 2nd, 1929, the Senate of the Free City of Danzig submitted the following request to the High Commissioner:

" The Polish Railway Administration must, in all cases where the approval of the supervising authority (Aufsichtsbehörde) is required under the Danzig Traffic Regulations (Verkehrsordnungen) of October 25th, 1928, obtain the approval of the Senate of Danzig as the supervising authority

" III. In order to clear up the legal situation in dispute, the High Commissioner wrote to the Secretary-General of the League in accordance with the existing rules of procedure to ask for a legal and, if necessary a technical opinion on the requests for a decision in regard to the railway questions submitted to him by the Danzig Senate, including the question submitted on December 2nd, 1929.

" IV The Permanent Legal Committee of the Communications and Transit Organisation, assisted by the Administrative Section of the Permanent Committee for Transport by Rail, gave its opinion to the High Commissioner on September 30th, 1930. With the exception of M. Koenigs (German) and M. Crusen (a Danzig national appointed *ad hoc* member of the Committee), the Committee, for reasons which were fully endorsed by the High Commissioner in his statement of the grounds for his decision, expressed the opinion that:

" According to the existing law as determined by the treaties and conventions and the decisions, resolutions and other documents contained in the file of papers submitted to the Committee for examination, Poland is not obliged to recognise the Senate of Danzig as the " Aufsichtsbehörde " as defined in Danzig's request of December 2nd, 1929.

¹ See *Official Journal*, March 1932 (Part II), page 438.

² Document C.443.1932.I.

“ V On the basis of this opinion, the High Commissioner pronounced the following decision on January 12th, 1932

“ The Polish Railway Administration is not obliged, in cases where the approval of the supervising authority (Aufsichtsbehörde) is required under the Danzig Traffic Regulations (Verkehrsordnungen) of October 25th, 1928, to obtain the approval of the Senate of Danzig.’

“ VI. In its appeal dated February 27th, 1932, the Senate of Danzig requested.

“ That the decision of the High Commissioner of January 12th, 1932, may be amended so that the Polish Railway Administration must, in all cases where the approval of the supervising authority is required under the Danzig railway “ Verkehrsordnungen ” of October 25th, 1928, obtain the approval of the Senate of Danzig as being the supervising authority

“ The Senate’s request was made on the ground that the considerations which were deciding factors in the view expressed by the Committee and consequently in the High Commissioner’s decision, which is based on that view were wrong in law

“ VII. As the Permanent Legal Committee of the Communications and Transit Organisation which consists of eminent jurists, was the body best qualified to give an opinion on questions such as that with which the High Commissioner’s decision of January 12th, 1932, deals, and the High Commissioner in rendering this decision adhered closely to the opinion given him, I would suggest to the Council that it should simply confirm the High Commissioner’s decision. I accordingly venture to submit to the Council the following resolution.

“ The Council.

“ Confirms the decision rendered by the High Commissioner on January 12th, 1932. ”

M. ZALESKI had no observations to make.

M. ZIEHM stated that, to his great regret, he was unable to agree to the report. The Government of the Free City considered that the legal situation had not yet been sufficiently elucidated in this matter.

Whatever the legal situation might be, however, it was, he thought, necessary to place it on record that the principle laid down in paragraph 12 of the High Commissioner’s decision dated September 5th, 1921, reading: “ The Polish Railway Administration are concerned solely with the successful working of the railway and, having no sovereign rights within the territory of the Free City must conform to the laws of the State ” was not invalidated by the confirmation of the High Commissioner’s decision of January 12th, 1932, in the form proposed by the Rapporteur. He would be glad if the Rapporteur would confirm this view

Mr. EDEN replied in the affirmative, and explained that the resolution, if adopted, would confirm the High Commissioner’s decision on a specific point referred to him. No other question was therefore before the Council and no other question could be affected by the resolution.

M. ZALESKI asked whether the declaration by the representative of the Free City was to be taken as meaning that, in view of the Rapporteur’s explanations, he had no objection to the report.

M. ZIEHM said that he had been unable, for the reasons he had given, to agree to the report

The PRESIDENT said that, in those circumstances, he must ask the members of the Council to intimate their opinions on the report by the representative of the United Kingdom.

M. ZALESKI said he had thought that all the Danzig questions had been settled. Inasmuch as he regarded them as forming a single whole, it would, he thought, be desirable to postpone all the questions relating to Danzig to a later meeting and see whether in the meantime a friendly arrangement could not be reached on the substance of all these matters.

Mr. EDEN said that he also had been under the impression that an agreement had been reached, and he was frankly disappointed at the decision of the representative of the Free City of Danzig. None the less, he did not think that the Council would be justified, on that account, in adjourning the consideration of all these matters, some of which were of greater urgency than others.

M. ZIEHM said that the declaration he had made referred to the legal situation and the report. He did not wish to anticipate the Council’s decisions in any way

The PRESIDENT said that, if no member had any objection to the report or draft resolution, he would regard the latter as adopted.

Count WELCZECK said that he would abstain from voting.

The draft resolution was adopted, the German representative abstaining.