

FREE CITY OF DANZIG

I.

SITUATION IN DANZIG

C.292.1933.I.

- I. LETTER, DATED MAY 13TH, 1933, FROM THE HIGH COMMISSIONER OF THE LEAGUE IN DANZIG TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

[Translation.]

Danzig, May 13th, 1933.

I have the honour to send you herewith an official *communiqué* from the Senate of the Free City of Danzig on the events which took place yesterday May 12th at the trade union headquarters at Danzig.

As a consequence of these events, manifestations of no great importance took place yesterday in the town, among other places, in front of the High Commissioner's residence. The workers of certain undertakings struck. These attempted strikes have not, however, assumed very great proportions.

(Signed) Helmer ROSTING,
High Commissioner

Annex.

[Translation from the German.]

May 13th, 1933.

PRESS NOTICE.

The Danzig "Free Trade Unions" (Social Democratic trade unions), have remained, even since Danzig's separation from the German Reich, a component part of the "Free Trade Unions" of Germany whose headquarters are situated in Berlin. At the headquarters themselves, as has been widely announced in the Press, a fundamental change has taken place. The Central Organisation of the "Free Trade Unions" at Berlin has appointed a plenipotentiary for the Danzig affairs of the "Free Trade Unions", with specific instructions relating to the taking over of the activities of the "Free Trade Unions" in the territory of the Free City of Danzig and also the taking over of their office and property. This representative has obtained from the Danzig Court a provisional order against the erstwhile leaders of the Danzig local organisation of the "Free Trade Unions" to the effect that the office premises, records and property of the "Free Trade Unions" are to be handed over to the representative of the Trade Union Central Organisation and, further, that the erstwhile leaders of the trade unions are to refrain from further activities and are not to remain on the premises of the trade unions and, indeed, are forbidden to enter the trade union office. This order is issued subject to a final judicial decision.

The legality of the provisional order issued by the court of first instance may be determined only by the court of second instance, as it is a dispute concerned with claims at civil law.

The enforcement of this provisional order was entrusted to a bailiff who asked for police assistance for his personal protection. Such police assistance had to be provided by law for the bailiff, and was, in fact, so provided.

The bailiff proceeded to the trade union premises under police protection and had the entrance opened by a locksmith as he was refused admittance. He further handed over the office premises, the records and the keys to the new representative of the Trade Union Central Organisation and then left the office premises after the erstwhile trade union personnel had departed.

From that time, the person entitled to use the trade union premises and their equipment is, according to the judicial decision, the representative of the Trade Union Central Organisation. The intervention of the police in the matter was confined to providing the bailiff with the necessary protection at his request. The police have not been called upon to take any decisions of their own.

C.292.1933.I.

2. LETTER, DATED MAY 14TH, 1933, FROM THE HIGH COMMISSIONER OF THE LEAGUE IN DANZIG TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

[*Translation.*]

Danzig, May 14th, 1933.

I have the honour to transmit to you herewith the record of an interview which I had this evening with the representatives of the National Socialist Party at Danzig.

(Signed) Helmer ROSTING,
High Commissioner

Annex.

[*Translation from the German.*]

In an interview with M. Helmer Rosting, High Commissioner of the League of Nations at Danzig, which was held to-day at his house, the representatives of the German National Socialist Party at Danzig, Dr. Rauschnig and M. A. Forster, stated that the National Socialist Party at Danzig, even should it take over the Government of the Free City

(1) Would be desirous of a friendly understanding with Poland and would do all that lay in its power to ensure the security of persons of Polish nationality or origin in Danzig and of Polish property in Danzig;

(2) Was firmly determined to observe strictly the existing treaties and to respect Poland's rights as laid down therein,

(3) Would loyally observe the constitution guaranteed by the League of Nations.

The High Commissioner of the League of Nations noted the above with satisfaction.

C.324.1933.I.

3. LETTER, DATED MAY 16TH, 1933, FROM THE HIGH COMMISSIONER OF THE LEAGUE IN DANZIG TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS

[*Translation.*]

Danzig, May 16th, 1933.

I have the honour to enclose, with the request that you will communicate them to the Council, copy of a memorandum handed to me on May 15th, 1933, by M. K. Papée, diplomatic representative of the Polish Republic, and copy of a note addressed to me on the subject by the Senate to-day

(Signed) Helmer ROSTING,
High Commissioner

Annex 1.

MEMORANDUM FROM THE DIPLOMATIC REPRESENTATIVE OF THE POLISH REPUBLIC TO THE HIGH COMMISSIONER OF THE LEAGUE IN DANZIG.

[*Translation.*]

Under the provisions of the Treaty of Versailles, the Free City, quite apart from the jurisdiction of the League of Nations in disputes between Poland and Danzig, is *subordinate* to the League in the three following respects:

(1) It is under the protection of the League of Nations;

(2) Its Constitution is drawn up in agreement with the representative of the League,

(3) Its Constitution is placed under the guarantee of the League.

The guarantee of the Constitution of Danzig was interpreted by Viscount Ishii on November 17th, 1920, as follows:

"The provision of the Treaty of Versailles, according to which the Constitution of the Free City shall be placed under the guarantee of the League of Nations, implies: (1) that this Constitution will have to obtain the approval of the League of Nations; (2) that the Constitution can only be changed with the permission of the League of Nations; and (3) that the constitutional life of the Free City of Danzig must always be in accordance with the terms of this Constitution."

At the same time, Viscount Ishii laid stress on the intimate connection between the guarantee of the Constitution and the protection of the Free City, and once again defined in broad outline

the responsibilities devolving on the League in consequence of these two duties imposed upon it by the Treaty of Versailles. He said.

“It is obvious that the guarantee of the Constitution and the protection given by the League are intimately connected. The fundamental idea is that the Free City should form in the international organisation of Europe a community which *must be protected against all undue interference on the part of any country*, and which must have *its own regular existence*. It is, of course, understood that it would accept in their entirety the terms of the Treaty of Versailles and the rights which this Treaty confers on Poland.

“It would seem to follow from these considerations that the League of Nations should examine whether this Constitution provides the necessary guarantees for a stable and peaceable political situation, and will ensure a Government which will carry out its duties in accordance with the principles on which the Free City has been constituted, and likewise the obligations which have been imposed upon it by the Peace Treaty of Versailles. It is particularly necessary to see whether the Constitution of the Free City contains germs of disorder, inadequate government, anarchy or disregard for international obligations.”

The Polish Government is aware that the League of Nations, in the person of its High Representative at Danzig, is called upon primarily to see that the principles cited above are observed and put into practice. It is on the League that the responsibility rests for any breach of those principles.

The Polish Government is accordingly watching the situation in the Free City with the closest attention.

Annex 2.

LETTER FROM THE PRESIDENT OF THE SENATE OF THE FREE CITY TO THE HIGH COMMISSIONER OF THE LEAGUE AT DANZIG.

[*Translation from the German.*]

Danzig, May 16th, 1933.

With reference to the representation made to you yesterday by the Polish diplomatic representative in Danzig and to the memorandum transmitted to us, I have the honour, on behalf of the Government of the Free City, to make the following statement:

The Danzig Government fails to see what reasons have led the Polish Government to take this step and what object it has in view.

We should be very grateful if you could obtain further particulars regarding this matter.

The provisions of the Treaty of Versailles regarding the Free City of Danzig, which are quoted in the memorandum, and Viscount Ishii's remarks on the subject on November 17th, 1920, are as familiar to the Danzig Government as to the Polish Government. The Danzig Government has repeatedly had to appeal before the organs of the League to these provisions and comments, in order to preserve its territorial integrity and political independence as against the Polish Republic.

The Polish Government observes that the League is called upon primarily to watch over these principles, but the duties of the League are quite clearly defined by the Treaty of Versailles and the resolutions of the League Council, and it is also specified in detail which organs of the League are competent to discharge individual duties incumbent upon it. Furthermore, as Viscount Ishii rightly emphasised, the Free City of Danzig forms in the international organisation of Europe a State whose territorial integrity and political independence are specifically guaranteed by the League.

At the present time, the Danzig Government regards with the deepest apprehension the increasingly hostile attitude of the Polish Government towards the Free City. In this connection I need only refer to the numerous attacks that have been made by Poland on the Free City of Danzig in recent months. I would particularly allude to the attempt to ban Danzig currency on the Danzig railways, which is contrary to the treaties and was opposed by the Council of the League, and to the attempt, likewise contrary to the treaties, to reinforce illicitly the Polish garrison on the Westerplatte.

(Signed) Dr. ZIEHM.

C.331.1933-I.

4. LETTER, DATED MAY 16TH, 1933, FROM THE HIGH COMMISSIONER OF THE LEAGUE IN DANZIG TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

[*Translation.*]

Danzig, May 16th, 1933.

With reference to my letter of May 13th, 1933, in which I forwarded to you the official *communiqué* issued by the Senate on the events which took place on May 12th, 1933, at the trade union headquarters, and with reference to the letter approved by the Council on June 10th, 1925,

and subsequently sent to the High Commissioner relating to the procedure to be followed in regard to petitions from Danzig nationals, I have the honour to communicate to you, with the request that you will bring it to the notice of the Council, a copy of a petition handed to me yesterday, May 15th, by three secretaries of the trade unions alleging a breach of the Danzig Constitution.

The Senate informs me that the case is still pending before the courts. The trade unions have objected to the provisional decision given by the lower court (*Amtsgericht*) and the court will give the decision on the subject probably in the course of the week; an appeal against this decision may be made to the court of second instance (*Landgericht*).

I will duly inform you of the result of the judicial proceedings as soon as it is known.

(Signed) Helmer ROSTING,
High Commissioner

Annex.

PETITION SUBMITTED TO THE HIGH COMMISSIONER BY THREE SECRETARIES OF THE " FREE TRADE UNIONS "

[Translation from the German.]

Danzig, May 13th, 1933.

The undersigned " Free Trade Union " representatives had occasion to-day to discuss with Your Excellency the situation created for the " Free Trade Unions " in the Free City of Danzig by the pressure of National Socialist factory cells. Following on our conversation, it was suggested that we should submit a written statement of the views we expressed. We do so herewith.

When the territory of the Free City of Danzig was finally detached from the German Empire, the " Free Trade Unions " in the area of the newly-created Free City of Danzig were faced with the question of their future relations to the central organisations in Berlin. The leaders of the latter explained to the representatives of the Danzig trade unions that the new state of affairs created under international law need not entail a separation of the Danzig trade unions from the central organisations with headquarters in Berlin. Allowance would always be made for the special situation of the Danzig trade unions due to the creation of the Free City of Danzig and they would be given the greatest latitude in the development of their trade union activities. No situation therefore would ever arise which would conflict with the requirements of the Danzig trade unions.

As a result of these explanations, the idea originally contemplated by the Danzig trade unions of separating from the Berlin central organisations was dropped.

Fourteen years of co-operation have proved that the assurance given to the Danzig trade unions by the Berlin central organisations of the fullest freedom in the development of trade union activities has been kept. Evidence of this is more particularly to be found in the fact that, during these fourteen years, the Berlin central organisations have never asked for the transfer of the local subscriptions collected by the Danzig trade unions from their members.

The harmonious co-operation between the Berlin and Danzig trade unions is due above all to the similarity of their basic views and aims, thus in turn being the result of the common democratic ideal underlying both their constitutions and the consequent similarity of their development in the judicial, social and cultural spheres. Recent months have seen a fundamental alteration in the form of the German State due to a swing over from democracy to a dictatorship of the Right, in which one of the aims proclaimed by the new party in power is the extermination of the Left parties and the destruction of the trade union organisations of the working class. Relations have consequently to be severed between the Danzig and German trade unions. Whereas, in Germany, all constitutional guarantees were abolished by an Enabling Act, the Danzig workers' organisations enjoy the protection of a Constitution guaranteed by the League of Nations, protecting them from acts of violence such as have occurred in Germany.

In Germany, all trade union premises were occupied by representatives of the National Socialist factory cell organisations with the help of the S.A., without any legal justification, the statutory committees of management were compelled to resign, the administration has been transferred to commissioners for whom the law makes no provision and the property of the trade unions has, according to our latest information, been confiscated.

Since the Danzig General Association of Trade Unions—and, for that matter, the separate trade unions also—was always an autonomous organisation absolutely independent of Germany and the connection of the separate professional trade unions with the German trade unions was purely and simply a statutory provision, illegal measures such as have been adopted in Germany carry no weight with the Danzig trade unions. As a result of the state of affairs created by acts of violence in Germany, a conference of the Management Committees of the Danzig trade unions had already decided on May 10th to separate the Danzig trade unions entirely—so far as any connection existed—from the German trade unions.

Notwithstanding this decision and the basically different legal situation in Danzig, attempts are now being made in Danzig also by National Socialists to take over the Danzig trade unions. Two methods were adopted for this purpose:

On May 6th, 1933, two National Socialists—Klatt, an employee of the Danzig Savings Bank, and an unknown individual called Radtke, accompanied by two uniformed officials of the Safety

Police, appeared at the offices of the Central Union of Employees, a "Free Trade Union" organisation.

The Managing Secretary, Leu, was handed by Klatt a telegram purporting to be from the Commissioner of the Central Association of Employees removing him from office and at the same time instructing him to hand over the direction of affairs, together with all the assets of the Danzig Union of Employees, to Klatt. Leu protested, but to no effect. He left the office premises after the two uniformed police officials escorting the two National Socialists, Klatt and Radtke, had indicated that they were prepared, if necessary, to carry out Klatt's orders by force. Leu yielded to superior force and was also dubious about resisting police officials who were in uniform and thus on official duty as this might have been regarded as resistance to authority, a chargeable offence.

The second method resorted to by National Socialists consists in an attempt to cover the illegal seizure of the "Free Trade Unions" by National Socialists with an appearance of formal right. For this purpose, a certain Kendzia, the Chief of the National Socialist factory cell organisation in Danzig, obtained representative powers from the National Socialist Commissioner of the German Trade Union Association to bring the Danzig trade unions into line.

Kendzia secured from the Danzig District Court on May 12th, 1933, a provisional order removing all the leading trade union employees of the Danzig "Free Trade Unions" from office and at the same time ordering them under penalty of fine or imprisonment to hand over the whole property of the trade unions in their charge, including the office premises, to Kendzia.

We annex a copy of the provisional order of the district court dated May 12th, 1933, herewith

This provisional order was put into execution on May 12th, 1933, by the court officer who, for this purpose, was supplied by the Danzig Chief of Police with a large force of safety police officials. The motor lorry conveying the police officials to the trade union premises was closely followed by several lorries containing a large number of National Socialists in uniform. These National Socialists occupied the trade union offices and seized everything found there after the court officer assisted by the police had dispersed the trade union employees found on the premises.

Symptomatic of the political motives underlying the action is the fact that, while the trade union premises were being occupied, Deputy Brill, the Managing-Secretary of the Association of Building Trade Unions, who is also Chairman of the Social Democratic Party in Danzig, was gravely assaulted by uniformed National Socialists without any interference on the part of the police, who joined later in the assault themselves.

M. Kendzia's alleged legal title, the provisional order of the court of May 12th, 1933, a copy of which is appended, was obtained in the following manner: M. Kendzia made a declaration on oath that the Danzig General Association of Trade Unions, together with all its allied organisations, was under the authority of the German Trade Union Associations. This assertion, on which the court's order is based, is, as already explained above, incorrect, since the Danzig Association of Trade Unions has always been an entirely autonomous organisation independent of the German trade unions.

The court's decision is therefore based on a false allegation given on oath. The provisional order is addressed, not only to the trade unions, but also to a number of organisations, such as the Co-operation Consumers' and Savings Society and the Producers' Co-operative Society, which in law have nothing whatever to do with the General Association of Trade Unions. They are independent juridical corporations in Danzig law.

The Code of Civil Procedure provides that the court entitled to issue provisional orders is fundamentally the court dealing with the main point at issue—*e.g.*, if an amount of 800 gulden is in dispute, the *Amtsgericht* has jurisdiction and, if a larger amount, the *Landgericht*. It is, further, provided by law that decisions regarding provisional orders may, in principle, be given only after an oral hearing. This intention on the part of the legislator must be given special consideration and in court practice is always taken into account when economic measures of a far-reaching character are involved, and the judge will as a rule be loath to take such action on the basis of an *ex parte* statement—and, in the present case, nothing was adduced but the sworn statement of the petitioner Kendzia. The provisional order issued by the Danzig Court violates both these provisions of the law.

As formal evidence of the competence of the court of first instance, the value of the matter in dispute was given in the provisional order as 800 gulden, a sum which in comparison with the magnitude of the action taken and the hundreds of thousands of gulden of property involved under the order is absolutely ridiculous. The fact that a judge could be found to issue such a provisional order on the basis of an assessment of 800 gulden and without an oral hearing shows clearly that the petitioner, and also the judge responsible for issuing the provisional order, were anxious that this particular judge should give the decision regarding the issue of the order.

The applicant or his backers were able to select among the judges concerned the one suited to their purpose, because they made their first application against a person whose name begins with a K—in the Danzig law courts the jurisdiction of courts of the same standing goes by order of the letters of the alphabet.

If a suitable judge can be found to countenance a measure desired by the National Socialists it is really hard to conceive what practical value the law and the Constitution have.

Article 62 of the Danzig Constitution provides that no one may be deprived of the judge whom the law prescribes and Article 63 that the constitution and jurisdiction of the courts are defined by the law. These provisions of the Constitution, therefore, are violated when with a judge's connivance a provisional order is issued by the wrong court. In our opinion, moreover, Article 86 of the Danzig Constitution has been infringed because, under the terms of that article, every national has complete control over his house, which is inviolable. Under the terms of the provisional order, the homes of individuals mentioned in the provisional order as defendants have been searched by the court officer, accompanied by National Socialists, and desks and similar articles have been broken open. The alleged object of this method of search was to find material which ought to be surrendered to the applicant Kendzia under the provisional order issued by the Danzig *Amtsgericht*. Some of the documents seized, however, could by no means be brought into this category, and, in this way, the National Socialists were able to search the homes of leading political opponents for such material as might seem to them of importance on general political grounds.

In this connection, it is particularly significant that, contrary to law, persons were also searched before ever the provisional order was served upon them.

We therefore consider that the measures taken constitute a violation of Article 113 of the Danzig Constitution. The freedom of association, ensured by the Constitution with the object of guaranteeing and improving conditions of labour and economic conditions, is done away with if it is possible to adopt the methods described above, not merely to remove any unpopular organisation, but to dispose of its funds and to force upon it a chief who has no vocational qualifications, who is totally unknown to the members of the organisation and who is obviously placed at the head of the organisation merely for the purpose of making it subserve a particular political party. In other words, the trade unions created and maintained by the members on a "Free Trade Union" basis are to be changed into centres of National Socialist activities essentially alien to the membership of the unions.

But again, since hitherto Danzig has maintained her independence in all local questions, even where the connection with the German trade unions still existed, it is contrary to the whole position of Danzig at international law that she should be subject to a "Commissary" who, according to the National Socialist principle, will have to obey blindly the instructions received from the German Central Commissary.

Lastly, Article 110 of the Danzig Constitution has also been infringed. It provides that expropriation may only be effected in accordance with the provisions of the law and for the benefit of the whole community, and in return for suitable compensation. The whole procedure in Germany is manifestly based on the principle that, under the German Enabling Law, expropriation may be allowed in virtue of a mere ordinance, whereas this is not possible in Danzig under the above-mentioned provision of the Constitution. It is a case of expropriation, however, if the trade union headquarters, which were leased by the independent Danzig General Association of Trade Unions and the offices of the individual unions, which are leased by the local groups, and their equipment, should be occupied by the "Commissary", who also assumes the right to administer the organisation's funds, consisting of the members' contributions. This different basis of property law in itself shows that in view of the fundamental divergence of legal conditions in Germany, as compared with Danzig law, a separation of the Danzig trade unions has necessarily taken place since, according to Danzig law, there is no longer any possibility of co-operation.

We beg to submit these considerations to the representative of the League of Nations, the guarantor of the Danzig Constitution, with the request that he will take the necessary steps to safeguard against all possible violation the endangered constitutional rights of the 20,000 Danzig workers who compose the membership of the "Free Trade Unions"

(Signed) E. WERNER,
Karl TÖFFER,
Walter JOSEPH,

Representatives of the "Free Trade Unions"

[Translation.]

[Copy.]

Provisional Order

In the case of

Herr KENDZIA, of Danzig-Langfuhr, Ahornweg 10,

Applicant

(Counsel in charge of case: Helmuth Willers and Dr. Erich Willers, of Danzig)

a g a i n s t

1. G. KAISER, Managing Secretary, Danzig, Karpfenseigen, 26, Room 8,
2. Eugen WERNER, Trade Union Chairman, same address, Room 16;
3. Paul KLOSSOWSKI, Secretary, same address, Room 5,
4. ADOMAT, Chief Librarian, same address, Room 5,
5. A. BRILL, Trade Union Chairman, same address, Room 2;
6. Karl HELMSTÄDT, Trade Union Chairman, Danzig, Poggenpfehl 57;

7. A. KOLMS, Managing Secretary, Danzig, Brabank 22;
8. Paul MARTEN, Trade Union Chairman, Danzig, Stiftswinkel 4, I,
9. Karl TÖPFER, Managing Secretary, Danzig, Karpfenseigen 26, Room 13a;
10. A. PETROWSKI, Managing Secretary, Danzig, same address, Room 5a;
11. Edouard BARWIN, Trade Union Chairman, Langfuhr, Heeresanger 28,
12. F. SPILL, Managing Secretary, Danzig, Karpfenseigen 26, Room 10;
13. B. FELLER, Managing Secretary, Danzig, Karpfenseigen 26, Room 4,
14. K. REHBERG, Managing Secretary, Danzig, Karpfenseigen 26, Room 6;
15. K. JANGO, Managing Secretary, Danzig, Karpfenseigen 26, Room 1;
16. A. ORDOWSKI, Managing Secretary, Danzig, Karpfenseigen 26; Room 9;
17. J. FISCHER, Managing Secretary, Danzig, Karpfenseigen 26, Room 14,
18. Franz WIECZOREK, Trade Union Chairman, Danzig, Wallgasse 3;
19. W. JOSEPH, Managing Secretary, Danzig, Karpfenseigen 26, Room 17;
20. Hermann DÖRING, Trade Union Chairman, Danzig, Frauengasse 35;
21. Otto JAIST, Trade Union Chairman, Gr. Walddorf, Parkstrasse;
22. Bruno KIRSCH, Danzig, Schlossgasse 1;
23. Otto EHMS, Trade Union Chairman, Danzig, Paulgasse 1;
24. W. ROMPZA, Managing Secretary, Danzig, Karpfenseigen 26, Room 20;
25. F. KREFT, Managing Secretary, Danzig, Karpfenseigen 26, Room 12;
26. Konsum- und Spargenossenschaft für Danzig und Umgegend e.G.m.b.H., Danzig, Hinter Adlersbrauhaus 3;
27. Produktivgenossenschaft Danziger Bäckerei- und Konditoreiarbeiter, Ohra,
28. Gewerkschaftliche- und Genossenschaftliche Versicherungs- A.G., Danzig Office, Jopengasse 63;
29. M. MALIKOWSKI, Danzig, Karpfenseigen 26;
30. Karl KNAUER, Cashier, Danzig, Wallgasse 14b;
31. Allgemeiner Gewerkschaftsbund der Freien Stadt Danzig (General Association of Trade Unions of the Free City of Danzig), Office: Karpfenseigen 26 and its branches;

Defendants

It is hereby enacted as follows under the Provisional Order, and, by reason of the urgency of the case, without oral proceedings, under paragraphs 940 *et seq.* of the Code of Civil Procedure:

(1) The defendants shall, on pain of a judicial sentence of fine or imprisonment, surrender to the applicant the office premises occupied by them, together with the furniture and equipment thereof and the documents, funds, cash and bank accounts and all property of the Trade Unions, pending the final judicial settlement of the dispute, and shall not alienate the premises, furniture and equipment, documents, funds, cash or bank accounts so surrendered, or any other property of the Trade Unions, and are forbidden, pending the final settlement, to remove such property out of the Free City of Danzig.

(2) The defendants shall further leave the offices of the Trade Unions on pain of a judicial sentence of fine or imprisonment. They are also forbidden to return to the said offices on pain of a judicial sentence of fine or imprisonment.

(3) Lastly, the defendants are forbidden, on pain of a judicial sentence of fine or imprisonment, to transact, in the future, business of any kind for the Trade Unions or to describe themselves as representatives of the Trade Unions or to receive contributions.

(4) The defendants shall bear the costs of the present procedure.

(5) The value of the matter in dispute under the present Provisional Order is fixed at 800 gulden.

REASONS.

The applicant has credibly shown that he is the delegate and plenipotentiary representative of the Reich Commissary of the General German Association of Trade Unions, headquarters, Berlin, that the General Trade Union of the Free City of Danzig, the Defendant No. 31, is subsidiary to this Trade Union and that the applicant in his above-mentioned capacity is empowered to dissolve the Defendant No. 31 and to dismiss without notice the secretaries, managing secretaries, chairmen, and other personnel of Defendant No. 31, and to seize the offices, furniture and equipment, funds, accounts and other property thereof. The applicant has further credibly shown that the execution of these measures is endangered and disputed in the absence of a judicial settlement, inasmuch as certain property has already been removed.

The issue of the Provisional Order in the sense described above therefore seemed necessary. Nevertheless, as the settlement prescribed in the Provisional Order is only temporary, the applicant is forbidden to alienate or remove the property or premises surrendered to him.

Danzig, May 12th, 1933.

(Signed) SCHULZ.

[Signature of Clerk of the Court.]

C.341.1933.I.

5. LETTER, DATED MAY 22ND, 1933, FROM THE HIGH COMMISSIONER OF THE LEAGUE IN DANZIG TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

[Translation.]

Danzig, May 22nd, 1933.

I should be glad if you would be so good as to communicate the following to the Council:

This morning I addressed myself to the President of the Senate and handed him an *aide-mémoire* which read as follows:

“ In different quarters, the fear has been expressed that the liberty of vote for the elections to the Volkstag, fixed for May 28th, might be endangered by intimidation or other illegal measures.

“ In this connection, attention should be drawn to the fact that, should it be found that the elections to the Volkstag have taken place without a strict and scrupulous observance of the relevant provisions of the Constitution placed under the guarantee of the League of Nations (and particularly of Article 8 of the Constitution, which provides for universal, equal, direct and secret suffrage), the result of the elections runs the risk of being declared null and void.”

In reply, the President of the Senate made the following statement:

“ The Government has taken all the necessary measures to ensure liberty of voting on May 28th. The Government is firmly resolved to employ with the greatest energy all the means at the State's disposal to oppose any attempt to hamper the free exercise of the right of voting; in particular, freedom to take part in the voting will be guaranteed to each elector. The secrecy of the ballot, as provided for in the Constitution, will be guaranteed to each elector so that he will be able to vote according to his convictions without fear of the consequences.”

(Signed) Helmer ROSTING,
High Commissioner

C.352.1933.I

6. LETTER, DATED MAY 23RD, 1933, FROM THE HIGH COMMISSIONER OF THE LEAGUE AT DANZIG TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

[Translation.]

Danzig, May 23rd, 1933.

Recently an attack was made in the Press on the Danzig Police, stating that it had placed itself entirely at the service of the Hitler party and that its impartiality might be open to doubt. In particular, attention was drawn to the fact that the Criminal Police Officers' Association at Danzig had sent a telegram to the Chancellor of the Reich on the occasion of his birthday, congratulating him and hailing him as the *Führer* (leader) of all Germans, and signed “ The Office of the Chief of Police, Danzig.”

Further, I myself had occasion to note in an election propaganda film of the Hitler party, shown in the Danzig cinemas, that Schupos in uniform as well as other employees and officials of the Free City of Danzig had taken part in formation, and as it seemed, under the command of persons wearing the uniform of the National Socialist Party, in demonstrations of that party.

I considered it my duty on Thursday, May 18th, to communicate with the President of the Senate and to draw his attention to Article 93 of the Constitution, which reads as follows:

“ Officials are servants of the community and not of a party. They are entitled to freedom of political opinion and freedom of association. They shall not be subjected to any restriction in this respect.”

Yesterday, May 22nd, the Senate handed me the observations forwarded herewith.

(Signed) Helmer ROSTING,
High Commissioner

Annex.

[Translation from the German.]

1. The Criminal Police Officers' Association sent a telegram to the Chancellor of the Reich, Adolf Hitler, congratulating him on the occasion of his birthday. This telegram read as follows:

“ The Criminal Police Officers' Association tenders the most cordial good wishes to the leader of all Germans on the occasion of his birthday. Danzig, Office of the Chief of Police.”

The Criminal Police Officers' Association is a private organisation, the sole object of which is good fellowship and the promotion of the economic interests of the Criminal Police Officers. The actions of the Criminal Police Officers' Association cannot, therefore, be considered as equivalent to those of the criminal police. The Association, however, certainly committed an irregularity in adding "Office of the Chief of Police" to the name of the town, since that might give the impression that the Office as such, or a part of it, was responsible for despatching the telegram. Obviously, the object of adding these words was merely to give an address to which the hoped-for reply to that telegram could be sent.

The necessary notification has been made to the Chairman of the Association in connection with this irregularity

2. A few weeks ago the N.S.D.A.P took individual photographs and cinema pictures of the various occupational organisations belonging to it. The purpose of these pictures was to prove during the electoral campaign that the National Socialist movement included all professions. For that reason, the uniforms and special costumes of every possible profession were represented in these pictures, which were taken on private premises at Walddorf and were not public. I am forwarding two photographs (attached) for information. They show chimney-sweeps, bakers and waiters, who are represented in occupational groups. Among the officials photographed in these groups there were a fairly large number of security police officers who were off duty and were wearing their undress uniform—that is to say, with cap and long trousers. It is not true, however, that these officers wore armlets with the swastika. The wearing of these armlets would have been an offence against the service regulations, since the police officers are only allowed to wear officially authorised insignia. Herr Hohmfeld, Head of the Officials' Federation at Danzig, wearing the uniform of an *Amtsvalter* of the N.S.D.A.P., was standing immediately in front of the row of security police officers. The fact that he was standing in front of the other persons present was merely intended to indicate that he was head of the Officials' Federation, but not to represent him as having any authority over the other officials present.

The demonstration, which had taken place in private grounds at Walddorf, became a public demonstration, owing to the fact that the cinema pictures were introduced into a film which is now being shown to the public.

The necessary disciplinary measures have been taken in regard to the officer in command, who had participated in the demonstration, since he should have avoided even the appearance of taking any share in a demonstration connected with party politics.

C.354.1933.I.

7 LETTER, DATED MAY 23RD, 1933, FROM THE HIGH COMMISSIONER OF THE LEAGUE IN DANZIG TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

[Translation.]

Danzig, May 23rd, 1933.

With reference to my letter of May 16th, 1933,¹ forwarding copy of a petition handed to me on May 15th by three trade union secretaries at Danzig, I have the honour to enclose herewith, with the request that you will be so good as to bring it to the notice of the Council, copy of the judgment of the Danzig *Amtsgericht* of May 22nd, 1933, on the appeal entered by the trade unions against the provisional order of the same court dated May 12th, 1933.

(Signed) Helmer ROSTING,
High Commissioner

[Translation from the German.]

[Copy.]

Judgment.

Promulgated on May 22nd, 1933.

(Signed) RUTH, Certificating Official.

In the case of

Herr KENDZIA, of Danzig-Langfuhr, Ahornweg 10,

Applicant

(Counsel in charge of case: Helmuth Willers and Dr. Erich Willers of Danzig)

a g a i n s t

1. G. KAISER, Managing Secretary, Danzig, Karpfenseigen 26, Room 8,
2. Eugen WERNER, Trade Union Chairman, same address, Room 16;
3. Paul KLOSSOWSKI, Secretary, same address, Room 5;
4. ADOMAT, Chief Librarian, same address, Room 5;

¹ See page 703.

5. A. BRILL, Trade Union Chairman, same address, Room 2;
6. Karl HELMSTÄDT, Trade Union Chairman, Danzig, Poggenpfehl 57;
7. A. KOLMS, Managing Secretary, Danzig, Brabank 22;
8. Paul MARTEN, Trade Union Chairman, Danzig, Stiftswinkel 4, I,
9. Karl TÖPFER, Managing Secretary, Danzig, Karpfenseigen 26, Room 13a;
10. A. PETROWSKI, Managing Secretary, Danzig, same address, Room 5a;
11. Edouard BARWIN, Trade Union Chairman, Langfuhr, Heeresanger 28,
12. F. SPILL, Managing Secretary, Danzig Karpfenseigen 26, Room 10,
13. B. FELLER, Managing Secretary, Danzig Karpfenseigen 26, Room 4,
14. K. REHBERG, Managing Secretary, Danzig, Karpfenseigen 26, Room 6,
15. K. JANGO, Managing Secretary, Danzig, Karpfenseigen 26, Room 1,
16. A. ORDOWSKI, Managing Secretary, Danzig, Karpfenseigen 26, Room 9;
17. J. FISCHER, Managing Secretary, Danzig, Karpfenseigen 26, Room 14,
18. Franz WIECZOREK, Trade Union Chairman, Danzig, Wallgasse 3.
19. W. JOSEPH, Managing Secretary, Danzig, Karpfenseigen 26, Room 17
20. Hermann DÖRING, Trade Union Chairman, Danzig, Frauengasse 35,
21. Otto JAIST, Trade Union Chairman, Gr. Walddorf, Parkstrasse;
22. Bruno KIRSCH, Danzig, Schlossgasse 1,
23. Otto EHMS, Trade Union Chairman, Danzig, Paulsgasse 1;
24. W. ROMPCZA, Managing Secretary, Danzig, Karpfenseigen 26, Room 20.
25. F. KREFT, Managing Secretary, Danzig, Karpfenseigen 26, Room 12.
26. Konsum- und Spargenossenschaft für Danzig und Umgegend e.G.m.b.H., Danzig, Hinter Adlersbrauhaus 3,
27. Produktivgenossenschaft Danziger Bäckerei- und Konditoreiarbeiter, Ohra.
28. Gewerkschaftliche- und Genossenschaftliche Versicherungs- A.G., Danzig Office, Jopengasse 63.
29. M. MALIKOWSKI, Danzig, Karpfenseigen 26.
30. Karl KNAUER, Cashier, Danzig, Wallgasse 14b.
31. Allgemeiner Gewerkschaftsbund der Freien Stadt Danzig (General Association of Trade Unions of the Free City of Danzig). Office: Karpfenseigen 26, and its branches.

Defendants.

(Counsel acting on behalf of defendants Nos. 1, 26 and 27: Dr. KAMNITZER, Nos. 2, 3, 4, 6, 9, 10, 12, 14, 16, 19, 20, 22, 24, 25, 29, 30 and 31: Dr. LEWY, Danzig.)

The Danzig *Amtsgericht*, Section 3 (Counsellor Schultz) has, as the result of oral proceedings held on May 19th, 1933, decided as follows:

(1) The provisional order of the Danzig *Amtsgericht* of May 12th, 1933, is confirmed in respect of defendants Nos. 1, 2, 3, 4, 5, 6, 9, 10, 12, 14, 16, 19, 20, 22, 24, 25, 29, 30 and 31.

(2) The provisional order, so far as it concerns defendants Nos. 26 and 27, is annulled.

(3) The costs of the case, so far as they concern the defendants referred to in (1) shall be borne by those defendants, whereas the costs in respect of defendants Nos. 26 and 27 shall be paid by the applicant.

(4) The verdict shall be provisionally enforceable.

Statement of the Facts and Reasons for the Decision.

A provisional order of the Danzig *Amtsgericht*, dated May 12th, 1933, enacted as follows:

(1) The defendants shall, on pain of a judicial sentence of fine or imprisonment, surrender to the applicant the office premises occupied by them, together with the furniture, archives, safes, cash and bank accounts and all property of the trade unions, subject to the proviso that the applicant shall not, pending the final settlement of the dispute, alienate the premises, furniture, archives, safes, cash and bank accounts so surrendered or any other property of the trade unions, and that he shall be forbidden, pending the final settlement, to remove such property out of the Free City of Danzig.

(2) The defendants shall further leave the offices of the trade unions, on pain of a judicial sentence of fine or imprisonment. They are also forbidden to return to the said offices on pain of a judicial sentence of fine or imprisonment.

(3) Lastly, the defendants are forbidden, on pain of a judicial sentence of fine or imprisonment, to transact in future business of any kind for the trade unions or to describe themselves as representatives of the trade unions or to receive contributions.

(4) The defendants shall bear the costs of the present procedure.

(5) The value of the matter in dispute under the present provisional order is fixed at 800 gulden.

Appeal has been entered against this provisional order by

- (a) Defendants Nos. 1, 26 and 27, through Dr. KAMNITZER, Barrister;
- (b) Defendants Nos. 2, 3, 4, 6, 9, 10, 12, 14, 16, 19, 20, 22, 24, 25, 29, 30 and 31, through Dr. LEWY, Barrister, Danzig.

They have requested the Court to annul the provisional order and to mulct the applicant in the costs of the case.

In the course of the hearing the applicant waived his rights under the provisional order in respect of defendants Nos. 26 and 27, and further requested the court to confirm the provisional order.

To the extent that the applicant waives his rights under the provisional order, the latter should be annulled. In all other respects, the provisional order is confirmed.

The applicant, Ernst Kendzia, has declared under oath that the General Association of Trade Unions of the Free City of Danzig, defendant No. 31, and its branches, secretaries, managing secretaries and chairmen are, as regards both management and administration, under the orders of the General German Association of Trade Unions, headquarters Berlin, he has further declared that Schumann, the Reich Commissioner of the General German Association of Trade Unions, headquarters Berlin, appointed him (the applicant) the association's delegate for the General Trade Union of the Free City of Danzig, invested him with full powers and instructed him to re-organise the affairs of the General Trade Union of the Free City of Danzig, and, in particular, gave him full powers to dismiss without notice the Managing Committee and all the rest of the staff. In support of this sworn declaration, the applicant produced an original telegram from Commissioner Schumann, dated May 12th, 1933, containing these orders. Acting as representative of Reich Commissioner Schumann, the applicant demands that the offices of the Danzig trade unions, together with the furniture and property, should be handed over to him by the defendants whom he designates individually as members of the trade unions and demands that they should be prohibited from transacting in future the business of the trade union and from entering the offices. He requests the issue of a provisional order to this effect, since it is to be feared that, if the usual procedure were followed, his claim might be defeated, and in corroboration of this apprehension he has produced the sworn declaration of a certain Komietzko, who professes to have seen papers being transported from the trade union premises in document cases.

The court granted the request for a provisional order because it regarded the applicant's claim, and also the reason adduced for seizure, as sufficiently worthy of credence.

In support of their appeal, the defendants urge primarily that no legal proof has been brought of Reich Commissioner Schumann's right to take action of the kind described, and they emphasise particularly the fact that the *Reichsgesetzblatt* supplied no evidence of the right of the Reich Commissioner to intervene.

Reich Commissioner Schumann's authority to administer all workers' trade unions and to take any steps he may think necessary is based on a Decree of the German Chancellor, Adolf Hitler, dated May 10th, 1933, which was printed in the *Völkischer Beobachter* of May 11th, 1933, and thus brought to the notice of the public. The fact that this Decree has not appeared in the *Reichsgesetzblatt* (*Legal Gazette*) does not detract from its validity; it was issued in virtue of revolutionary law, the law of a new State in course of development, which cannot immediately codify and does not, to make them valid, need to codify all the measures taken by it necessary for the building up of the State. The transfer of all the powers of Reich Commissioner Schumann to the applicant, so far as Danzig is concerned, is proved by the original telegram produced at the hearing, which substantially corroborates the sworn declaration of the applicant Kendzia.

The objection raised by the defendants—namely, that the powers of the Reich Commissioner do not extend beyond the frontiers of the State—is erroneous and irrelevant. This restriction may exist in the case of action taken under public law. In the present case, certainly, the investment of the Reich Commissioner with full powers and their delegation to the applicant are based on an act of public law. In Danzig, however, the applicant is demanding and trying to enforce claims which are essentially claims under private and property law. Their purpose is to safeguard

printed letter-heads submitted by the applicant that the various trade unions of the Free City of Danzig describe themselves and operate, not as Danzig trade unions, but as German trade unions. The membership books of the various members are made out in Berlin. Further, as the applicant has also convincingly shown by submitting a sworn declaration of M. P. Niklas and citing a communiqué in the *Danziger Landeszeitung*, the Danzig Christian Trade Unions have not opposed the re-organisation ordered by Berlin, but have, on the contrary, publicly stated their acceptance of it. In view of these declarations by the applicant, corroborated by facts, the counter-declarations made on oath by the defendants and their party colleagues, who object with all their might and in every way to re-organisation, are immaterial. The fact that the Danzig Trade Unions are subsidiary to the Berlin organisation seems, on the contrary, to be perfectly satisfactorily proved. The same is true as regards the fact that all the defendants except Nos. 26 and 27, in respect of whom the rights under the sworn declaration have been waived, and consequently also defendant No. 1, Kaiser, come under the jurisdiction of the General Trade Union of the Free City of Danzig, a fact which has also been testified on oath by the applicant and is further proved by the annual report of the Danzig General Trade Union for 1932.

It is, therefore, not open to doubt that the applicant on the one hand is entitled to sue and that the defendants on the other hand can be validly sued.

The transfer of the powers of the General German Association of Trade Unions to the applicant Kendzia has the effect of empowering the latter to dismiss without notice, and therefore to remove, the defendants Nos. 1, 2, 3, 4, 5, 6, 9, 10, 12, 14, 16, 19, 20, 22, 24, 25, 29 and 30, who are members of the staff of the General Trade Union of the Free City of Danzig, and, further, of entitling him to have the premises, furniture and property of the General Trade Union of the Free City of Danzig handed over to him. Consequently, the *claim* of the applicant, as stated in the sworn declaration, is sufficiently proved for the purposes of the court.

The argument that the measures demanded by the applicant and granted to him by the provisional order are a breach of Article 113 of the Danzig Constitution, which guarantees freedom of association in Danzig territory, is absolutely erroneous and need not be discussed. Freedom of association still exists. The only difference is that the management of the association has been entrusted to others who promise to work in a way which will be more fruitful and more profitable to the State.

Similarly, Article 110 of the Danzig Constitution guaranteeing property has in no way been infringed. There has been no expropriation. a person who takes possession of his own property is not expropriating anyone.

Lastly, it is not clear how the international situation of the Free City of Danzig can prevent the re-organisation of a Danzig trade union.

Under the terms of paragraph 935 of the German Code of Civil Procedure, which applies also to the Free City of Danzig, provisional orders regarding a matter in dispute may be issued when there is reason to fear that, as a result of a change in the existing state of affairs, the enforcement of one party's rights may be prevented or substantially impeded. Enforcement of the applicant's rights would have been compromised if he had merely sued in the ordinary way or if it had simply been agreed to give the application an oral hearing. It has, in fact, been sufficiently clearly proved that a beginning had been made in removing from the trade union offices parts of the archives and articles belonging to the trade unions. That there were grounds for this apprehension was even proved in the course of giving effect to the provisional order, and the defendants have also publicly admitted it in their own Press organ (cf. *Danziger Volkstimme* of May 17th, 1933, page 1, foot of page on right).

In issuing the provisional order, the court was fully aware that a provisional order should be used solely to safeguard claims and should not prejudice either the final decision to be sought through the ordinary procedure or the enforcement of that decision. The measures decreed are, in fact, merely conservatory measures, and, in so far as they constitute a *fait accompli*—e.g., the order to leave the offices—these measures were even necessary in order to safeguard the other claims. It would have been useless to secure the furniture and property if the defendants had remained in the offices, and the order to leave the offices could, even if the applicant's claim was subsequently declared unfounded, have been annulled without any appreciable damage being sustained, and it would have always been possible to re-establish the *status quo ante*. Furthermore, the order to hand over the whole property to the applicant personally and not to a bailiff has caused no lasting detriment to the defendants or prejudged enforcement in the main proceedings, since the court, fully realising the provisional character of its order, forbade the applicant, contrary to his application, to alienate or remove the property.

Thus, all legal requirements were complied with when the provisional order was issued.

The original order should therefore be confirmed in respect of defendants Nos. 1, 2, 3, 4, 5, 6, 9, 10, 12, 14, 16, 19, 20, 22, 24, 25, 29, 30 and 31. It should only be annulled in respect of defendants Nos. 26 and 27, in view of the fact that the rights conferred by the provisional order in regard to them have been waived.

The accessory decisions are based on paragraphs 91, 708 *et seq.* of the Code of Civil Procedure.

(Signed) SCHULTZ.

Official No.. C.228.M.117.1933.IIA.
[F.1220]

II.

EIGHTH REPORT OF THE TRUSTEE OF THE MUNICIPALITY OF
DANZIG 7% MORTGAGE LOAN OF 1925.

(COVERING THE PERIOD FROM MARCH 15TH, 1932, TO MARCH 15TH, 1933.)¹

In conformity with the Council resolution of March 14th, 1925, I have the honour to submit to the Council of the League of Nations my eighth annual report as Trustee for the 7% Danzig Municipal Loan 1925, covering the period up to March 15th, 1933.

The balance of the proceeds of the Loan standing to the credit of the Trustee's Account on March 15th, 1932, amounted to	£ s. d. 98 14 11
which sum was blocked for the redemption of the \$470 bonds still outstanding of the Mortgage Dollar Loan, during the financial year 1932-33, no bonds of the said loan having been repaid, the balance of the Trustee's Account still amounts to.	£98 14 11
blocked for the said purpose.	

As to the release of Plot 504/96 out of Estate *Gross Bolkau*, Register of Landed Property, page 44, 0.6558 ha., mentioned in my previous report—which release had, on March 15th, 1932, actually not taken place, pending the fulfilment of certain formalities in respect of the property to be pledged in its stead—viz:

	Hectares
Plot 493/31, <i>Gross Bolkau</i> , page 3	0.2473
Plot 432/103, <i>Gross Bolkau</i> , page 22	} 0.3678
Plot 433/85, <i>Gross Bolkau</i> , page 22	
Plot 889/68, <i>Klein Bolkau</i> , page 61	0.0085
Plot 502/105, Farm, <i>Gross Bolkau</i>	0.0322
	0.6558

I was informed by the Bank of Danzig, on September 13th, 1932, that, all formalities having been settled, this release had duly been effected.

From the Bank of Danzig's aforesaid letter, I learnt that, in compliance with Article 18 of the General Bond, additional pledge had been entered in the Register of Landed Property, as appertaining to the Municipal Electric Works—viz., on page 44, *Gross Bolkau*

Plot 428/103	} 6,129 sq. m.
Plot 429/103	
Plot 430/103	
Plot 431/85/half	

According to my last report, the Municipality of Danzig had, on March 15th, 1932, still the right to ask the release of pledged property, without giving any substitution, up to an amount of Danzig Gulden
17,152

In the financial year 1932-33, there were released.

Out of Estate *Bürgerwiesen*, page 28, 21,471 sq. m.

Plots 609/142, 610/142, 611/142, 612/142,
613/142, 614/142, 615/142, 616/142,
617/142, 618/142, 619/142, 620/142,
621/142, 622/142, 623/142, 624/142,
625/142, 626/142, 627/142, 628/142,
629/142, 630/142, 631/142, 632/142.

Out of Estate *Gr Walddorf*, page 35, 1,996 sq. m.

Plot 675/53.

Carry forward

17,152

¹ For the last report, see *Official Journal*, June 1932, page 1127.

<i>Brought forward</i>		Danzig Gulden 17,152
Out of Estate <i>Werderscher Weg</i> , page 26, 1,059 sq. m.		
Plot 524/14,		
Total value	Danzig Gulden 12,263	
Out of Estate <i>Troyl</i> , page 22, 5 sq. m.		
Plot 234/17,		
Out of Estate <i>Heubude</i> , page 81, 139 sq. m.		
Plot 232/14,		
Out of Estate <i>Heubude</i> , page 271, 2,566 sq. m.		
Plot 230/15,		
Total value	2,710	
Out of Estate <i>Strohdeich</i> , page 22, 11,028 sq. m.		
Plots 180/19, 282/19, 283/19, 284/19		
	55,140	
Total		70,113
This released property has been substituted by		
Estate <i>Neufahrwasser</i> , page 622, 199 sq. m.	30,400	
Estate <i>Neufahrwasser</i> , page 623, 232 sq. m.	24,750	
Estate <i>Neufahrwasser</i> , page 624, 237 sq. m.	23,800	
		78,950
		8,837
leaving a surplus of		8,837
Consequently, the Municipality of Danzig has still the right to apply for the release of pledged property amounting to without giving any substitution up to that amount.		25,989
I avail myself of this opportunity to express again my thanks to the Bank of Danzig for the assistance they have given me during the period covered by this report.		

March 1933.

(Signed) C. E. TER MEULEN.