

The PRESIDENT concluded the discussion by expressing the gratification he felt at its having been possible to settle this very difficult question in a manner so satisfactory to all.

He wished to thank the Rapporteur for the efforts which he had made and which had led to so happy a result. He was sure that all his colleagues on the Council would share the sentiments expressed by the Rapporteur concerning the work done by the High Commissioner.

3250. Free City of Danzig. Questions of "Direct Action" Harbour Police.

Sir John SIMON presented the following report¹.

"In September 1921, the Harbour Board decided that it required a police force to maintain order in the port, and that this police force should be under its immediate control. The Polish and Danzig Governments not having been able to agree as to the manner in which this force should be constituted, the matter came before the High Commissioner, who decided, on June 6th, 1923, that the Harbour Board should apply to the Senate of the Free City to obtain such police as it might require, these police being placed under the immediate direction of the Harbour Board. Both parties appealed against this decision, but eventually they agreed to put it into force for a period of two years, on the expiration of which each party was to have the possibility of considering afresh its attitude in the matter of the harbour police.

"The two years for which the agreement was to run expired on May 23rd, 1927. Despite, however, the expiration of the agreement, the *de facto* situation remained unchanged down to February 15th last. On that date, the Danzig Senate informed the Polish representative at Danzig that it 'was no longer prepared to tolerate the present purely *de facto* position, which, since May 1927, had been without any legal basis' (Annexes 1434 and 1434 a). It therefore declared that it had given instructions to revert to the position existing before the coming into force of the said agreement, and the functions of the harbour police are now being exercised, as prior to 1925, by the police of the Free City.

"On receipt of this notification, the Polish Government, on February 20th, informed the Senate that it noted that the Senate had 'by unilateral action rescinded the agreement of September 1st, 1923', and that it regarded this action as contrary to the agreement in question. Nevertheless, the Polish Government consented to the rescission of the said agreement and regarded it, together with the proceedings of which it was the outcome, as legally null and void. It intimated its intention of communicating to the Harbour Board certain proposals as regards the safeguarding of order and security in the harbour area in the future. On the same day, the Polish Government did, in fact, submit to the Harbour Board proposals for the organisation of a force of police composed of Polish nationals which would be under the control of the Board.

"Notwithstanding the attitude thus adopted by the Polish Government, the Polish representative in Danzig on March 7th (the day after the submission of the Westerplatte matter to the High Commissioner by the Senate) requested the High Commissioner to decide that the action of the Senate in regard to the harbour police constituted direct action and should be immediately cancelled.

"The matter is now before the Harbour Board, and either party, which may have objections to the decision which will be taken by the Board, can make use of the normal procedure prescribed in such cases. Although the Polish Government has, by its letter of February 20th, accepted the termination of the regime established by the Council's decision of March 13th, 1925,² I think that it would be in the interest of both parties that that regime should be re-established and maintained unchanged, without prejudice to the final decision which will be reached, until the proceedings which have now been instituted have resulted in such a decision. I hope, accordingly, that the Council will agree that this course should be adopted. In that event, it will not be necessary for the Council to take any further action in the matter."

M. ZIEHM recalled that the Government of the Free City of Danzig had more than once told the Polish Government that the latter could clear up the legal situation regarding the harbour police by the means prescribed in the treaties. He agreed, therefore, to this problem being elucidated in accordance with the method suggested in the report submitted by the Rapporteur.

With regard to the *de facto* settlement proposed in the report, the Government of the Free City would, as invariably heretofore, conform to the decision of the Council, if the latter adopted the report.

He desired, however, to point out that the *de facto* settlement had no effect on the legal situation, and that the Council's resolution of March 13th, 1925, and the treaties on which it was based, could no longer have any legal consequences after the Polish Government's assent to the termination of the regime in question, and that similarly the *de facto* settlement of the organisation of the police could not be modified, in respect of the situation created in consequence of the resolution of March 13th, 1925, so long as the legal questions had not been finally elucidated.

M. BECK took note with satisfaction of the Rapporteur's conclusions, and thanked him for the efforts he had made for the settlement of this matter.

¹ Document C.191.1933.I.

² See *Official Journal*, April 1925, pages 475 and 569.

He hoped that the carrying out of the declaration made by the President of the Senate of the Free City of Danzig—in particular, with regard to the re-establishment of a *de facto* situation—would create a favourable atmosphere for the final settlement of the problem, in conformity with the status of the Free City of Danzig and the harbour.

The conclusions of the report were adopted.

(The Council went into private session.)

3251. Fiscal Committee: Death of Professor Adams, Member of the Committee.

M. LANGE presented the following report:¹

"The members of the Council will learn with regret of the recent death of Professor Thomas S. Adams, of Yale University, American member of the Fiscal Committee.

"Professor Adams' name is closely associated with the work undertaken by the League of Nations in the sphere of double taxation and with the work of the Fiscal Committee. He was successively a member in 1926-27 of the Committee of Technical Experts on Double Taxation, and in 1928 of the meeting of Government experts. He took a very active part in the work of these two Committees and, later, in the creation of the Fiscal Committee, to which he belonged from its inception. A firm supporter of the campaign against double taxation, he had interested the Rockefeller Foundation in the scientific research undertaken in this question by the Fiscal Committee and obtained from the Foundation a subsidy which rendered possible an enquiry on a large scale into the assignment to the various fiscal administrations of the profits earned by undertakings working simultaneously in several countries. We have lost Professor Adams in the fullness of his powers, at the moment when this enquiry had been brought to a close and when the Fiscal Committee was preparing to draw practical conclusions therefrom. The Council will certainly wish to express its deep sympathy to his widow and family and to the Fiscal Committee, which has been deprived of one of its most distinguished members.

"I am, of course, not able to-day to propose to the Council the name of a successor for Professor Adams. As, however, the Fiscal Committee is to meet shortly and the co-operation of an American member is very desirable at the present stage of its work, I propose that you should authorise your President to make this appointment, after the necessary consultations, in agreement with your Rapporteur on financial matters. The term of office of the new member will be the same as that of the other members of the Fiscal Committee."

M. Lange asked permission to say on his own behalf a few words concerning the late Professor Adams. He had served as a delegate at the meeting of experts on double taxation and tax evasion in 1928, and had a very clear recollection of Professor Adams' collaboration in the work of that meeting. Professor Adams had been a man of outstanding character. He had been one of the chief promoters of the work. His disappearance meant, therefore, a great loss to the Fiscal Committee.

M. Lange pointed out that the designation of Professor Adams' successor was an urgent matter; there was to be a meeting of a sub-committee in the United States, so that it was essential to have an American representative.

The conclusions of the report were adopted.

¹ Document C.187.1933.II.A.