

NINTH MEETING (PUBLIC, THEN PRIVATE).

Held on Saturday, February 6th, 1932, at 5.30 p.m.

Present: All the representatives of the Members of the Council, and the Secretary-General. China was represented by M. HOO CHI TSAI; the British Empire by Sir John SIMON, then by Lord CECIL, Germany by M. VON WEIZSACKER; Italy by M. ROSSO. Spain by M. DE MADARIAGA.

Sir John SIMON asked the Council's permission to withdraw from the Council table in favour of Lord Cecil, as the latter had acted as the representative of Great Britain in regard to the first and second items on the agenda.

3027 Free City of Danzig. Treatment of Polish Nationals and Other Persons of Polish Origin or Speech at Danzig.

M. Ziehm, President of the Senate of the Free City of Danzig, came to the Council table.

Viscount CECIL presented the following report and draft resolution.¹

"By his letter of March 31st, 1931,² the High Commissioner of the League of Nations at Danzig, in agreement with the Polish and Danzig Governments, drew the Council's attention to the eminent desirability of asking the Permanent Court of International Justice to give an advisory opinion on the legal points on which the two Governments differed, in connection with the request for a decision concerning the treatment of Polish nationals and other persons of Polish origin or speech at Danzig, which had been communicated to him by the Polish Government on September 30th, 1930. The High Commissioner was of opinion that it would serve no useful purpose to examine the numerous concrete points submitted to him for decision by the Polish Government's request before the legal problems involved had been settled beyond dispute.

"At its meeting of May 22nd, 1931,² the Council of the League, without entering into the merits of the question, endorsed the opinion expressed by the High Commissioner, and requested 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 Treaty 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?"

"On February 4th, 1932, the Court, by nine votes to four, gave the following opinion.

"(1) That 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 must, as between Poland and the Free City be decided solely by reference to Article 104 (5) of the Treaty of Versailles and Article 33, paragraph 1, of the Convention of Paris (as also, if necessary by reference to other treaty provisions in force or rules of ordinary international law) and not by reference to the Constitution of the Free City with the result that the Polish Government cannot submit to the organs of the League of Nations disputes concerning the application to the aforesaid persons of the Danzig Constitution and other laws of Danzig by the method provided for in Article 103 of the Treaty of Versailles and Article 39 of the Convention of Paris except in the case of disputes concerning the violation, as a result of such application, of an international obligation of Danzig towards Poland arising either from treaty provisions in force between them or from ordinary international law

"(2) (a) That Article 104 (5) of the Treaty of Versailles contains a mandate, entrusted to the Principal Allied and Associated Powers and accepted by them to ensure that the treaty to be concluded between Poland and Danzig (Convention of Paris) should include provisions binding on the Free City and safeguarding Polish nationals and other persons (including Danzig nationals) of Polish origin or speech in the territory of Danzig against any differential

¹ Document C.176.1932.I.

² See *Official Journal*, July 1931, page 1135.

treatment to their detriment on the ground of their Polish allegiance, origin or speech, that this provision, which is purely negative in character, does not establish any standard of comparison for the application of the prohibition of discrimination.

“ (b) That as between Poland and Danzig, the question of the treatment of Polish nationals and other persons of Polish origin or speech in the territory of the Free City is governed by the provisions of Article 33, paragraph 1, of the Convention of Paris, but that, in case of doubt as to the interpretation of that article, recourse may be had, in order to dissipate such doubt, to Article 104 (5) of the Treaty of Versailles.

“ (c) That, under Article 33, paragraph 1, of the Convention of Paris, Danzig has undertaken:

“ “ to apply to Polish nationals and other persons of Polish origin or speech in the territory of the Free City the minority system contemplated by Chapter I of the Treaty of June 28th, 1919, between the Principal Allied and Associated Powers and Poland, as that system is actually applied in Poland by the Polish Government,

“ “ and to avoid in her legislation or in the conduct of her administration any differential treatment to the detriment of the aforesaid Polish nationals and other persons, on account of their Polish allegiance, origin or speech, either in the application to the minorities in her territory of provisions similar to these applied to minorities in Poland by the Polish Government, or in the granting of more extensive rights to these minorities or to foreigners not belonging to minorities.”

“ (d) That the question whether, in a given case, an act or failure to act constitutes a breach of the provisions of Article 33, paragraph 1, of the Convention of Paris is essentially one of fact to be decided on the merits of each case.

“ Since the Council solicited the Court’s opinion for the use of the High Commissioner, I beg to submit to the Council the following draft resolution.

“ The Council instructs the Secretary-General to communicate the text of the opinion given by the Permanent Court of International Justice on February 4th, 1932, to the High Commissioner of the League of Nations at Danzig. ”

The draft resolution was adopted.

M. Ziehm withdrew.

3028. **Problem raised by the Request for Assistance submitted by the Liberian Government: Report of the Council Committee appointed on January 24th, 1931.**

Mr. Grimes and M. Sottile, representing alternatively the Republic of Liberia, came to the Council table.

M. ZALESKI presented the following report: ¹

“ Last May at its sixty-third session,² I had the honour to submit to the Council a preliminary report of the Committee of the Council appointed to study the problem raised by the request for assistance submitted by the Liberian Government.

“ The Committee now addresses to the Council a second preliminary report on its work (see Annex). This report shows that the Committee has accomplished important preparatory work. In view however, of the Liberian Government’s request for an adjournment, discussion of basic points has been adjourned until a later session which will take place before the next session of the Council in May

“ The Council will doubtless wish to express its gratitude to the British Government for having kindly lent, for the preliminary improvements undertaken at Monrovia, the services of Dr. Howells, who has accomplished excellent work there.

“ The Council will certainly also agree to associate itself with the thanks which the Committee has expressed to the three experts: M. Brunot, Mr. Lighthart and Dr. Mackenzie.

“ As the Committee has not yet terminated its work, I propose that my colleagues should simply note the report submitted to us by the Committee.

“ Annex.

“ PROBLEM RAISED BY THE LIBERIAN GOVERNMENT’S REQUEST FOR ASSISTANCE.

“ *Second Preliminary Report by the Committee of the Council.*

“ The Committee of the Council appointed to study the problem raised by the Liberian Government’s request for assistance met a third time, from January 25th to February 1st, 1932, at Geneva, under the Chairmanship of Lord Cecil.

¹ Document C.170.1932.VII.

See *Official Journal*, July 1931, pages 1119 and 1448.