Appendix 5(*b*).

(From the *Danziger Neuste Nachrichten*, No. 72, of March 26th, 1935.)

National Socialists ! Fellow-Countrymen !

I find myself compelled to refer once more to my appeal of March 16th, 1935, in which I pointed out that we National Socialists will not win the voters to our side in the electoral struggle by resorting, like our opponents, to terrorist measures.

The overwhelming majority of the Danzig population is in any case on our side, and those few who will still be fighting against us as Social Democrats, Centre Party men, Communists or adherents of other tiny groups cannot be won over either by good measures or by bad.

It has happened that members of these tiny groups have provoked and insulted members of National-Socialist formations in the most flagrant manner in order thereby to incite our party comrades and supporters to violent action.

Party Comrades ! Fellow-Countrymen !

Do not forget that these tiny groups are leaving no stone unturned in order by their false reports to bring the High Commissioner of the League of Nations into opposition to ourselves.

Our reply to these separatist and treacherous activities is increased discipline and increased enthusiasm in our efforts to secure on April 7th victory for our National-Socialist attitude on a scale never seen before in Danzig.

Danzig, March 26th, 1935.

(Signed) Albert FORSTER,
Danzig Provincial Leader

IV PETITION FROM THE "VEREIN DER JÜDISCHEN AKADEMIKER" AND THE "VEREINIGUNG SELBSTÄNDIGER JÜDISCHER DANZIGER GEWERBETREIBENDER UND HANDWERKER IN DER FREIEN STADT DANZIG"

C.193.1935.VII.

1. LETTER, DATED MAY 11TH, 1935, FROM THE HIGH COMMISSIONER OF THE LEAGUE OF NATIONS AT DANZIG TO THE SECRETARY-GENERAL, TRANSMITTING A PETITION, DATED APRIL 8TH, 1935, FROM THE "VEREIN DER JÜDISCHEN AKADEMIKER" AND THE "VEREINIGUNG SELBSTÄNDIGER JÜDISCHER DANZIGER GEWERBETREIBENDER UND HANDWERKER IN DER FREIEN STADT DANZIG" TOGETHER WITH THE OBSERVATIONS OF THE SENATE OF THE FREE CITY RELATING THERETO, DATED MAY 11TH, 1935 [1]

Danzig, May 11th, 1935.

I have the honour to enclose herewith a copy of the petition, dated April 8th, 1935, from the "Verein der Jüdischen Akademiker" and "Vereinigung selbständiger Jüdischer Danziger Gewerbetreibender und Handwerker in der Freien Stadt Danzig", as well as the Senate's answer, which I received to-day

In requesting that the matter should be considered by the Council at its approaching meeting, I beg to refer to the letter, dated June 10th, 1925,[2] approved by the Council and subsequently addressed to the High Commissioner, relative to the procedure to be followed regarding petitions which relate to the danger of infringement of the Constitution of Danzig, placed under the guarantee of the League of Nations.

(Signed) Sean LESTER,
High Commissioner

[*Translation furnished by the Petitioners.*]

PETITION ADRESSED TO THE LEAGUE OF NATIONS CONCERNING THE SITUATION OF THE JEWS IN THE FREE CITY OF DANZIG.

Introduction.

A. The Jews living as a minority in the territory of the Free City of Danzig enjoy legal protection in manifold regards:

[1] See page 849.
[2] See *Official Journal*, July 1925, page 950.

(1) Article 33 of the Convention between the Free City of Danzig and the Republic of Poland of November 9th, 1920, together with Article 2 of the Treaty of June 28th, 1919, concluded by the Republic of Poland with the Allied and Associated Chief Powers guarantees the protection of their lives and their liberty to all the inhabitants of the Free City of Danzig. The same Article 33, together with Article 7 of the same Treaty of June 28th, 1919, guarantees the equality before law as well as the enjoyment of civil and political rights to those inhabitants who are at the same time citizens of the Danzig State without difference of race, language and religion.

(2) Next to that, those Jews who are citizens of the Danzig State have also all rights stated in the Danzig Constitution. This Constitution makes no difference between the citizens of the Danzig State, but it provides in especially exact clauses, mentioned later on, the total equality and liberty of all citizens of the Danzig State.

B. Till the accession of the National-Socialist Government, elected in May 1933, the Danzig Jews had no occasion for complaining about a violation of their rights. Then immediately serious fears arose on account of the further consideration of these rights, which were not only founded by the precedent events in the neighbouring German Empire, but also for that reason, as immediately after the elections, having a National-Socialist majority, a boycott movement against the Jews began. The new Government made a step, however, which seemed to be fit for dissipating the fear of the Jews. In August 1933, the Vice-President of the Senate, M. Greiser, surrendered to a delegation of the Danzig Jews whose reception he had wished, a written declaration with the express remark that it might be used at the discretion of the delegation and in particular also for the Zionist Congress at Prague. In this declaration it was said there should be no question of the Aryan paragraph nor of a boycott movement in Danzig. Then there was literally stated:

> " This is in conformity with the Constitution of the Free City of Danzig, which secures equality of treatment for all citizens and persons resident in Danzig, irrespective of origin and religion and in particular with the spirit of the treaty with Poland concerning the protection of minorities, which prescribes toleration for every race and every religion. The Danzig Government has declared that it will carefully observe the Constitution and all treaties the Government will continue to do so in the future."

On July 2nd, 1934, another Government declaration signed by the former President of the Senate, Dr. Rauschning himself, was handed to the Danzig Press for publication without any previous consultation with the Danzig Jews. It was worded as follows:

> " Reiterated fears have been uttered on account of the treatment of the population in regard of their origin and religion. These apprehensions have no foundation at all. For the Constitution of the Free City of Danzig makes it impossible to injure the rights of their inhabitants on account of their race and religion in any way."

The progress of events in Danzig has unfortunately shown, however, that the expectations aroused by the Government declaration have been deceived. In course of time, the situation of the Jews has become so bad that there can no longer be the least question of equality with the other citizens of the State. Countless violations of rights committed against the Jews clearly proved have again and again been submitted to the Senate with the entreaty for help. But only a few cases have been redressed, the most important complaints have been disregarded.

Source of Complaints.

Taking as a whole the complaints to be discussed, the conclusion must be reached that it is not a case of an accumulation of accidents, but rather one of events, which ultimately have the same cause—namely the dependence of the Senate and all the authorities of the Free City of Danzig on the National-Socialist Party, a dependence that is incompatible with the principles of the Constitution of Danzig.

According to Article 39 of the Danzig Constitution, the Senate is the highest authority in the land, and it is its particular duty of its own authority to conduct the administration of the State within the limits of the Constitution and of the law, and to exercise supervision over all the State authorities. According to Article 29, each of its members, as also the Senate as a whole, depends on the confidence of Parliament. This means that, under the Constitution, it is the task of the Senate to conduct the administration, and that in this respect it is responsible only to Parliament as a body freely elected by all citizens of Danzig. Since the appointment of the National-Socialist Government, however, the independent freedom of decision of the Senate and its members and its responsibility to Parliament exist only nominally. The supreme directory is no more the Constitution and the international relation, but the will of the representative of the National-Socialist Party for, since the Free City of Danzig has been incorporated as a district (Gau) in the organisation of the National-Socialist German Labour Party for Germany, the leader of this

Danzig district, the German Reichstag Deputy and Prussian Councillor of State, Albert Forster of Furth, occupies the central position of power in Danzig. At the elections to Parliament, it was he who selected the National-Socialist candidates, and it was also he who, through the medium of the deputies he had selected, decided on the Danzig senators. While this alone is enough to show that the individual senators are personally dependent on a Reich German district leader, there is the further circumstance that, also, from the point of view of fact, the influence of the National-Socialist Party has been established in the present Danzig Government. A staff office has been set up in the Senate to which party officials have been appointed who have the right at any time to supervise the supreme administration of the State, and, before any important decision, they must not only be heard, but must also report to the district leader. In several cases the district leader has even ordered high officials to come to him, though they did not belong to his party, and to give him direct report. The identification of administration and party seems to be best proved in the quite notorious personal unions: the actual President of the Senate is at the same time representative district leader· all the administrative heads of a district—*i.e.*, the highest officials of the three rural districts in the Danzig State—are at the same time central authority of a district of the party

After the resignation of the President, Dr. Rauschning, a certain Strautmann, who was still then adjutant of the district leader Forster, has been appointed head of the department of the staff department, though he was up till that time of Lettish nationality How he perceives himself his position is to be seen from a speech which he held to the Danzig public service at the beginning of February 1935. There he said, following the official information journal *(Mitteilungsblatt)* of the Danzig official league which appears under the title of " For People and State "

> " In my work in the staff department of the Senate, I consider myself as the representative of the party and I shall work according to its principles."

The so created dependence of the Danzig Senate on the district leader of the National-Socialist Party was made publicly clear when—according to the report published on August 12th, 1933, by the *Vorposten*, the National-Socialist paper for Danzig—the President of the Senate, Dr. Rauschning, expressly swore the district leader Forster loyalty and obedience when the latter was given the freedom of the City Besides, the National-Socialist administrators and the members of the S.A. and S.S. are continually forced to swear on the German Reichskanzler and leader Adolf Hitler, even if they are officials. Thereby the officials and especially the Senators come in a contradictory situation. By their official oath they swear to maintain the Constitution and therewith to observe the equality of all citizens of the State. Swearing on Hitler, they promise to observe the National-Socialist programme, which demands the unequal treatment of the Jewish citizens of the State. This contradiction is still strengthened by the fact that, latterly, the Senate has arranged a so-called lecture course for officials, the avowed object of which is to develop in them the National-Socialist mind. The aim of such an education was especially clearly to be seen by the fact that, in the room where the lecture course for authorities was opened, there was a large placard with the inscription " The Jews are our Downfall " (published by photo in the Danzig *Vorposten* of March 12th, 1935). All the Danzig officials have been invited to this event.

In these circumstances, it was practically inevitable that not only the Senate and its individual members but also innumerable officials should engage in anti-semite activities. It is no longer necessary to prove that the very programme of National Socialist strongly condemns the Jews and at least seeks to enforce their complete exclusion from any kind of important public office. In Danzig, however, there is the further fact that the district leader who wields such influence has on numerous occasions given completely unrestrained expression to his approval of an anti-semite attitude and action on the part of the whole population of Danzig. For instance, according to a report of the *Vorposten* of August 17th, 1933, he spoke as follows at a meeting at Zoppot:

> " On November 9th, 1918, this Jewish spirit triumphed also in Germany and brought over us all the unhappiness that we have lived through during the last fourteen years
>
> " Just as Christianity was once the greatest enemy of Jewry and overcame it, so to-day National Socialist must do the same."

Again, according to a report of *Vorposten* (November 23rd, 1933), he said at another meeting·

> " The fact that knaves, swindlers and Jews hate us and are driven away and annihilated by us justifies our regime before the world and the Lord God."

According to a report of *Vorposten* of June 2nd, 1934, he said at a meeting of thousands of visitors in the Danzig Exhibition Hall:

> " As regards the Jewish question, you may be sure that we have not forgotten the Jew. He always keeps himself disagreeably to the fore, and one day it will be necessary to deprive him of the rights which were granted at a time of unnatural thinking."

The most striking illustration, however, both of the attitude of the district leader and of the relations between the Senate and the National-Socialist Party is found in connection with the above-mentioned recent Government declaration of July 2nd, 1934. This declaration, as the President of the Senate informed the President of the Synagogue Committee on the same day was issued in agreement with the district leader. A few days earlier, however, on June 28th, 1934, that same district leader issued a circular to all leading National Socialists in Danzig, which includes the following passage:

> " We must not lose sight of another enemy and that is the *Jew.*
> " To a National Socialist there are no decent Jews. The race is and must remain our mortal enemy All the distress and misery that we have experienced and still experience has been contrived by this people. Our hospitality must not go so far as to make us support the Jews in business. Just as the Jews help each other mutually so must we Germans. A National Socialist in particular, who has to be an especially good German, must support in business his German comrades first. The Jew must be eliminated wherever possible. Any generosity to the Jew is wrong. Every day we see how World Jewry seeks to inflame the other nations and to bring about the economic ruin of Germany. We cannot suffer National Socialists to buy in Jewish shops, but we must rather brand such action as a betrayal of our movement and the German race. Personal intercourse with Jews is strictly forbidden to National Socialists ! "

The circular is supplemented in a very noteworthy manner by a newspaper article published by the district leader Forster on August 3rd, 1934, in the *Danziger Vorposten* on the occasion of the commemoration of the beginning of the world war. He wrote:

> " Unspeakable were the sacrifices that our whole nation took upon itself. Only by a stab in the back of our fighting front by Jews and national traitors were our enemies able to achieve what they would never have won by the sword."

Whereas thus the Danzig Government repeatedly issued calming statements precisely in July 1934, and in fact with the knowledge of the district leader, that same district leader completely paralysed any effect of such Government declarations, and this shows quite clearly that, contrary to the spirit and the letter of the Danzig Constitution, it is not the Senate but the Reich German district leader who steers the ship of State.

The effect of this attitude of the district leader on the Senate of the Free City of Danzig may also be read in public proclamations of individual members of the Senate. Thus, according to the *Vorposten* of February 2nd, 1934, the then Vice-President, now President, of the Senate, Herr Greiser, said, among other things:

> " As in Imperial Germany the nobility were the leaders, so in the Weimar Republic the upper 10,000 consisted of immigrant rogues and vagabonds from Palestine. By deceit and trickery they acquired money and still more money In virtue of their money-bags they soon decided over the whole cultural and intellectual life of Germany. German sentiment was crushed "

Further, at the above-mentioned meeting at the Exhibition Hall on June 1st, 1934, M. Greiser stated, according to the *Vorposten* of June 2nd, 1934.

> " We need no boycott of Jews and no prohibition against buying from those who are not of our race and country For the Danziger it is enough to be told that he serves the cause of the revival of home industry if he buys from Danzig German firms."

Besides, as early as in 1933 Senator Huth (*Vorposten*, July 15th, 1933) declared at a works meeting of the central railway workshops that " the Jew knew no positive work, since he lived only by cheating and trickery " Further, at the beginning of 1934, the Senator for Science, Art, Education and Ecclesiastical Affairs, M. Boeck, in a contribution to the New Year number of the *Danziger Neueste Nachrichten*, wrote:

> " Four centuries of unrestricted sovereignty of the intellect, nearly 150 years of liberalism and Marxism combined with Jewry have rotted our German soul's inheritance. We must break the bonds of these forces, otherwise we shall be choked by the dross of cultures foreign to us, which merely suck the last drop of our northern blood—that is to say, annihilate our people."

The same Senator has published an article in the *Danziger Vorposten* of January 24th, 1935, where it runs as follows:

> " Beside the aim to teach and educate by science stands that to educate by art. In no other domain the Marxists and the Jews have ruined so much as here. The international Jews and Marxists had usurped nearly all artistic departments. They were no artists but only managers in art. Their only aim was to degenerate or, if possible, to ruin the mind of the Germans."

Another fact: As the pupil orchestra of the Kronprinz Wilhelm Realgymnasium played music of the great composer Händel at the occasion of his hundred years jubilee, the same Senator has lately forbidden the Jewish pupils, members of this orchestra, to take part in this concert with the remark, " Jews have nothing to do in the wireless station " The same character has an utterance of the Senator Huth, who, conforming to a report of the *Danziger Vorposten* of October 18th, 1934, has made a speech before the Union of Danzig officials; it runs as follows:

> " Bismarck, it is true, had afterwards the success to create an estate exteriorly strong and interiorly well organised. But this foundation had already the germ of death in it, even then the Jewish elements in the workers' leadership were dominating so that Judah's plans might be realised with a discontented and incited working class."

Thus it is clear that, in contradiction with the official declarations of the Senate, the conviction of the National-Socialist Party has continually pushed aside the Senate's responsibility for the Constitution, and it is also clear that the situation of the Jews cannot be improved and will not not improve as long as the freedom of decision of the Senate, as prescribed by the Constitution, is not restored and the Senate itself made independent of the district leader of the National-Socialist Party and especially the union of civil power and party will be loosened. Another weighty factor is that the Senate at present in power has been given legislative authority by an Emergency Act of the Popular Assembly, so that it has all the power arising out of the combination of administrative and legislative authority and, again, the whole of this power is under the influence of the Reich German district leader.

Complaints.

In principle, it is the complaint of the Danzig Jews that important provisions of the Danzig Constitution are not observed, but, on the contrary, are continually infringed in the fields both of legislation and administration.

A. *Legislation.*

1. Article 71 of the Danzig Constitution provides:

> " Fundamental rights and duties shall govern the direction and determine the scope of legislation, the administration of justice, and the conduct of public affairs."

The then following provisions of the Constitution speak of fundamental rights and duties, Article 73, paragraph 1, belongs to them.

> " All nationals of the Free City of Danzig shall be equal before the law. Exceptional laws shall be inadmissible."

Under paragraph 3 of the same article:

> " Legal advantages and disadvantages on account of birth, profession and religion do not exist."

Contrary to this provision, you find in the legal *Official Gazette*, 1933, page 502, the decree of securing the authority of national associations of October 10th, 1933; paragraphs 1 and 2 menace with imprisonment him who unlawfully possesses the uniform of an association supporting the Government of the Free City of Danzig, or him who unlawfully wears or sells this uniform or its badges. Paragraph 4 provides literally in connection with this:

> " He who intentionally proclaims or spreads a false or twisted statement of facts which is apt to damage seriously the authority of the associations, mentioned in paragraph 1 is punishable by imprisonment till two years, and, if he proclaims or spreads the statement publicly by imprisonment not under three months. He who commits this action by negligence is punishable by imprisonment till three months or fined."

At least this paragraph 4 is an inadmissible exceptional law (Article 73 of the Constitution). According to the general provisions of the Penal Code used in Danzig, defamation committed by negligence is not punishable at all, and an intentional one only if it is directed against a

determinate individual, and not if it means an uncertain total. The mentioned paragraph 4, on the contrary gives national associations public protection of the honour, even if the perpetrator does not act intentionally but only by negligence. Therewith the principle of the Constitution that all the citizens of the State are equal before law is clearly violated and at the same time a public disadvantage is done to the Jewish citizens on account of their birth. For as Jews are not allowed to belong to the associations protected by the Decree of October 10th, 1933, they and their fellowship do not enjoy the same protection as is given by the Decree to the fellowship of the national associations. The further statement will show how this very disadvantage has injured the Danzig Jews.

2. The order of July 14th, 1933, providing that notaries (who have hitherto been appointed by the judicial administration) are to be elected by the Committee for electing judges created by the Article 64 of the Constitution, also appears to be unconstitutional. Out of several motives the fact that the Constitution expressly created this Committee for the purpose of appointing judges must logically mean that the Committee was appointed exclusively for the election of judges, but not for the election of notaries, whose duties in public life are altogether different from those of judges. It therefore cannot be regarded as admissible that a committee for the election of judges which has been limited, contrary to the Constitution, would also take over from the Government the responsibility for appointing notaries. If the responsibility for appointing notaries is transmitted from the Senate to an assembly consisting nowadays chiefly of National Socialists, the conclusion must be that Jews in future will no more be appointed notaries. For National Socialists are compelled to exclude Jews from public functions. This contradicts the mentioned Article 73, paragraph 1, that prescribes equality of all citizens as well as the Article 91 of the Constitution that runs as follows:

> " All citizens of either sex shall be admissible to public appointments in accordance with their capacity and attainments."

Thus by the mentioned Decree the Articles 73 and 91 of the Constitution are evaded. Actions that the Senate is not allowed to commit according to this provision are transferred to a body that is not to be controlled.

3. Similar but far more difficult is the position as regards the legislation of the National-Socialist Government in the matter of the legal profession. Under the earlier regulations, the candidates for the profession of advocate were, in principle, bound to be admitted, unless definite objections, clearly defined by the law, existed against them personally In accordance with the principle of the freedom of the Bar, the advocates regulations further contained and still contain a provision that overcrowding of the profession shall constitute no ground for refusing admission. By Article 2 of the Order of August 22nd, 1933, the present Government has now introduced the innovation that admission of the legal profession may also be refused where, in the opinion of the Council of the Chamber of Advocates, the admission of the applicant is open to objection in the interests of the administration of justice. In this connection account must be taken of the circumstance which is discussed hereafter, that by Article 11 of the same Order the Government has reserved to itself the constitution of the Council of the Chamber of Advocates in its own absolute discretion. When, therefore, the Council of the Chamber of Advocates consists, as is now the case, exclusively of National Socialists, it only needs the declaration which is always to be expected from such a Council on the candidature of a Jew, and which needs not give any reasons, that the admission of the applicant is open to objection in the interests of the administration of justice to secure the refusal of admission. Admission *can*, indeed, take place, even after the pronouncement of such an opinion. The Government, however, can always (and this is the essential and at the same time the most unconstitutional thing about the innovation), when it is called in question on the refusal of admission of a Jewish candidate in accordance with the constitutional principle of the equality of all citizens, take its stand upon the fact that it has only followed the opinion of the Council. Here too, therefore, the amendment of the law obviously takes the direction of throwing the responsibility of the Government for the constitutional maintenance of the equality of all citizens on to a body which is not constitutionally responsible, which is undoubtedly in contradiction with the meaning of the Constitution (Article 73, paragraph 1).

The actual result at the present time of the legislation in question is that Danzig citizens, if they happen to be Jews, have only a very limited prospect of admission to the legal profession, while, under an agreement entered into by the present National-Socialist Government with the Polish Republic on September 18th, 1933, the diplomas of Polish advocates are to be recognised in the territory of the Free City of Danzig, provided only they show sufficient knowledge of Danzig law.

4. The law of the Industrial Court being in force in Danzig has settled the judgment in quarrels between directors and employees in the following manner: The Industrial Court *(Arbeitsgericht)* has to decide the quarrels in the first instance and the higher court *(Landesarbeitsgericht)* in the second instance. Since the enactment of the law of the Industrial Court, all the advocates of Danzig have and had the right to advocate before the higher court, but they were forbidden to plead before the Industrial Court.

On June 28th, 1934, a Decree was published settling advocacy before the Industrial Court in a new way In this Decree is to be read that " only those advocates will be admitted to plead in the Industrial Court who in each individual case have been empowered by the Danzig Labour Front to represent a party "

Thus the Decree does not allow all advocates to plead before the Industrial Court, but those who are authorised in a particular case by the Danzig Labour Front.

This new order, too, violates the Article 73, paragraphs 1 and 3, and the Article 71 of the Constitution. The Danzig Labour Front, as the former President of the Senate, Dr. Rauschning, admitted officially is a creation of the National-Socialist Labour Party If this institution that is compelled by its programme to eliminate Jews is authorised by a law to choose advocates, the legislator, who is not allowed to damage any citizen of the State, suffers a party to do so. It must, however, be laid stress upon the fact that the meaning of the Articles 71 and 73 of the Constitution does not only forbid the legislator himself to violate the equality of all citizens, but also to suffer its being violated by other authorities.

5. The legislation which has recently been introduced by means of orders for the medical profession is also anti-Jewish and particularly menacing to the future of young Jewish doctors, the Medical Practitioners Order of December 1st, 1933, provides in § 13 as follows:

> " A medical practitioner shall only be entitled to establish himself in a locality in the territory of the Free City of Danzig for the practice of the medical profession if a special authorisation therefor has been issued to him by the Senate. Such authorisation must be preceded by the consent of the Medical Chamber."

And in § 34 (*i*)

> " The members of the Medical Chambers and their substitutes shall be appointed by the Senate on the proposal of the professional corporations."

Here also, therefore, and in this matter also in a manner which is *binding* on the Senate, the preliminary decision as to the settlement of a new medical practitioner rests, not with the Senate itself, but with the Medical Chamber—that is to say, with a body which the Senate has constituted exclusively of National Socialists. That means that, in principle, no Jewish doctor can reckon on being able to establish himself in practice in the territory of the Free City of Danzig, whereas, according to the Articles 71 and 73 of the Constitution, it should be the constitutional function of the Senate to do all in its power to secure that Jewish doctors, as Danzig citizens, have precisely the same possibility as non-Jewish ones of earning their bread in their native land.

6. The establishment of chemists has recently been regulated in a precisely similar manner. The Pharmaceutical Chemists Regulation issued by Order of July 13th, 1934, provides, in § 3.

> " No person shall be entitled to practise the profession of pharmaceutical chemists within the territory of the Free City of Danzig unless he is in possession of a licence valid in the Free City of Danzig that is recognised by the Senate. Such recognition must be preceded by the consent of the Chamber of Pharmaceutical Chemists."

What has been said in regard to the establishment of Jewish doctors therefore holds good also for the establishment of Jewish chemists; it contradicts the Article 73 of the Constitution.

7 The future admission of dentists has been regulated in a similar manner. The new Decree of August 31st, 1934, provides in § 3.

> " No person shall be entitled to practice the profession of a dentist within the territory of the Free City of Danzig unless he is in possession of a licence valid in the Free City of Danzig that is recognised by the Senate. Such recognition must be preceded by the consent of the Chamber of Dentists."

According to § 31 of the same Decree, the authorities of the Chamber are the leader and the leader council. The leader is appointed by the Senate; the leader council by the leader. This regulation is still underlined by the order of admission of January 1st, 1935, § 12 orders:

> " The leader of the Chamber of Dentists of the Free City of Danzig has to decide who is to be admitted. His decision is the last resort."

In the future, the decision about the admission of a Jewish dentist lies exclusively in the hands of the leader of the Chamber, who, of course, is a National Socialist and compelled to execute the programme of his party on this occasion too. So the equality of all citizens ordered by the Article 73 of the Constitution is here abolished too.

8. As this equality belongs to the fundamental rights of the Constitution, the legislator, according to the Article 71, is compelled to observe that this fundamental right may not even indirectly be risked. Such a risk, however, is created by the Legal Order of October 10th, 1933, in the text of March 6th, 1934, in which it is provided as follows:

> " Any person having in his possession or custody the uniform or distinctive badges of an association supporting the Government of the Free City of Danzig, without being authorised

thereto as a member of such association or otherwise, shall be punishable with imprisonment for a term not exceeding two years. Traders or manufacturers of the articles indicated shall only be authorised to have possession or custody of the same when they possess the consent of such association."

Under this provision, therefore, only such persons can be entitled to manufacture or deal in uniforms or distinctive badges of the associations in question as possess the consent of the association. As it is impossible for Jews to be in such relation with any association supporting the Government, and consequently by its programme anti-Semite, as to obtain a consent from it, the provision in question means nothing else than that Jewish business men, even where they are otherwise engaged in the manufacture and sale of uniforms and badges, cannot have such goods in their possession, and therefore cannot manufacture or sell them, although these are now mass-produced goods and consequently articles of consumption of great economic importance. As a mere matter of sentiment, Danzig Jewish traders would probably be able to reconcile themselves to this if it were only a matter of party uniforms and party badges. The Government has, however, by Order of January 6th, 1934, declared the German Air Sport Association, and, by Order of April 24th, 1934, the Danzig Voluntary Labour Service, and, by Order of December 22nd, 1934, the National-Socialist *Frontkämpferbund Stahlhelm* (Association of Front Soldiers) to be associations supporting the Government within the meaning of the above-cited Legal Order of October 10th, 1933. These associations are not purely party organisations. The Danzig Voluntary Labour Service is rather under the supervision of the State, which, indeed, supplies the funds required for the Danzig Labour Service. At the very least, therefore, the making of uniforms and badges for this Labour Service, as well as for the two other named associations, and trading in the same cannot be barred from Jewish business men even by legislation without violating the Constitution (Article 73).

9. Article 107 of the Constitution prescribes:

"In the instruction in the public schools care shall be taken not to hurt the feelings of persons of a different belief."

This is violated by the Decree known as the "Landjahr" (a year's education in the country) of April 30th, 1934. All pupils who have completed the obligatory and elementary school and who are summoned to have a year's education in the country are obliged to do so. According to Article 103, § 1, of the Constitution, the obligatory education in an elementary school is by principle immediately followed by entering a continuation school or a training school. The mentioned Decree lengthens the obligatory school-time, interpolating a year's education in the country between the elementary school and the continuation school or the training school. We do not blame the Decree on account of that, but only complain on account of the following provision: The young people summoned to have a year's education in the country are to be educated during that time according to the principles of the National-Socialist State. These principles are anti-Semitic. An education following these principles must explain and extend the anti-Semite programme of the National Socialists; that is not according to Article 107, that prescribes that care shall be taken not to hurt the feelings of persons of a different belief, in this case that of the Jews.

B. *Administration.*

If, in the light of all the foregoing, legislation shows more and more clearly a systematic procedure on the part of the National-Socialist Government in the endeavour to carry out the National-Socialist programme, in particular as against the Jews, in contradiction to the Constitution, this effort is even more clearly visible in all branches of the administration. The moral and personal damage already inflicted on the Danzig Jews by these means is already immeasurably great, and that this damage does not lie outside the intentions of the Government is glaringly apparent from an utterance of Dr. Wiercinski-Kaiser, Senator for Justice, who, in receiving some Jewish referendaries, remarked that one could not make a law here as in Germany, but that other measures would be adopted which would lead to the same results. The fact also that, with only few exceptions, not a single Jewish civil servant has been left in his former post by the present Government, although they were all highly esteemed persons who had deserved well of the commonwealth, leads inevitably to the conclusion that the Government has deliberately opened up the way for the elimination of the Jews from all offices, which is the aim of the National-Socialist programme. Only thus it is possible to understand how the State Commissioner Schramm, appointed by the Government as Director of Higher Education, could once in a conference held under the presidency of Herrn Boeck, the Senator for Education, in the Technical Institute in Danzig, use the following expression. "The Jews may complain as much as they please and to whom they please" No Government Commissioner would dare to express so if he were not sure of finding support for his views from the Government.

Before reproducing in particular the complaints of the Danzig Jews against the administration of the Danzig Government and its subordinated authorities, it must be stated that this memorandum only deals with grievances that are the work of unconstitutional Government's

action or that violate the treaty for protecting minorities with Poland. The Constitution as well as the named treaty by principle guarantee equality to every Danzig citizen. The Constitution contains beside that the especially important provision of the Article 71 upon that, the fundamental rights and duties to which belong the equality of all citizens must govern the direction and determine the scope not only of legislation and administration of justice but also the conduct of public affairs. Therefore, the administration of the State is not allowed to do or neglect anything that might violate the constitutional fundamental rights of the Danzig citizens. The administration must act thus, that by principle no citizen might be treated better or worse than another and by no way may be disadvantaged for his belonging to a special race, religion or party If the administration violates this provision, it violates at the same time the provision of the Article 71 and in connection with it the Article 73 of the Constitution. In this case every citizen who is concerned has the right to complain of the administration to the guarantee of the Constitution.

With this criterion the following individual complaints are given. It should be stated at the outset that, of the numerous grievances in the dominion of the Danzig administration that give to the Jews a motive of complaint, only those will here be reproduced which are of fundamental importance and which bear the mark of unconstitutional and anti-Semite Government action for disadvantaging Jews. The cases of complaint have taken place clearly in all branches of administration.

(a) *Police Administration.* — According to the Danzig Police Law, the main duty of the police is to protect the public from anyone who endangers public disturbances of peace, order and security For that purpose the police have to make use of the means at their disposal. Therefore it has always been recognised that the police have the right and duty to proceed against anybody who endangers peace and order if public defamations or menaces are committed against the public, especially in the street. Nevertheless, the police has since the beginning of the National-Socialist Government perfectly neglected its rights and duties to protect the Jewish citizens against public defamations and menaces. The worse defamation of Jews is the fact that a weekly such as the *Stürmer* which has become notorious throughout the world as the worst kind of anti-Semite organ, is not only sold but also constantly publicly posted (one short interruption excepted). By the *Stürmer* and newly by a similar weekly the *Judenkenner* the Danzig population has daily highly provocative writings and pictures before its eyes. It is the regular thing for this paper to present Jews in letterpress and illustration as deceivers, exploiters of the people and ravishers of maidenhood. Only the notorious ritual murder number of May 1st, 1934, was confiscated by the police, and then not until a special application had been made by the Danzig Synagogue. The present President of the Senate, asked by a Jewish delegation to forbid the *Stürmer*, has declined it with the argument that it is a German paper and he cannot forbid it. How much such an argument of the first statesman defames and disadvantages the Danzig Jews becomes still clearer by the fact that the National-Socialist law punishes pitilessly anyone who, for instance, injures the German district leader or criticises unfavourably any institution of the National-Socialist Party

Nearly every day, moreover, Danzig Jews are forced to hear the National Socialists, marching in party uniform, sing songs which contain passages as:

" Hang the Jews, to the wall with the bonzes ", or,

" Already Judah's throne is shaking ", or,

" When Jewish blood spurts forth under the knife,
Then everything is going well ", or,

" We are ready for the battle of race,
Only when the Jew is bleeding
Germany will be free."

They sing also often and publicly a song with the line:

" Germany awake and Judah be dead."

These and similar songs were to be heard out of the windows of a so-called " Standarten Dienststelle " of the S.A. situated in a ground floor, neighbouring the great Synagogue, when last Jewish New Year just during the time when numerous Jews, going to the Synagogue, were forced to pass near the windows of this house.

The present President of the Senate has declared to a Jewish delegation that he thinks a defence of these songs to be perfectly useless. They were created by the National-Socialist spirit;

he could not change it and were not willing to do so. If one of these songs would be forbidden very soon a similar new one would be sung.

The following case, however, may be regarded as particularly characteristic of the basic attitude of the Government in this respect.

On April 4th, 1934, the National-Socialist daily, *Der Vorposten*, published the following poem:

"Lo, the picture that I paint here as a sign of danger and warning,
Like a greedy jackal that lives on corpses.
Crooked nose and crinkly hair, gummy and bleary eyes.
Because they must not see the wonderful light of the sun.
Lips swollen like bananas, sprout on the lower jaw.
Chunks of fat suggest all kinds of vermin.
Greasy caftan, bow legs, flabby fat feet; well,
You know whom I mean and who is my model here.
Grown fat on the blood of all nations who could serve him,
He became a thorn in the flesh of all who gave him
the protection of their hospitality.
Do you not feel the deep weals? Do you not know
who betrayed you? Is he still to boast of his dark and devilish deeds?
Keep away from the temple of his wares. Keep away from
his dirty warehouses, which bear an invisible quarantine stamp as their sign.
Do not let yourself be dazzled by his false pearls.
Seize your full pails of water with firm hands.
Purify yourself from this picture by scrubbing, water
and brush, so that it may be as if the 'son of the wilderness'
had never been in your room.

"Peter von Danzig."

The Synagogue Committee complained in writing to the then President of the Senate, Dr. Rauschning, concerning this poem, and expressly requested that the Jews should also enjoy the protection of their honour. He received the following reply:

> "I cannot share your opinion that the poem is an incitement to violent actions. You may rest assured that the Government will in the future as in the past know how to protect the members of your community like all other nationals."

In spite of the repeated promise of protection given on this occasion, the President of the Senate thus did not consider it necessary to take any measure of protection against the undoubted incitement to boycott contained in the poem, and much less against the attack on the honour of the Jews. It is therefore not surprising that the *Vorposten*, even after the renewed Government declaration of July 2nd, 1934, continued its previous policy.

It should be observed, however, that the powers of the police, and especially the Senate, highest police instance, in Danzig to influence the Press are by no means small, and that, in the measures so far taken, the Government has not made it appear that it regards them as small. It is already well known that the Government has repeatedly prohibited Danzig papers which do not represent the views of the National-Socialist Party, and the conditions in which this prohibition has been made are also well known. Thus, the Government is certainly not prevented by the law from taking energetic action against the *Vorposten*. Nevertheless, the *Vorposten* was allowed to continue its agitation without restraint even after the mentioned complaint. On

August 20th, 1934, it published an article: " Jewish Fear of National Awakening " It runs as follows:

> " At last Jews ought to put the thought out of their head that the fight for deliverance out of the arms of a polipus—that is to say the Jewish imperialism and the ' subterranean national matter ' is a special German movement.
>
> " We are, namely far away from a local anti-Semitism, my dear Messrs. Jews, and you have to endure the natural consequences of the Jewish impertinence that has been covered till then and is now clearly to be seen. Judah must be perfectly eliminated from the Aryan Christian culture ! The Jewish problem is everywhere acute, even there where it is impossible to attack it for certain reasons. Even if we want the Jew—for that may happen, for instance, even with us—he remains nevertheless according to our view of life our real enemy, to whom nothing is able to reconcile us, not even the accidental necessity of the day "

In an article of the *Vorposten* of September 4th, 1934, you could read.

> " Hang the Jew and push the bonzes to the wall ' says a National-Socialist fight song that, Heaven be praised, is still to-day often heard in the Danzig street."

It would annoy to mention the great number of similar articles in the *Vorposten.* Certain, however, is the fact that the Press poisons the public mind and incites them against the Jewish citizens. This prepares a fuel that may explode every day If, namely, public defamation of Jews is continually tolerated by the Senate, and as the letter of the former President of the Senate in the affair with the *Vorposten* poem shows, is merely registered, the natural consequence must be that the Danzig people learn to consider the here living Jews as a morally worthless and contemptible class of men. That is not merely a fear, numberless examples in daily life have already proved that the fears are realised and that a general contemption of the Jews has taken place. One case may be mentioned. In the middle of February 1935, even an officer of the police, who had the inspection on a Danzig market, said to a lady whom he did not recognise to be a Jewess and who had just bought from a Jewish merchant: " You are a German lady, are you not ashamed of buying from a dirty Jew ? " This officer, it is true, has been punished in consequence of a complaint, but this manner of thinking in the police has not been changed by the punishment. Therefore it must be considered which may be the perspective for the Danzig Jews whenever the incited anti-Semite elements might get the occasion for excesses even for a very short time, for the oppression of which an immediate action of the police might become necessary

How founded these complaints are proves the fact that the former President, Dr. Rauschning, has promised to enact a law and that he has declared in a letter of April 2nd, 1935.

> " It is true severe collective injuries of the Jewish population have provoked circumstances, violating the treaties, the law and the declarations of Government. The fact that one privileged part of the population has a special protection of its honour must oblige me to redress these grievances and to restore equality before the law."

M. Greiser, successor to Dr. Rauschning, has withdrawn the promise to modify the law

(b) *Internal Administration in Other Dominions.* — Senatorial Councillor Berent was for some years Director of the administration of the Municipal and State Estates and Vice-President of the Board of Directors of the Municipal Savings Bank. He was the only Jewish administrative officer. No complaints were ever heard of the manner in which he carried out his duties. He was even informed in an official conversation that no positive reproaches could be made against him. Nevertheless, immediately after the accession of the present Government he was removed from his posts at a day's notice and was pensioned off. Therefore, no other motive is to be seen as his Judaism. It is evident that this is a violation of Article 73 of the Constitution.

(c) *Education.* — It results clearly out of the Articles 71 and 73 of the Constitution that equality of all citizens as well as any other fundamental right must be considered in the entire administration. Therefore, Jewish teachers and Jewish pupils must be treated by the responsible authorities for education to the same principles as the not Jewish teachers and pupils and must be employed like them. The National-Socialist Government has violated and constantly violates this constitutional duty The following cases will prove that Jewish teachers and pupils have clearly suffered a disdainful treatment in comparison with the not Jewish teachers and pupils. The character of this treatment shows that it is not accidental but the result of anti-Semite mind. Therewith it violates Constitution. For completing our argument we remind of the Senator Mr. Boeck's speech and his order that Jewish pupils have not to enter the wireless station.

We give now the following individual cases:

1. The Schoolmistress Fräulein Romana Haberfeld had taught for twenty years with a success known and recognised by the public of Danzig in the upper grade of the Girls' High School and the upper Lyceum of the Victoria School in Danzig. She has, without any substantial reason being given or existing, been transferred to another Lyceum, which has no upper grade, and is there compelled to give instruction in the lower classes up to the under second which has hitherto been given partly by elementary teachers. No reason for her being transferred has been told Fräulein Haberfeld, but it becomes evident if we consider the personality of the successor. She has been replaced in the Victoria School by Fräulein Dr. Niclas, who has continually given ground for complaint by anti-Semite expressions in the course of instruction, and, among other things, has told Jewish children of Danzig nationality that they are only guests who must be pleased and grateful if they are accepted as guests.

2. The Jewish Headmaster Friedländer was also engaged for a long time in Danzig at a municipal school in the inner town, where he was dwelling. He is now advanced in years, and on the accession of the National-Socialist Government he was suddenly in a short time transferred to two schools in the outlying district. He was also renowned as an excellent teacher and it is impossible to motivate his being transferred by a want of capacity. Thereupon, in order not to be further annoyed by transfers to undesirable places, what he as a Jew had evidently to expect, he applied to be pensioned off, which has been granted.

3. As to the treatment of Jewish pupils we remind of the already mentioned provision of the Article 107 of the Constitution.

> " In the instruction in the public schools care shall be taken not to hurt the feelings of persons of a different belief."

Out of the complaints on account of the violation of this article we mention only a little number for protecting the designed pupils from further inconveniences. It is to be mentioned that, according to an order of school administration, the pupils have to march behind their Hitler flags at their excursions. Therewith Jewish pupils are forced to march behind anti-Semite symbols, if they do not prefer to renounce to make excursions with their comrades.

We must further mention the anti-Semite behaviour against pupils of the State Commissioner Schramm. At the school-leaving examination in the Modern Secondary School of St. Petri in Danzig in the spring of 1934, a Jewish pupil wrote an essay on the equestrian statue in the Cathedral of Bamberg which was regarded by the whole teaching staff as unusually mature and valuable. This State Commissioner Schramm thereupon declared that a Jewish pupil was not in a position to write an essay on the Bamberg horseman, who was a symbol of German nationality, and that in any case such an essay could not obtain the best marks. The State Commissioner Schramm gave a much harsher expression to his anti-Semite sentiments on the occasion of the school-leaving examination at the Municipal Gymnasium of Danzig in the spring of 1934 in his character of Examination Commissioner. He there put the question to a pupil: " Why do we reject the Jews ? " and after some hesitation on the part of the pupil the further question: " Why do we sing the song: Sharpen the long knife ' ? " It appeared from the subsequent part of the examination that the State Commissioner expected the answer that Judaism was a menace to the German people, that the Jews were the leaders of Marxism, were seeking to set up a world rule and exerted a harmful and disintegrating influence; that the Jewish bourgeois Press was imperceptibly poisoning the whole people. The Rabbi Dr. Grün was present at these proceedings and at the conclusion of the examination remonstrated with the State Commissioner. The latter gave no immediate reply but subsequently answered him by forbidding Dr. Grün, in his capacity of religious instructor, to be present at the next school-leaving examination at the Victoria School in common with the other teachers. A complaint on this subject to the President of the Senate by the Board of the Synagogue Community remained without reply.

4. In the already mentioned Victoria School a regular correspondence is introduced between Danzig pupils and foreign ones for practising foreign languages. A pupil whose father is a Jew had already got a letter from a French pupil. Suddenly she got the order from the schoolmistress, Fräulein Dr. Braemer, to render her the letter. The motive was that only " Aryan pupils were allowed to take part in that correspondence " The schoolmistress added that she personally regretted this measure, but that it was ordered by higher authorities and had to be obeyed. It is clear that there is no question of taking care not to hurt the feelings of persons of a different belief, nor of any equal treatment.

5. In the Technical Institute in Danzig the designing rooms of the various faculties were formerly so distributed that in each faculty *one* (and in case of need a second) designing room was assigned to the German and another to all the foreign students. An exception to this rule existed only in the case of the chemists, who worked together in their laboratories without regard to nationality and the architects, with whom one room each was assigned to students working before the preliminary examination and a second room to those working after such an examination. On July 16th, 1934, room No. 190 was suddenly assigned to all Jewish students of all the faculties except the chemical faculty This room contains 60 places, 12 of which have, however, been given to non-Jewish Polish students, and 55 Jewish students had to divide themselves among the remaining 48 places. This means not only a disparagement of Jewish students, but also a restriction of their facilities for work, particularly as the places for architects and constructive engineers, who

usually require double the ordinary space for their drawings, are far too small. There is no visible motive for this new measure except that of separating the Jewish students, thereby subjecting them to discrimination, and therefore the violation of Articles 71 and 73 of the Constitution is evident.

6. In connection with the consideration of educational matters, the attitude of the Senate School Department towards the Jewish Gymnastic and Sport Society Bar Kochba in Danzig cannot be left without mention. Hitherto all such societies have had permission from the school management to use the gymnasiums out of school hours for practice, under a regular scheme of distribution. Since the accession of the present Government all the gymnasiums hitherto used by the Jewish Gymnastic Society Bar Kochba have been taken away from them, and, in spite of repeated oral and written representations, in particular to the President of the Senate, have not been restored to them, whereas the Baltic Touring Club, for instance, which is a cycling society and only requires a gymnasium for preparatory gymnastic exercises, immediately obtained the restoration of the gymnasiums which had been taken away from it. From this contrast, it is strikingly clear that it is intended to deny to Jewish youth alone the opportunity of taking physical exercise in the municipal gymnasiums and thereby in this respect also to deprive them of equality with the rest of the Danzig youth.

(d) *Arts.* — All Jews have been eliminated from Danzig arts since the coming into power of the National-Socialist Government, no Jewish artist has been engaged, either for the opera or the drama or for the orchestra.

The former municipal opera conductor, Selberg, a Jew, was at the time of the accession of the present Government director of the whole musical arrangements of the Danzig broadcasting service. The conductor of the broadcast orchestra was Salzberg, also a Jew, and highly esteemed as a violinist. Both were dismissed from their posts on the accession of the new Government.

The Jewish opera singer, Fräulein Jelski, who was frequently engaged by the broadcasting service, has never been so engaged since the accession of the new Government.

For the woodland opera at Zoppot, which is subsidised from public funds, a number of Jewish citizens of both sexes were in 1933, as in former years, recruited for the chorus. They had already attended rehearsals. After the accession of the new Government they were refused further participation.

The mere fact that not a single Jewish personality is any longer occupied in the dominion of public arts proves that here, too, a systematic and unconstitutional damage of Jews has taken place.

(e) *Public Health.* — According to Article 71 of the Danzig Constitution, the main duty of Government is to protect the fundamental rights, especially that of the equality, of all citizens. The Government should therefore assure for all citizens the means of gaining a livelihood and eliminate all obstacles thereto. In the domain of public health Article 71 has constantly been violated. In fact, measures which are contrary to this provision of the Constitution are constantly being taken or tolerated, whereas the legal and necessary interventions are neglected.

1. As in the case of all other occupational circles of the Jewish population (more will be said of this hereafter), a systematic, constantly repeated and officially controlled boycott is being practised by the National-Socialist Party in Danzig in all its organisations against Jewish doctors, dentists and chemists. Even at the present time Jewish doctors and dentists are continually being informed by patients whom they have been attending for many years that to their great regret they are no longer in a position to come to them for medical and dental treatment, as if they did they would be exposed to the greatest personal unpleasantnesses. This is especially the case with medium and higher officials, among whom there are numerous examples of persons who, on the above-mentioned ground, have parted from their former medical attendants. A case has, moreover, become known in which an assistant doctor and a nurse in the State Woman's Clinic in Danzig, certainly without the knowledge and even against the wish of the Director of the Clinic, urged a patient who was received there in a manner that did not admit of misunderstanding not to go again to the Jewish doctor whom she had previously been in the habit of consulting. In many other cases not Jewish doctors are known to have tried to influence their patients by any means, even by systematic intimidation, that they should part in future from Jewish doctors. In most of these cases the Jewish doctors and dentists are, alas! prevented from giving the names of the patients in question, as they will not and cannot lay themselves open to the reproach of abusing the confidence reposed in them in informing them of the patient's reason. Recently we have got the consentment to name the names of some patients and to use them in few cases for protesting against this injustice. But the only effective measure against a boycott has, alas! not been taken. For the reproach must be made against the Danzig Government that it has not proceeded against the National-Socialist measures and that the Senate has not restrained the boycott with all the force at its bestowal and if necessary by resort to the Penal Legislation.

2. More than this, however, the reproach must be made that the Senate itself has seriously contributed to the diminution of the prestige of Jewish doctors, and in a manner highly doubtful from the legal point of view It should be premised that the official representation of the medical profession, until the issue of the Medical Regulations of December 1st, 1933, already cited, consisted of a body known as the Medical Chamber. By order of July 4th, 1933, it was provided that the Presidents of the existing occupational representative bodies should require the confirmation of the Senate or be newly appointed by the Senate. Under this order, therefore, the Government, so far as the Medical Chamber was concerned, could only appoint the President. Instead of this it

quite unwarrantably newly appointed the whole Medical Chamber in pursuance of the Order and took the opportunity which is the point with which we are here concerned, to remove all the Jewish members of the Medical Chamber, including the former Director for many years of the Danzig Municipal Hospital, Professor Dr. Wallenberg, who enjoys a worldwide reputation as a man of science. Thus the Government itself has, in an unconstitutional and therefore strictly illegal manner, against Articles 71 and 73 of the Constitution, given the whole population to understand that it regards the Jewish doctors as not on the same level as the non-Jewish.

3. From the public sickness institution all Jewish assistants have also been ruthlessly removed. The only Jewish lady assistant in the Municipal Hospital, Dr. Friedländer, was dismissed from her post " on social grounds " On her enquiring what was the nature of the social grounds, she was informed that the place left vacant by her dismissal would not be refilled. On her further pointing out that another assistant had voluntarily resigned his post and that the post thereby became vacant might be filled by her, she received no further reply, and has actually lost her means of subsistence. The X-ray assistant, Fräulein Jelski, was dismissed, also ostensibly on social grounds, although it does not appear that work in the X-ray department of the Municipal Hospital has become less than formerly and there was never any question of abolishing this post. Her father, the Health Councillor Dr. Jelski, was for nineteen years employed in an honorary post in the Welfare Office of the district of Danziger Höhe in the mothers' consulting room. On July 5th he was informed that, retrospectively as from July 1st, 1933, he need not continue his services. A compensation voted to him on special grounds by the District of Danziger Höhe was not paid. The former President of the Senate has been informed by the Jews of all these cases by way of complaint but without result. Thus it is a non-contested fact that these persons have only been disadvantaged because they are Jews.

4. Since the coming into power of the National-Socialist Government, all medical appointments advertised by Danzig authorities are only opened to candidates of Aryan race, so that Jewish doctors are excluded in advance. Though the violation of the Constitution is quite clear in this case, all complaints on account of it have not been answered. Recently the Director of the Infant Hospital of the Municipal Academy for Practical Medicine has advertised the appointment of a doctor in the medical news *(Aerztliche Mitteilungen)* with the express remark: " Aryan race is to be proved "

(f) *Judicature.* — 1. At the time of the coming into power of the present Government, the Higher Court Judge Berent sat in the Higher Court of Danzig, the Higher Court and District Court Judge Abramsohn in the District Court, and the Government Councillor Dr. Drum in the Industrial Court in Danzig. None of these three judges has been left in his post. Judge Berent, who was not a District Court Judge and could not therefore be transferred to the District Court without his consent, was induced to give his consent to such transfer, by the intimation that otherwise petitions challenging him as a Jew would continually be lodged in the competent court of arbitration. He is now engaged in the District Court on the Commercial Register, where he generally has no relation with the litigant population. Judge Abramsohn has been similarly rendered invisible. He has been compelled by Presidential Order to give up his Court department, and is employed as a Land Registry and Probate Judge, in which capacity he has little contact with the litigant public.

Dr. Drum, who, indeed, discharged judicial functions in the Industrial Court, but, as an administrative official, only possessed the judicial privilege of irremovability for the duration of his judicial duties, was removed from his post in the following manner. By Order of July 14th, 1933, the Industrial Court was incorporated in the District Court of Danzig and the former appointment of President of the Industrial Court ceased to exist on August 1st, 1933. From that day onward Dr. Drum has only possessed the ordinary legal status of an administrative official, who under the law in force can, in the event of alterations in the organisation, be placed on the retired list, but only if another post in the State service is not available. After his discharge from his judicial functions, Dr. Drum was, in the first place, granted leave and then, from April 1st, 1934, onwards, placed on the retired list as the Senate pretended that another post in the State was not available. Nevertheless, in the interval a number of new higher officials in the Danzig State service were appointed, and also the incorporation of the Industrial Court can hardly be regarded as an alteration in the organisation within the meaning of the retirement provision. None of the Jewish judges had ever had anything to do with policy.

In all these cases a violation of Articles 71 and 73 is evident. The argument by which the Higher Court Judge Berent has been forced to consent to his being transferred shows clearly that the Jewish judges have been dismissed merely because they are Jews. No authority had denied that the Government Councillor Dr. Drum, too, has only been dismissed on account of his being a Jew.

2. According to Danzig law, only a person who has passed the great State examination may become judge or advocate in Danzig. To this examination only referendaries are admitted —that is to say law officers who, after a univerity examination, have passed a first examination have, in a due form, been named referendaries and have absolved a certain time of preparation. A person who has passed the great State examination may, founded by principle, choose whether he wishes to be appointed an advocate or prefers to make himself choose for a judge. In both cases he may first claim his being appointed an assistant judge. Does he become an advocate he leaves the authority of court; does he wish to be chosen for a judge, he has regularly only prospect of being chosen, after having further worked as an assistant judge a certain time in law service

and proved true. The appointment as an assistant judge takes place by the Senate after the great State examination.

Till the coming into power of the present Government without any exception, all referendaries who have passed the great State examination have been appointed assistant judges according to their wish. Since that time, nearly twenty Danzig referendaries have passed the great State examination in Berlin and have claimed their being appointed assistant judge. Only four of these referendaries have got notice that their appointment as an assistant judge has been refused by the Senate and that they are dismissed from law service. One of them (M. Zwickel) is a Christian, the others (Dr. Pines, Dr. Kissin and Dr. Friedländer) are Jews. M. Zwickel is known to have been dismissed because he had failed in both State examinations and had been forced to repeat them. He has no capacity for further law service. These reasons, that is doubtless, do not exist for the dismission of the three Jews, for one of them has passed the examination with the mark " good "

This decision of the Senate on account of the three referendaries has ruined the existence of three honourable and guiltless young men. The three gentlemen and other persons have several times tried, in vain, to revoke this decision. The Senator of Justice, Dr. Wiercinski-Kaiser, has declared that the Senate wishes to reach a certain *numerus clausus* by an individual treatment of the petitions, and that he lays stress upon a certain union with the nation of the assistant judges that shall be taken into consideration.

In connection with this he has made the mentioned remark that " one could not make a law in Danzig as in Germany but that other measures would be adopted of an administrative nature which would lead to the same result " This point of view is not legal.

(*a*) The numerous clauses, as we have already mentioned, on account of advocates is forbidden by the law for advocates *(Rechtsanwaltsordnung)* It seems impossible to prove the necessity for introducing a gradual *numerus clausus* by superabundance of assistant judges. For it is not true that there has been no want of assistant judges at the time as the Jewish referendaries were rejected. While the referendaries Dr. Pines and Dr. Kissin were still claiming ever and ever their nomination as an assistant judge, the not Jewish referendaries Dr. Odebrett and Hoffmann, who were still passing their examination, got news from the President of the Court of Danzig and the Judicial Department of the Senate *(Justizabteilung)* to come to Danzig immediately after having passed their examination for being occupied as assistant judge *(Hilfsrichter)* So it was just then necessary to appoint assistant judges and therewith it is proved that there was no superabundance of assistant judges in that moment. So it is evident that the Senate rejected the three referendaries only because they were Jews. The other remarks of the Senator for the Department of Justice prove it clearly

(*b*) The argument of the Senator that the Jewish referendaries have no union with the nation is not plausible at all. He makes herewith allusion to the fact that the fathers of the two referendaries, Dr. Pines and Dr. Kissin (they themselves were born in Danzig and have passed their whole lives in Danzig with the exception of the years they have studied), have formerly possessed another nationality—namely the Polish, relatively the Russian—and have been naturalised in Danzig together with their children after the creation of the Free City of Danzig. This is true, but it is impossible to reject somebody out of this reason, for the Danzig Constitution makes no distinction between those who have become Danzig citizens by birth and those who have become Danzig citizens by naturalisation. The Danzig-Polish treaty for protecting minorities forbids expressly to disadvantage a citizen of the State on account of his origin. The demanded union with the nation violates not only the fundamental right of the equality of all citizens, founded by Article 73 of the Constitution, but also, above all, Articles 91 and 96. Article 91 prescribes that " all citizens of the State are admissible to public appointments in accordance with their capacity and attainments " Article 96 says that the enjoyment of civil rights and the admission to public appointments must be independent of religion. Thus the Constitution forbids to limit the number of the appointable persons by the particular request of union with the nation.

Besides, there is no way for the notion " union with the nation " in so particular a State as Danzig is. The total of the Danzig Constitution shows that the Free City of Danzig has to give way to different nations. There is no particular race of Danzig and therefore a special " union with the nation " can never be a condition for enjoying any civil right. From another point of view even the National-Socialist Government has admitted this fact. In the summer 1933, namely the Senate had invited the so-called " Danziger Volksgenossen " to take part in a national collection for producing labour. The former President was asked by the Jewish congregation whether the Danzig Jew had to take part in this collection as they were not considered as members of the nation " by the National Socialists " The answer was that the expression " Danziger Volksgenosse " (member of the nation) was to be distinguished from similar expressions. It does not express equality of blood *because a Danzig race does not exist.* It is only another expression for fellow-citizen.

What, however, has been right for the national collection cannot be wrong on account of appointing officials. The only possible conclusion is that the three referendaries have not been rejected because they had no "union with the nation" but exclusively because they were Jews. That is best proved by the fact that referendary Dr. Friedländer has also been rejected, though he has no Polish or Russian relations. The ancestors of his mother had been living in Danzig since 1790· the ancestors of his father have been since three generations Prussian or Danzig officials. On account of his rejection, the Senate has not spoken of missing "union with the nation" Therefore it is especially clear in his case that the Constitution has been violated for the sake of the National-Socialist programme.

(c) Jewish delegations trying to help the Jewish referendaries have several times had the impression that the Senate meant that the number of Jewish officials in law was too high in comparison with the whole population. Even if this were true, the Danzig Jews had to complain against their being excluded in future from any public function, because that would violate the Articles 73, 91 and 96 of the Constitution. It is true, however, that the number of the Jewish officials in Danzig are even not proportional to the whole population. There are namely, only 12 Jews among 7,800 officials and pensioners—that is to say, 0.15%, while the Jews living in the Danzig territory are more than 2% and the Jewish citizens of Danzig more than 0.5% of the whole population.

3. In obvious realisation of the National-Socialist Party programme, continual injustices to the Jews are sometimes tolerated and sometimes provoked by the Danzig Government directed to the removal of the equality hitherto existing in the domain of advocacy Mention should be made in the first place of the order of August 22nd, 1933, already cited, in Article 11 of which it is provided that the Council of the Chamber of Advocates shall require confirmation by the Senate and that the members of the Council may be removed and appointed by the Senate. By virtue of this Order, all the Jewish members of the Council have been removed by non-confirmation by the Senate. This is a measure the importance of which cannot yet be estimated. The Council of the Chamber of Advocates, as has already been mentioned, has, before the admission of a new advocate, to give an opinion as to whether the admission of the applicant is open to objection in the interests of the administration of justice. Further and more especially, however, as regards the courts of honour, whose powers extend to the complete exclusion of an advocate, the Board appoints all the members of the court of first instance and a part of the members of the court of second instance. It is obvious what the result must be where, in the exercise of the jurisdiction of the courts of honour against Jews, no Jewish, but almost exclusively National-Socialist, advocates take part, whom their programme hinders from being impartial against Jews.

4. The boycott of Jewish advocates organised by the National-Socialist Party and tolerated by the Government has worked even more drastically than in the case of the doctors. The advocates are more especially exposed to the disastrous result of boycotting, inasmuch as their activity is not, like that of the doctors, confined to the consulting-room, but is carried on in full publicity in the courts, so that every single litigant is subject to public supervision as to what advocate he shall engage. As a consequence, the distress among Jewish advocates is visibly increasing, and it is to be feared that, if the boycott is continued, financial ruin will shortly overtake a considerable number of them. Apart from the general boycott, a number of special circumstances contribute to this result. Thus, Jewish advocates have in recent times ceased to be appointed as official defending counsel, and the cases of poor litigants have for some time past been assigned to Jewish advocates in ever diminishing numbers. Another special injustice to the Jewish advocates, apart from the general boycott, is to be found in the way in which the public legal advice service is carried out. This was formerly carried out by the members of the Danzig Advocates' Association free of charge. After the Danzig Advocates' Association had been dissolved through the efforts of its National-Socialist members, the National-Socialist Federation of Advocates in Danzig established a public institution for legal advice. The director of this institution has recently laid down the rule that, where, after oral consultation in the institution, a further consideration of the case appears to be necessary the litigant in question must forthwith instruct an advocate. As this can only be an advocate belonging to the National-Socialist Federation of Advocates, the litigant public is in this case also prevented from engaging Jewish advocates.

All these grievances are also known to the Senate, but it has no more done against the boycott in the domain of law as in all other domains where Jews are injured by the National-Socialist boycott. There can be, that is clear, no longer the question of considerating fundamental laws.

How openly the boycott against Jewish advocates is managed proves the following fact. A Danzig revenue officer, Dr. David, has cited before the tribunal of the party one Danzig citizen who, as a client, had visited a Jewish advocate, and he has accused him of having violated the prescriptions of the party by consulting a Jewish advocate. A complaint on account of this fact has not been replied to by the President of the Senate.

The Senate knows these grievances but it has done nothing for protecting the constitutional principle of equality from being violated by boycott.

5. As with the engagement of new Jewish judges, the professional activity of new Jewish advocates in Danzig territory is prevented, or at least rendered difficult, by the Government in an unconstitutional manner. The before-mentioned Dr. Pines and Dr. Friedländer, and a little later M. Hirschberg, have asked for admission to the Bar in Danzig. Their petitions are partly since several months in the hands of the Government or of the Council of the Chamber of Advocates.

Yet till now they have not got any answer. That is to be considered as an intentional disregard to Jews and a violation of the equality of all citizens, prescribed by Article 73 of the Constitution.

The same unusual and groundless retardation of a decision is to be found in the case of the Jewish referendary Dr. Ernst Rosenbaum. He was, indeed, appointed as an assistant judge *(Gerichtsassessor)* but was only admitted to practise at the Bar, after having waited for seven months, and not before the sudden death of an older Jewish advocate in Danzig. During the time Dr. Rosenbaum was waiting for his admission, two non-Jewish jurists were admitted in Danzig within a very short time, although one of them had up to then not been in practice in the Free City, but in Germany; and accordingly had first to be appointed a Danzig assistant judge, in order to make him a Danzig citizen, and therewith admissible.

6. Wishing to exclude by principle Jews from becoming assistant judges or advocates, the administration of justice has, quite logically recently also barred to them the necessary first step to these professions—that is to say the admission for preparation for law service.

December 1st, 1934, there was published a decree about preparation for law service. The first part of it treats the first juristical State examination. There is to be read under the title " Suppositions for Admission, § 2 "

> " The candidate is expected to prove at his first juristical examination that he has lived in intimate connection with fellow-citizens of all social positions and professions, that he knows and respects bodily work, discipline and subordination, and that he has exercised his body, as a German youth must do. This must be proved, on principle, by a document about help-service or by a duty-book of the German Union of Students."

Thus, only he is admissible for law service who has worked, like a German youth must do. And as the National-Socialist Party makes a sharp distinction between Jews and Germans, no Jew will ever be recognised to have worked like a *German youth* must do. It will be also quite impossible for him to prove his bodily capacities, or his having lived in connection with fellow-citizens of all social positions and professions by showing a *Hilfsdienstpass* or a *Pflichtenheft* of the Union of German Students. For a Jew is, on principle, excluded from the Union of German Students, and has till now practically never been admitted to the *Hilfsdienst.*

In connection with the mentioned Decrees, the general prescription from July 28th, 1934, becomes still more important. It runs:

> " Only those examined candidates of law are to be appointed referendaries in whose preparation for the great State examination, State and Commonness take an interest."

And.

> " The President of Court is allowed to reject a petition, if it is impossible to prepare more referendaries than have already been appointed."

By these Decrees the administration of justice has got easily usable means for expelling Jews from law service. It has only to declare that State and Commonness take no interest in the appointment of the candidate, what can never be verified, or the President of Court has only to pretend that it is impossible to prepare more than the appointed referendaries. That gives way for anti-Semite actions, contrary to the Articles 71, 73, 91 and 96 of the Constitution.

(g) *Business Life.* — 1. Here, also, attention must be called to the fact that the Senate has not respected the equality of all citizens of the State required by the Constitution. The boycott against all Jews is directed above all against the Jewish trader. It is by no way contested that the economic depression has hit Jewish traders, in common with all others, very hard. It is nevertheless true that, as a result of the systematic and unwearying incitement of the population carried on by the National-Socialist Party especially by the S.A. and S.S. In all their gatherings, Jewish traders suffer much more than the others. The slogan " Don't buy from Jews! " is proclaimed, not only orally but often also in writing. Moreover, it is impossible to make known even here the innumerable individual cases which arise every day in which customers cease dealing with establishments in Jewish hands from which they have been purchasing for years, not only out of regards for the customers, but also because it is to be feared that the boycott of the tradesmen whose complaints became known be intensified. It can and must, however, be said in a general way that all the official declarations of the alleged opposition of the Senate to boycotting must be understood in precisely the opposite sense and are, in fact, so understood. The same President Greiser, who signed the Government Declaration of August 21st, 1933, cited at the beginning of this memorandum, did not consider himself prevented by such declaration from making the speech

already referred to on June 1st, 1934, in which he stated that no boycott was needed in Danzig because every Danziger knew already that he could only help the reconstruction of Danzig trade by buying from German firms. The disavowal of the boycott is in these circumstances only a playing with words. Consistently with this attitude, Jewish traders have for a long time, with few exceptions, been left out of account by the State and municipal authorities in giving public contracts, and the effort to restrain the competition of Jewish traders as far as possible is encouraged directly by public bodies, authorities and corporations.

In November 1934, the district leader Forster, according to the *Danziger Volksstimme*, has said in an assembly:

> " Only true and real masterwork will have success. But the masters ought to pay attention to the shops where they buy *Everybody has to pay attention to the name of the firm.* Unhappily he was not allowed to speak frankly "

How far even the instruction of the President of the Senate or his substitute can be thwarted with impunity may be seen from the fact that, in 1933, the then Vice-President, Herr Greiser, expressly recommended that further consideration be given to the iron goods and engineering firm of Emil A. Baus in Danzig in giving public orders, but that this firm thereafter received orders to only a very small amount.

In giving public orders for the winter help work 1934-35 in Gross Trampken, the only trader in shoes and textile goods, a Jew, was not noticed, and the orders were given to a person who was a baker and innkeeper. In Lamenstein, too, the order for shoes for the winter help work was not given to the there settled Jewish manufacturer in shoes, but to an innkeeper. In the City of Danzig, too, the Jewish traders have also been excluded from orders for the same winter help work. A complaint to the State Commissioner Batzer, inspector of the winter help work, who as Senator is member of Government, has not had any success.

All these facts refute clearly the official assertions that there is no boycott against Jews in Danzig. It may be observed here that the former President of the Senate, Dr. Rauschning, on a complaint against boycotting once made to him, replied that it was only necessary, in any individual case, to lodge an information in order that the Government might intervene. It is, however, overlooked that a boycott, in the vast majority of cases, makes itself felt most appreciably in the fact of former customers keeping aloof, and thus in a purely negative fact not capable of positive demonstration, and that in the exceptional cases, where positive events bring the boycott to light, the reasons already submitted—that is to say, the necessary regard for customers and the fear of intensified retaliation—prevent notification to the authorities. It is almost always necessary for a kind of public scandal to arise before boycotting proceedings can be unobjectionably brought to public notice from Jewish quarters, as, for example, in the case which became known where a storm trooper who had made a purchase in a perfumery shop of Jewish ownership in the best shopping street in Danzig in the Langgasse was recognised by a comrade through the glass entrance door and hauled out with insults. Sometimes the boycott carried out under official auspices seeks to hide itself under apparently harmless pretexts, so that it is difficult to lay hold on.

The Municipal Market Administration in Danzig, for instance, has assigned to the Jewish traders, who were formerly able to sell their wares among all the other dealers in whatever places they chose, a special place, where they have their stalls by themselves, marked out to the public as Jews. In this way a small Ghetto has been created as a warning to the public. The complaints which have been raised against this proceeding have so far been only partially effectual.

The boycotting of Jewish traders by the exhibitions which have been organised in Danzig has also been very strongly and unofficially supported. The so-called brown fairs have, indeed, been organised by the National-Socialist Party and therefore quite naturally have officially excluded all Jewish exhibitors. They were, however, opened by the President of the Senate, Dr. Rauschning, and so far supported by the authorities that classes of school-children were taken to visit them. Even an exhibition of the Housewives' Association could not take place without its being stated in the prospectus that only Aryan exhibitors would be admitted. Thus, in a department of extraordinary importance for commercial propaganda Jewish traders have been, and are, systematically and with official encouragement forced into the background.

The several years old boycott against Jews in business, tolerated by the Senate, has become now perfectly unendurable. It could only be suppressed legally, by putting the boycott under penalty The present President of the Senate, however, has denied to enact a law against the boycott, as well as he had denied to enact one for public protection of honour. Any Danzig Government, however, ought to consider that the fundamental rights, to which belongs above all the equality of all citizens, ought to govern the direction and to determine the scope of legislation and administration.

2. The Jewish workers in Danzig are also most severely prejudiced. A number of Danzig firms have dismissed their Jewish employees from fear of damage to their business by boycott.

The Sternfeld store, for example, did so on the ground that it had been threatened from certain quarters that it would otherwise be treated as a Jewish firm. This utterance is a direct evidence of the boycott which is systematically carried out by the National Socialists.

Even public bodies, however, are not guiltless of contributing to the unemployment of Jewish employees. The widow Jacobsohn, who was employed in the public utility, middle-class kitchen on the Schwarzes Meer in Danzig, was dismissed immediately after the accession of the present Government, expressly on account of being a Jewess, although she had carried out her duties with the greatest satisfaction. Again, after the formation of the Central Dairies, by arrangement with the firm of Friedrich Dohm G.m.b.H., in addition to the managers of the firm, all its employees and workers, 140 persons altogether, were taken over by the Central Dairies, with the exception of the single Jewess employed in the business, Fräulein Thal, whom the managers of the Central Dairies refused to take over, in spite of the warmest recommendations by the managers of Friedrich Dohm G.m.b.H. The grossest case of this kind which has come to light originated with the District Councillor Andres of Tiegenhof, who is also the leader of the National-Socialist Party in that district. This person reproached the corn merchant Wokôck, carrying on business in Tiegenhof, with employing a Jew a certain Leon Aron, in his business and forced him to dismiss his Jewish employee.

Jewish employees have been affected in other ways. They were, almost without exception, members of the salaried employees' unions which have their headquarters in Germany and, in consequence of the changes which were carried out there, were compelled to withdraw, without any pecuniary arrangement being made with them and without retaining any rights other than the possibility of continuing to belong to the sickness funds of these unions.. Even this right, however, was rendered more onerous by the fact that, being not considered as real members, they had to pay higher contributions. Further, as regards the placing of Jewish unemployed workers, the Jewish trade union has, indeed, been allowed to resume its employment agency operations; but, on the other hand, Jewish workers and employees are never introduced to employers by the public and official employment agency the Labour Exchange. On the contrary a case has come to light in which a Jewish firm had the greatest difficulty in obtaining permission for the engagement of a Jewish errand boy

Conclusions and Motions.

From the foregoing statement it may be taken as incontestably proved that, since the coming in power of the National-Socialist Government, the Jews of Danzig have been driven into a situation that is neither reconcilable with human dignity nor with the rights guaranteed by the Danzig Constitution and the treaty between Danzig and Poland for protecting minorities. Especially it may be taken as proved that Jews are intentionally refused equality with the other citizens of Danzig.

Nevertheless, the signed unions, representing the Danzig Jews, have taken the resolution of sending this memorandum to the League of Nations, reluctantly and only after long hesitation. Jews are always ready to submit to Governments and laws, even if their point of view is contradictory to their own. Only if the oppression becomes perfectly unendurable, they will take the resolution to complain of their own Government. For a time the Danzig Jews have hoped that this petition might be put off, and that the members of the Senate—the first excitement after the National-Socialist victory in the year 1933 having passed—would act according to Danzig law These hopes have been vain, for the Danzig Jews are continually disadvantaged in law and administration.

Our petitions directed to the League of Nations are:

(1) The Senate of the Free City of Danzig is to be requested to cancel all laws and decrees incompatible with Danzig Constitution, especially those that had been spoken of in this memorandum—namely·

(*a*) § 4 of the Decree about protecting the honour of national unions, October 10th, 1933 (*Gesetzblatt*, page 502)

(*b*) The Decree about regulating the legal situation of notaries, July 14th, 1933 (*Gesetzblatt*, page 333),

(*c*) Article I, Nos. 2 and 11, of the Decree about changing the regulation for advocates, August 22nd, 1933 (*Gesetzblatt*, page 429)

(*d*) Article I, 3 of the 7th Decree about changing the law for the Industrial Court, June 28th, 1934 (*Gesetzblatt*, page 473)

(*e*) § 13, 1, sentence 2, of the Decree about the regulatif for physicians, December 1st, 1933 (*Gesetzblatt*, page 589)

(*f*) § 3, 1, sentence 2, of the Decree about the regulatif for chemists, July 13th, 1934 (*Gesetzblatt*, page 539)

(*g*) § 3, I, sentence 2, of the Decree about the regulatif for dentists, August 31st, 1934 (*Gesetzblatt*, page 675).

(*h*) Article I, § 1, of the Decree from March 6th, 1934 (*Gesetzblatt*, page 132);

(*i*) § 3, sentence 2, of the Decree about the year in the country, April 30th, 1934 (*Gesetzblatt*, page 300).

(2) The Senate is to be requested to change its administration as to repair the wrong committed to the Danzig Jews and not to repeat this wrong in future. In detail:

(*a*) To occupy again all Jewish officials according to their capacities and in future to appoint Jews as officials;

(*b*) To admit all Jews to law service as well for their own preparation as for being appointed in this service and being admitted to advocacy *(Rechtsanwaltschaft)* without any restriction,

(*c*) To admit again a proper number of Jews to public professional congregations *(Berufsvertretungen)*

(3) The Senate is to be requested to protect the honour of all citizens without any exception of Jews.

(4) The Senate is to be requested to suppress the boycott against the Danzig Jews with all its means; if necessary, by legal measures.

Danzig, April 8th, 1935.

Verein Jüdischer Akademiker.

For the Committee:

(Signed) GERSON, Dr. NEUMANN, Dr. KAMNITZER, H. FLEISCHER.

Vereinigung Selbständiger Jüdischer Danziger Gewerbetreibender und Handwerker in der Freien Stadt Danzig.

For the Committee:

(Signed) JONAS, LIPPMANN, R. WOLFF, FRIEDEBERG, MIRAUER.

OBSERVATIONS OF THE SENATE OF THE FREE CITY.

Danzig, May 11th, 1935.

To His Excellency Mr. Sean Lester,

High Commissioner of the League of Nations, Danzig.

I have the honour to send you herewith the reply to the petition from the " Verein Jüdischer Akademiker " and the " Vereinigung selbständiger Jüdischer Danziger Gewerbetreibender und Handwerker in der Freien Stadt Danzig ", which you forwarded to me with your note of April 8th, 1935.

(Signed) GREISER.

The Government of the Free City of Danzig has the honour to communicate the reply which it was asked to send to the petition dated April 8th, 1935, from the " Verein jüdischer Akademiker " and the " Vereinigung selbständiger jüdischer Danziger Gewerbetreibender und Handwerker in der Freien Stadt Danzig " forwarded to us in your note of the same date. Since the petition contains sweeping and, indeed, new allegations necessitating a number of enquiries on material points, the Government of the Free City was unfortunately quite unable to prepare its reply within the specified period.

In the reply which is given below, the exact sequence of the ideas contained in the petition itself is followed for the sake of clearness.

Ad *Introduction.*

The first point put forward is that the Jews living in Danzig regard themselves as a *minority* and that the protection afforded to them by law is based in this connection on Article 33 of the Paris Treaty which in its turn refers to the Minorities Treaty of Versailles of June 28th, 1919. We will not go into the question here as to how far the provision of Article 33 of the Paris Treaty has been materially modified as a result of the declaration made at Geneva in September 1933 by M. Beck, the Polish Foreign Minister, since the further grounds on which the petitioners base their complaints—though this time not as a minority but as *Danzig nationals*—consist of the provisions of the Danzig Constitution.

If the complaints are examined in detail, it will be found that they do not really relate to minority matters but to the non-observance of certain provisions of the Danzig Constitution, and

particularly the oft-quoted but not always correctly interpreted provision of the so-called equality of all Danzig nationals before the law (Article 73, paragraph 1, of the Danzig Constitution). It may at once be said that the criterion taken by the Senate of the Free City of Danzig has always been and will continue to be *just and equal treatment for all Danzig nationals*, whether in virtue of Article 73 of the Danzig Constitution or of Article 7 of the Treaty of Versailles, through Article 33 of the Treaty of Paris.

The introduction then purports to show at some length that the new Government, under the leadership of the National-Socialist Party, has in its practice belied its own declarations, and attributes this to the fact that " the leader of [the] Danzig District Forster occupies the central position of power in Danzig " It is not clear for what this assertion is supposed to be the legal justification or what is its meaning. It can only be treated as intended to depict a certain milieu and create an atmosphere. This is particularly regrettable, since it is intended at once to give an impartial observer the general impression that everything that happens in Danzig is coloured with the views of the National-Socialist Party and *therefore* is suspect from the outset. Such a method is inadmissible, and we would point out that in actual fact the Government of the Free City, supported though it is by the National-Socialist majority, does consider that its first duty lies in observance of its constitutional and conventional obligations.

Further, the circumstance that the Government relies on the political party which supports it and is in touch with that party is not unconstitutional or even novel. All Governments of States having a parliamentary system do the same and, indeed, are bound to do the same. In Danzig, this purely democratic principle has always been observed. The former Governments, which in point of fact were never in a position to rely on any *one* party having a majority, but always on a mere coalition, have always governed in agreement and in regular contact with the so-called coalition parties. For this purpose there was a so-called inter-party discussion, in which the coalition parties were represented and their views were heard—*as party views*—before important legislative or administrative decisions were taken. Why should this procedure, which was formerly regarded as self-evident, suddenly be proscribed now that the majority is held by only *one* party, and the inter-party discussion, which presupposes *several* coalition parties, can and must be superseded by relations with *one* majority party ?

These considerations are put forward in order to show that the assertions of the petitioners on this point do not contain any material considerations but are manifestly intended simply to create an atmosphere and, moreover, are definitely misleading as to the facts.

Details.

A. *Legislation.* — 1. The Legislative Ordinance of October 10th, 1933 (*Gesetzblatt*, page 502), is described in paragraph 4 as contravening Articles 71 and 73 of the Constitution—that is to say, contravening the already mentioned principle of " equality of all nationals before the law " As already explained, nothing has lent itself more to misunderstanding than the idea of equality before the law for equality means, not unconsidered equality of treatment of existing facts, but, as has repeatedly been stated in the theory and practice of German constitutional law, and as was repeated by the Danzig Supreme Court in its plenary decision of January 18th, 1926 (*Danz. Jur Monatsschrift*, 1926, page 5), the only facts to be treated by the law as equal are those which, in the view of all just and fair-minded men, it would be arbitrary to treat unequally; hence facts which require unequal treatment *must* not be given equal treatment. Case-law if it is to avoid rigid and uninspired equality of treatment, has substituted *subjective* judgment, which alone endows the legal principle with its inner truth.

If this legal conception alone is applied to the ordinance complained of, it is clear that a rigidly equal treatment of *all political associations* (the Communist ones, too, for example) does not provide the justice implied in equality under the Constitution, on the contrary, the associations *must* be treated differently according to their attitude. It is really self-evident that the treatment of those associations which stand behind the Government must be different from that accorded to associations which are alien or hostile to it. That is what every Government in Europe has surely always done; they all give prominence to and protect associations or unions which voluntarily support their aims. That is all the ordinance in question is intended to do, and all that it does. It protects the associations which recognise its aims by punishing defamatory attacks upon such associations. The fact that such liability to punishment is new makes no difference; in any case it is not *unconstitutional*. Naturally not all Danzig citizens belong to these associations; naturally, there are even honourable citizens who remain outside them because they perhaps seek their ideal State in some other form or in other constitutional ideas; but the fact that citizens remain outside does not affect the principle of the " equal treatment " of all citizens.

Moreover, the Government of the Free City, before it issued this ordinance, carefully examined all objections that might be raised from the constitutional point of view. The President of the Court was asked to give an opinion on the draft which later became law, and he too found no objection to it.

2. The Ordinance of July 14th, 1933 (*Gesetzblatt*, page 333), provides that notaries—that is, officials of the Free City who, like the judges, are engaged in ensuring order and the maintenance of law for Danzig nationals—are not appointed by the Senate but are also chosen by the Judiciary Appointments Board, which has been set up under the Constitution for the appointment of judges. The Judiciary Appointments Board is an absolutely independent body of eleven members, which was constituted under the Ordinances of April 11th, 1934, and June 8th, 1934 (*Gesetzblatt*, pages 251 and 451). The membership consists of the President of the Free City of Danzig, one Senator, the President of the Court, the three Presidents of the Popular Assembly, three judges chosen from the general body of judges and two advocates chosen by the members of the Bar. The composition of this Board constitutes a guarantee of the independence of its judicial and administrative components, since four judges (including the President) and two advocates constitute a majority against the Government. There can be no more democratic authority than a Board such as this, which, indeed, *no* other democratic States of Europe possess. It is impossible for the Government to enforce its views arbitrarily by the mere possession of a majority; the last vestige of a possibility of such a state of affairs was obviated by the Ordinance of June 8th, 1934 (*Gesetzblatt*, page 451). If, then, such a body is entrusted with the selection of officials who have to co-operate in the same way and certainly in as important a way as judges, it means that the Government in the most liberal manner has deprived itself of its influence even over those legislators by placing the appointment of them in the hands of the Board. How this can be regarded as an infringement of the principle of " equality of treatment " is incomprehensible.

Further, it should be mentioned that the Board has never yet appointed *a single* notary, as there are already too many notaries in the Free City. It is therefore impossible, even were the intention there, to pass over any Jewish advocate. The Senate decides *how many* notaries there are to be; it is the Appointments Board which decides *who* is to be appointed up to that number.

3. The petition then deals with admission to the profession of advocate, and criticises Articles 2 and 11 of the Ordinance of August 22nd, 1933 (*Gesetzblatt*, page 429). Article 2 provides that admission to the profession of advocate, which is in the hands of the Senate, may be refused where, in the opinion of the Council of the Chamber of Advocates, the admission of the applicant is open to objection in the interests of the administration of justice. The petition takes the view that, under Article 11, this is subject to appointment by the Senate and is therefore bound to vote only in agreement with the Senate—that is to say, in a manner hostile to the Jews.

It must be pointed out here that the petitioners have not understood or have wilfully misunderstood the true sense of Article 2. It is argued that the Senate, because it has the right to admit persons to the profession of advocate, has this right of admission entirely within its own discretion. But it has voluntarily imposed upon itself a limitation of this right, since Article 2 states that, if the Council of the Chamber of Advocates raises *no* objection, then the Senate is *bound* to grant an applicant the status of advocate; and, again, even if the Council of the Chamber of Advocates raises an objection, the Senate may *nevertheless* appoint the applicant an advocate. It is, I think, quite justifiable to hear the views of representatives of a profession to which a new member is to be admitted, there can be not the slightest objection to that. I think, too, that it is very accommodating on the part of the State to concede that it *must* pass an applicant to which the professional colleagues have no objection even if the State itself has an objection.

True, it is the Senate that appoints this Council of the Chamber of Advocates. The Senate also appoints all the other important elective bodies; it is its right to do so. With the appointment, however, the Senate's influence on a body appointed by it ends. The Council is then absolutely independent and in no way bound by any instruction from the Senate. It is a purely professional body representative of the advocates, and as such has to consider professional interests alone, independently of the State; hence the independence that is conferred upon it.

It may be mentioned, moreover, that the Senate, in opposition to the opinion of the Council of the Chamber of Advocates, has admitted a Jewish advocate.

4. The petition complains that, according to the Danzig legislation for the Industrial Court, Jewish advocates are in practice excluded from admission to the Industrial Court of First Instance, and makes the Senate responsible for this situation, accusing it of a breach of the Constitution, since, according to Article 11 of the Industrial Court Law (Ordinance of June 28th, 1934, *Gesetzblatt*, pages 473 and 477), the admission of advocates has been placed in the hands of the Danzig Labour Front, which has never granted such admission to Jewish advocates. The Government itself felt misgivings on this point, and accordingly issued a further Ordinance on April 27th, 1935, amending the law so that now every advocate has admittance to the Industrial Court of First

Instance as to any other section of the lower courts, in which the Industrial Court has recently been completely incorporated. This ground of complaint therefore has been removed.

The way in which it has been removed, however, must also clearly prove that, whenever the Senate feels any doubt as to whether a regulation may possibly not be quite unobjectionable, it will on its own initiative take remedial action. The Government's scrupulous attitude in this matter should therefore be taken to imply that whenever, after a carefully considered opinion has been given by the Senate, no change is made, there is no question of a breach of the Constitution and a change is therefore not called for.

Further, it should be mentioned here that the Senate really accords to the Jewish community just and equal treatment as required alike by the law and the Constitution and by considerations of equity Unlike the previous Government, it has appointed a Jewish assessor as a judge for Jewish cases in the Industrial Court. It has also availed itself of the facilities provided by Article 11, Section 3, of the Industrial Court Law to take action in favour of the Jewish population, and has placed the Jewish Employers' Association on the same footing as the Danzig Labour Front. In this way it has enabled the Jewish association to appear before the Industrial Court, which formerly was not possible.

In these circumstances, we would ask in what way the Jewish community is placed at a disadvantage.

5, 6, 7 — Points 5, 6 and 7 may be treated together, as they contain the same complaint—namely that admission to the exercise of the profession of medical doctor (No. 5), pharmacist (No. 6) and dentist (No. 7) is made contingent upon admission to the respective Chambers of those professions. In this case, contrary to that of admission to the profession of advocate, the decision of the professional Chamber is binding upon the Senate, even if its decision is negative. Here, too, however, as in the case of the Chamber of Advocates, the procedure has been to create this professional representative body with a view to the independent permanent establishment of the profession for the preservation of its professional interests, and then to make the representative body as the organ of the autonomous administration of the profession, completely independent of any instructions on the part of the Government, even though the Government has a hand in the constitution of these bodies.

This limitation by law of the free exercise of professions is permissible under Article 75 of the Constitution, and is justified on practical grounds. The real purpose of the limitation is to remedy the abnormal situation which obtained in the past—namely, that doctors, pharmacists and dentists crowded into the towns, where they have better opportunities of making a living, while there was a scarcity of them in country districts. In the interests of the health of the rural population, it was therefore necessary to aim at and secure an even distribution over the whole territory This was achieved by means of the settlement plans drawn up by the professional bodies consulted, which distributed medical and dental practices throughout the territory, as well as pharmacies.

The execution of these plans is not possible if every individual settles where he wishes and where he expects to earn most. The professional bodies are, moreover, best qualified to judge as to the necessity of a medical or other practice and to supervise the taking-up of these practices. It was therefore obviously advisable, before granting the Senate's permission, to obtain the consent of the professional body responsible for considering whether a doctor should be sent to a practice or district on the basis of the plans or not.

The conclusions which the petitioners draw from these provisions are completely unjustified. The provisions apply equally to all Danzig nationals.

In particular, the falseness of the statement that, in principle, no Jewish doctor can count on being allowed to set up a new practice in the territory of the Free City is shown by the fact that hitherto *no application* by a Jewish doctor of Danzig nationality to set up a practice has been refused by the present Government.

The wish to remove abuses for the benefit of the community is therefore so predominant, and the removal of such abuses affects *everyone*, and not only Jewish doctors, dentists and chemists, so equally that there can be no question of an infringement of Article 73 of the Constitution.

8. Once more the Ordinance of October 10th, 1933 (*Gesetzblatt*, page 502), already complained of under No. 1, is described as a breach of the Constitution on account of its provisions regarding the wearing of uniform. This time § 1 of the text of the Ordinance of March 6th, 1934 (*Gesetzblatt*, page 132), is the provision which is alleged to be unconstitutional and to represent a breach of Article 73—always the same accusation. The breach is claimed to consist in the fact that Jewish business men are not allowed to sell or manufacture uniforms. The question raised here has already been dealt with by the Danzig Supreme Court in its decision of October 23rd, 1934, when the accusation in question was examined and rejected. This decision says:

> " There is no breach of Article 73 of the Constitution, because the provision regarding the sale and manufacture of certain uniforms does not operate unequally, but equally; for, according to this provision, any person who manufactures, etc., the uniforms of the associations in question, without the latter's consent, is liable to a penalty "

The decision also deals with the constitutionality of the measure from the point of view of Article 75, and here, too, reaches the conclusion that it has no unconstitutional character. In

this connection I would refer you to the annex[1], consisting of No. 3 of the *Danziger Juristen Zeitung* of 1935, on page 30 of which the above-mentioned decision of the Supreme Court is reproduced under No. 17.

9. Lastly the petition regards the Ordinance of April 30th, 1934 (*Gesetzblatt*, page 300), concerning the " Landjahr " (year's training in the country), as open to objection on the ground that the young people called up for the " Landjahr " are to be educated, in virtue of § 3, second sentence, " according to the principles of the National-Socialist State ", and that this is contrary to Article 107 of the Constitution. Here, again, the Senate is willing to consider an amendment of the provision concerning educational principles contained in § 3, second sentence. This appears unnecessary however, since, on the basis of a special declaration by the Senate, Jewish young people have not hitherto been and will not be called up for the " Landjahr ", so that no influence contrary to Article 107 can be exercised on this section of the population.

B. *Administration.*

The above-mentioned introduction is quite correct in so far as it states that Article 71 of the Danzig Constitution is applicable to the administration of the Free City of Danzig, and that, in particular, Article 73—like, of course, every other provision of the Constitution—is legal and binding on the Government. It is significant that, once more, almost exclusive prominence is given to the " equality before the law " principle of Article 73. This principle is, indeed, the article in the whole Constitution which is apparently most easy to infringe. All that is necessary is to compare two similar cases and point out that in some way and at some time they have not been treated in exactly the same manner in an administrative act or a judgment. The reproach at once arises that *equality* has been infringed ! It is therefore necessary to be particularly careful and critical in judging an alleged " inequality " in administration and practice.

In so far, however, as the above-mentioned introduction refers to personal statements, it contains untrue and inadmissible remarks. The statement attributed to the Senator in charge of the Department of Justice, Dr. Wiercinski-Keiser, bears the stamp of falsehood. It is obviously most unlikely that a Senator occupying an important and responsible position would make such an imprudent remark.

In any case, we may state quite definitely that it is false. In the same way, the remark made by the School State Commissioner Schramm has been torn from its context and was not made in the way described here.

(*a*) The complaint against the police may be generally summed up in the statement that Jewish citizens have been denied protection against public threats and insults, and that this constitutes or is likely to involve a dangerous disturbance of public peace, order and security

If we consider the individual cases more closely, however, we find that the spontaneous expressions of public opinion, which undoubtedly find utterance in Danzig as elsewhere, do not possess the significance attached to them in the petition. The occurrences are isolated ones confined to narrow circles. The reproach that insufficient protection is afforded to the Jewish population cannot be justified by the fact that no police action was taken against the anti-Jewish manifestations of certain Press organs, particularly the German weekly *Der Stürmer* and the Danzig daily *Der Danziger Vorposten*. The police are responsible for the maintenance of public security Only in so far as this is disturbed or endangered is it entitled and bound to intervene. It is not its business to interfere in the clash of political opinions. As a matter of fact, the papers in question have never caused any outbreaks against the Jewish section of the population; owing to the reasonable attitude of the Danzig population, there is also nothing to fear in this direction for the future.

It should be remarked that the weekly paper *Der Stürmer* was sold in Danzig even before the National Socialists came into power. Although its tendencies were the same then as now, it was never prohibited by the previous Governments. The number of copies in circulation at Danzig is small and its circle of readers is so narrow that there can be no question of order being endangered.

As the organ of the National-Socialist movement in Danzig, the *Danziger Vorposten* takes up an anti-Jewish attitude, thus giving expression to the sentiments of the majority of the population. The Government cannot be expected to combat these sentiments, which are by no means confined to the supporters of the National-Socialist movement. The sense of discipline of the Danzig population is a guarantee that the outpourings of the *Danziger Vorposten* will be kept on the theoretical plane and will not be taken as an incitement to violence. If the petitioners complain against a certain harshness in the campaigning methods of the *Danziger Vorposten*, it must be pointed out that the tone in which the organ of the Danzig Jews, the *Danziger Echo*, refers to the National Socialists is no more moderate. The petitioners cannot claim any truth for their suggestion that the police impose specially strict limits on this Jewish newspaper, which has never been forbidden in Danzig, and has only been confiscated on a single occasion.

In this connection, it should also be recalled that, in the last years before the National Socialists came into power, Jewish newspapers or newspapers under Jewish influence, particularly those of German origin, were allowed to agitate without restriction against National Socialism and its supporters, without ever being prohibited on this account.

[1] This document is retained in the archives of the Secretariat.

The statement that anti-Jewish songs are to be heard almost daily in the streets of Danzig is greatly exaggerated. The Senate has duly appreciated the complaint, partly authorities on the connection, and not without success. The fact that the singing of these songs objected to cannot be completely stopped is no matter for surprise. Such harmless demonstrations of the prevailing popular feeling have always been common in Danzig, and have not always been directed against the Jews, but sometimes also — and to a considerable extent — against the nationalist parties. Public order and security has never been thereby disturbed.

The remarks of the petitioners regarding the presumed attitude of the police in respect of anti-Jewish excesses are thus of a purely theoretical nature. Not a single case is mentioned in which "elements" inclined thereto have committed excesses. The police would, of course, afford the same protection in such cases to the Jews as to any other citizen. A proof of their great impartiality is provided by the punishment, mentioned in the petition itself, of a police officer who had made a derogatory remark about the Jews.

There is therefore no justification whatsoever for speaking of an infringement of Article 73.

(b) Senatorial Councillor Secant was removed from his position, although he still retains his salary, because he no longer enjoyed the confidence of the Government, and not on account of his Jewish race. Under Danzig law no official possesses the right to exercise his duties. See also Brand, "Administrative Law", third edition, pages 160 *et seq.*

(c) *Education.* — Here it is necessary to lay down the principle that the whole educational system is subject to the authority of the State and its legislation, and that, as a matter of course, the educational principles which the State considers to be right have to be applied therein. At the same time we freely admit that, in the educational sphere, Article 73 of the Danzig Constitution prescribing equality must be observed. No complaint is made that any legislative measures have offended against this article. The complaints simply relate to administrative steps taken. In this connection it should be borne in mind that, in the great upheaval of ideas brought about by National Socialism, grievances should also arise in the educational sphere. The Government of the Free City of Danzig has examined these grievances to the best of its judgment and has taken action to remedy them where it regarded them as justified.

As regards teachers, the situation is similar to that in regard to the judges discussed below. The population, which, as the elections have shown, is in its great majority unfriendly to the Jews, is no longer so willing to allow its Christian children to be brought up by Jewish teachers. Accordingly, the Government — making a proper application of the principle of equality laid down in Article 73 — must do its best to see that Christian teachers are provided for Christian children. The Government also apprehends that the population may rebel against Jewish teachers, may place difficulties in their way and may thereby not only endanger public order but undermine the authority and educational work of the schools. In recognition of this fact the Government has, in a few individual cases, removed Jewish teachers from their exposed positions and placed them in posts where they are less exposed to public hostility and criticism. The changes therefore became necessary on purely material grounds, and were certainly not the consequence of an anti-Semitic attitude on the part of the Government. It need hardly be added that such changes of personnel were made in the best interests of the Jewish teachers themselves. Such action can hardly be regarded as a breach of the often quoted "equality" principle of Article 73.

This is the explanation of the two cases mentioned under Nos. 1 and 2.

As regards pupils, it must be said that pupils of Jewish race are not treated unjustly at school, but that, on the contrary, care is taken that they should in no way suffer any disadvantage, as the Senate is fully conscious of its duty under Article 107 as regards the administration of educational affairs.

It must, however, be pointed out that the Senate, in addition to fulfilling its duty of not placing Jewish children at a disadvantage, has, in many cases, reduced the school fees of its own accord for Jewish children and has thus renounced a revenue of 3,000 gulden annually for the benefit of the population. This measure hardly looks like unfairness to the Jewish section of the population!

As regards the Technical Institute, the remarks made in the petition are very incomplete and carry no conviction that there has been any breach of Article 73 of the Constitution. There is a shortage of working-space at the Institute, and it has therefore been necessary to allocate the working-space available. Thus nearly a whole designing-room has now been placed at the disposal of the Jewish students. The fact that the Jewish students remain among themselves is certainly to their advantage and is conducive to good order at the Institute, since in this way friction is avoided such as might easily arise between the hot-headed young students on both sides. Such a measure should be accepted with gratitude rather than be described as a breach of the Constitution.

Similarly, there is a great lack of sports grounds and gymnasiums at Danzig, as the previous Governments did not do enough for the physical training of young people. The grounds and halls

are now still less adequate, inasmuch as physical training by means of sport has assumed a much greater development than previously For this reason the Senate has not yet been in a position to give the Jewish Gymnastic Club the use of a sports ground. It is difficult to see how this can be construed as a breach of the Constitution.

(d) *Art.* — The remarks on this subject do not even attempt to prove that the failure to engage Jewish artistes for the State Theatre, the radio and the Zoppot Woodland Opera constitutes a breach of the Constitution from the so often quoted point of view of equality of treatment (Article 73 of the Constitution). It is therefore very necessary to go into the matter further.

It may be remarked that the managers of the theatre simply engaged artistes in such a way as to ensure as good performances as possible.

It is characteristic, however, that, in order to influence those who are to consider the petition and to create an impression of a systematic persecution of the Jews, this question of art is dragged in, although it has nothing to do with unconstitutionality. Such methods are to be deprecated.

(e) *Public Health.* — 1. Here, too, the petition pursues the method of trying to create an atmosphere, since once again it begins by making statements which cannot possibly justify the reproach that the Government or the Administration disregards the principle of equality laid down in Article 73. The alleged acts of boycotting cannot be regarded as measures taken by Government organs or as behaviour for which such organs can be held responsible. In any case these assertions, as far as the Senate knows, are untrue.

2. Only after this introduction does the petition come to speak of the Government measures, and complains of the amendment of the Ordinance of December 1st, 1933, regarding the Medical Chamber (*Gesetzblatt*, page 589). This reproach has already been dealt with above under A 5, 6 and 7 (Legislation). We repeat that the Medical Chamber is a professional representative body which forms part of the composite structure of all professions and professional representations. The Government has the right to appoint these bodies. At the same time, it has no wish to restrict or hinder the formation of other professional associations (in this case, of doctors) as allowed by the Constitution. The Senate is also free as regards the appointment of such professional representatives, and in making the appointments naturally follows the democratic principle of giving due representation to the majority—*i.e.*, to the doctors of National-Socialist opinions. In this connection it is not only entitled, as the petition states, to appoint the Chairman of the Medical Chamber on the basis of the Ordinance of July 4th, 1933 (*Gesetzblatt*, page 295), but also to appoint the whole Medical Council—*i.e.*, the Chamber itself—in virtue of the further Ordinance of July 11th, 1933 (*Gesetzblatt*, page 301), which seems to have escaped the attention of the petitioners.

As regards individual points, we may say that Professor Wallenberg, whose great medical reputation is unquestioned, is over 71 years old and was therefore considered to be no longer suitable for a place on the representative body

3. The cases relating to public sickness institutions which are alleged to constitute a breach of Article 73 of the Constitution can easily be explained. The case of Dr. Friedländer was examined by the court and his dismissal was found to be in order. Dr. Jelski had occupied his post in the Public Welfare Office for over nineteen years and had therefore to be replaced by a younger man. According to modern ideas, youth must also be given its opportunity, however much the experience of age may be respected.

4. The statement that since the coming into power of the present Government all medical appointments advertised by the Danzig authorities have only been open to candidates of Aryan race is untrue. Such a limitation would be inadmissible and has not occurred, as the petitioners must be aware. As a proof of this, reference need only be made to the last advertisement of a post as school medical officer.

(f) *Judicature.* — 1. It is true that Higher Court Judge Berent and District Court Judge Abramsohn were transferred to other posts. In the case of Berent, that was done with his own consent, which is necessary whenever a Higher Court Judge is transferred to a district court. But, even so, they both remained judges and are still acting as such even at the present day Under the Judicature Law it is quite permissible, when the head of the judicature, in consultation with his colleagues among the senior judges, allots the work at the beginning of the judicial year, to change judges from one post to another. This is even a recognised administrative principle designed to prevent judges from becoming one-sided and to ensure that they acquire that varied experience which will enable them to be employed on all kinds of judicial work. A change of post is therefore in every way permissible and it is impossible to understand how the petitioners can assert that " in all this a violation of the Constitution is evident " This assertion is so untenable that even with the best will in the world it is impossible to view similar remarks in other passages without suspicion.

Berent and Abramsohn were transferred to other posts so as to avoid friction with the public, which is no longer willing to submit to strictures from a Jewish judge, and also in the interests of the administration of justice, which naturally can scarcely be improved by complaints in regard to the persons acting as judges, and, not least, in the interests of the Jewish judges themselves. They were to be placed beyond the reach of attacks by members of the public to which it is to be feared they might be exposed, and it is for that reason that they are now employed on

work in which the judge comes less frequently into personal contact with the public.

As regards the former Industrial Judge Drum, the case is different. Contrary to German practice, the Industrial Court in Danzig was organised as a separate tribunal additional to the ordinary court; its judges were not elected but directly appointed by the Senate. The Department of Justice had long been endeavouring to change this state of affairs and incorporate the Industrial Court in the ordinary court, as is the case in the German Reich, for it is only absolutely independent judges and, indeed, judges who have been independently elected who can be regarded as genuine champions of independent justice. The new Government is carrying out this incorporation of the Industrial Court; an Ordinance was enacted on July 14th, 1933 (*Gesetzblatt*, page 329), and came into force on August 1st, 1933. Now however, that the new Industrial Court has become an integral part of the ordinary court, it can only be presided over by the ordinary elected judges. The nominated industrial judges are no longer qualified to sit. Dr. Drum was therefore obliged to discontinue his activities in the Industrial Court as from August 1st, together, moreover, with the other Industrial judge, Dr. Lederer, who is not a Jew· of this latter circumstance, however, the petition makes no mention. The activities of the newly incorporated Industrial Court have been taken over by the ordinary judges. The change of judges is therefore completely above criticism, it was, indeed, necessary and has been carried out in accordance with the Constitution. Any other action would have been contrary to the Constitution.

2. This complaint relates to the appointment of Jewish referendaries as assistant judges. In this connection it should be pointed out that, since the date of the petition, the Free City of Danzig has introduced new regulations on this subject. This had become urgently necessary owing to the constant increase in the number of referendaries and assistant judges and had long been contemplated. The change was effected by means of the Ordinance of May 6th, 1935 (*Gesetzblatt*, page). On the basis of the Enabling Law referendaries are officials. Under the new Decree, however, every referendary who has successfully passed his assistant judge's examination ceases to be an official and is given the title of " assessor " (without any additional description), this makes his educational qualifications perfectly plain. From that time on his position in relation to the Senate is the same as that of any other member of the public. If he wishes to obtain a post as judge, public prosecutor or high administrative official—in short, if he wishes to enter the public service, in any capacity whatever—he must duly make application, he must ask to be accepted for probation in the post in question. The State only accepts for such probation as many candidates as it is likely to require. The probationers are then on trial during a period of twelve months, at the end of which the State selects such new officials as it requires from amongst those who have given satisfaction. In the choice of probationers and also in deciding which of them have given satisfaction, those who are said to be on the " waiting list " the State is and, indeed, must be free, as it is responsible for seeing that only suitable officials are entrusted with public offices. The State is therefore entitled to lay down guiding principles applicable to those whom it is prepared to entrust with public offices. Article 91 of the Danzig Constitution does not preclude such a course. On the contrary, it provides that Danzig nationals shall be eligible for public appointments " *with due regard to their qualifications and previous service* " The State is therefore entitled and, indeed, bound to lay down principles to be applied in interpreting the expression " qualifications " for public appointments and " previous service " These principles will quite legitimately reflect the new conception of the State. The fundamental principle of the new Ordinance of May 6th, 1935, is therefore justified. It provides as follows: " Candidates shall only be appointed if they can be regarded as specially suitable, due regard being had to their previous service and personal character " In judging their personal character, the criterion which it is permissible and necessary to apply is whether the person concerned would be acceptable to the people in an official capacity that it is also laid down in the rules governing the appointment of assistant judges in the Ordinance of July 28th, 1934 (see Annex)[1], where it is provided that " the person to be appointed must satisfactorily establish that he would in due course perform the duties of a public servant with wholehearted devotion and spiritual kinship with the people and State "

A referendary who has successfully passed through his period of probation and earned the title of " assessor " may aspire not only to a post in the civil service but also to admission to the Bar. In accordance with the Ordinance regarding admission to the profession of advocate of September 29th, 1934 (*Staats Anzeiger* page 376), advocates are nominated by the Senate. The principles in accordance with which the appointments are to be made are not laid down in any fundamental law· the matter is governed by the general provisions applying to the profession of advocate, according to which admission to the Bar is, in principle, open to all. It is only when specific facts are known that the candidate *may* not be granted admission, and in stated circumstances the Senate is empowered to refuse admission. To these last circumstances belong those described in the new provision, paragraph 6, No. 5, which was introduced under the Ordinance of August 22nd, 1933 (*Gesetzblatt*, page 429, No. 2). That provision is as follows: " If, in the opinion of the Council of the Chamber of Advocates, the admission of the applicant would be open to objection from the point of view of the administration of justice, the Senate may refuse admission " In other words, it is the Council of the profession which, as the body best qualified to judge of the requirements of its profession, is entrusted with the enquiry—which the State itself conducts in the case of officials—namely whether the admission of the candidate concerned is " in the interest of the administration of justice " As, indeed, should be obvious, consideration of this question is both natural and necessary and could not be contrary to the Constitution of Danzig or any other State. It has already been pointed out above that, if the Council of the Chamber of Advocates raises no objections, the Senate is obliged to admit the candidate. It has

[1] This document is retained in the archives of the Secretariat.

also already been stated that the Council of the Chamber of Advocates is absolutely free in its judgment, in spite of the fact that it has been appointed by the Senate. It is, indeed, a matter of course and completely in keeping with democratic principles that its members should be representative of the wishes of the people.

The complaints of the petitioners are thus disposed of, as it has been shown that the position now obtaining is not open to objection. All that remains to be said is that all those referendaries who have passed the assistant judges' examination without having been appointed to assistant judgeships will ultimately receive the title of assistant judge. They would be well advised to renew their application for admission to the Bar, as the Council of the Chamber of Advocates can no longer take objection to them on the ground that they have not been appointed asisstant judges.

No useful purpose can be served by going further into questions of detail. It should, however, be pointed out that, in addition to the three Jewish referendaries, two (not one) Christian referendaries also failed to secure appointments as assistant judges, as they did not satisfy the criteria laid down. The decision to limit admission to the Bar is, moreover, a mere emergency measure designed to prevent an anticipated glut of assistant judges and will in future be much more extensively applied than has hitherto been the case against Christians who do not reach the accepted standards. Similarly, referendaries are already being ruthlessly debarred from their official career if they have not fulfilled the conditions which could legitimately be required of them.

In this connection Dr. Wiercinski-Keiser, the Senator in charge of the Department of Justice, is alleged by the petitioners to have made the following statement (see B): " One could not make the same law in Danzig as in Germany but other measures would be adopted of an administrative nature which would lead to the same result "—that is to say, which would do harm to the Jews. It may again be emphatically and clearly said that this assertion is untrue. In this question, moreover, reference should also be made to the Senate's answer to the High Commissioner of January 5th, 1935. That reply deals with the former state of affairs and demonstrates that even that was not contrary to the Constitution. We may repeat that the legal position has since been modified by the Ordinance of May 6th, 1935, the constitutionality of which would appear to be even less open to question.

I should particularly like to draw attention to the statistical data in the petition, which gives the percentage of Jewish citizens in the territory of Danzig as 0.5%. We gladly accept this figure, which is clearly based upon special information. The percentage of Jewish members in the civil services is higher and must therefore be judged accordingly

3. The position of the Council of the Chamber of Advocates has already been discussed in several places. It may, however, be repeated that the Chamber of Advocates is the professional association representing the Bar. Its Council is, indeed, appointed by the Senate (Ordinance of February 4th, 1933, and July 11th, 1933; *Gesetzblatt*, pages 295 and 301). Once appointed, however, it is completely independent, as it is not bound to take instructions from the Senate, but is, on the contrary expected to act solely in the interests of the profession which it represents. That the majority of its members are National Socialists is in accordance with the opinions now dominant and the democratic principle that effect must be given to the wishes of the majority

The petitioners, moreover, systematically confuse National-Socialist sympathies with party membership. The advocates may, indeed, hold National-Socialist views, but are by no means all members of the National-Socialist Party

4. It is entirely false to suggest that there is a boycott of Danzig Jewish advocates which is tolerated by the Senate. It may be true that Jewish advocates are less sought after than formerly That, however, can only be ascribed to the fact that, with the political views they now hold, members of the public no longer place the same confidence in Jewish advocates as formerly. As there is free choice of advocates, the Senate cannot forbid free competition, otherwise, it would indeed merit the criticism which the petitioners have so often made—namely, that it was guilty of unequal treatment before the law. Similarly, the court, which alone has power in the matter, cannot appoint Jewish advocates to appear for the defence in as many cases as formerly; for it would not be just to force accused persons to accept an advocate repugnant to their views, and the value and accuracy of the findings of the court would be impaired if defending counsel did not enjoy the confidence of the accused, as their clients would not then inform them without reserve of all the facts of the case. The same applies to poor persons' suits in the civil courts. In this connection the proper principle was laid down by the Senate in Special Ordinance No. 14, 1934 —namely that account must be taken of the wishes of the parties. This rule, again, is based upon the same consideration—namely, that frank discussion between counsel and client is only made possible by mutual confidence and that the findings cannot be what they should unless the case is presented with full knowledge of the facts.

It is true that, since the dissolution of the Bar Association, the National-Socialist Federation of Jurists has taken over the work of giving free legal advice. Here, too, the determining factor in the appointment of an advocate is the wishes of the litigant, and it is unavoidable that the political opinions of the people should find expression in this sphere also. The matter is, however, governed by the Ordinance of April 27th, 1935 (*Gesetzblatt*, page 627). By that enactment the disabilities which in practice have hitherto prevented Jewish advocates from appearing before the Industrial Court are removed, the Senate having satisfied itself that in actual fact (even if unintentionally) the rules previously in force prevented Jewish advocates from appearing. Advocates of the Hebrew faith can now appear exactly like everyone else. In our opinion, this fact also goes to prove that, whenever the Senate comes to hear of real discrimination, either in law or in fact, against Jewish advocates, it does what is necessary to remove the cause for complaint.

The Senate had therefore no cause to alter conditions for which it is not responsible.

5. The question of the establishment of Jewish advocates has been discussed in detail under

No. 2 above. There can be no need to go into these questions again. When all the Jewish referendaries who have successfully passed their examination have received the title of assessor, they will be advised to apply again. The Council of the Chamber of Advocates will then re-examine the case and will no longer be able to justify an unfavourable attitude on the grounds that an applicant whom the Senate does not regard as suitable for an appointment as an assessor cannot meet with their approval either. To that extent, therefore, the question is still open.

That the Senate is always actuated by equitable considerations and not by systematic anti-Semitism is proved by the admission to the Bar of the Jewish assessor, Dr. Rosenbaum. This case proves beyond question that, in point of fact, Jews are not rejected merely because they are Jews (for otherwise the Senate could never have appointed Dr. Rosenbaum), but that the Senate also admits Jewish advocates if it is convinced that they are not open to objection on the grounds of the principles which it has itself laid down.

These facts must also be borne in mind if the Senate's attitude in regard to the appointment of the examined law candidates as referendaries is to be correctly appraised. We may merely repeat that, in accordance with Article 91 of the Danzig Constitution, the Senate is absolutely free in its choice of those whom it desires, in due course, to employ as high officials or advocates in its State organisation. The rules governing such choice have been clearly laid down in the Legal Training Order of December 1st, 1934 *(Staats Anzeiger* page 533), so that the young student may from the very beginning be aware of the principles to be applied and consider while there is yet time whether he is willing and able to conform to such principles. I am of opinion that the guiding principles laid down in paragraph 2 would do credit to any democratic State, for they place in the very forefront close community between all callings and professions and those who represent them. This does not rule out even the Jews. Special care is, moreover, taken to provide that, even if they cannot demonstrate this oneness with the community through membership of appropriate associations, they are nevertheless welcomed. For the second sentence in paragraph 2, sub-section 1, merely provides that the above-mentioned evidence shall " chiefly " be taken into account. Any other form of evidence is therefore admissible. Furthermore, it is laid down at the beginning of sub-section 1 that candidates are " expected " to do such and such a thing; it is not a duty, therefore, or a condition, it is merely a desideratum, something that is expected of those who apply This elastic drafting was specially adopted in consideration of Jewish students who, on a literal interpretation, might perhaps be unable to produce such evidence. The provisions of the " guiding principles " of July 28th, 1934 (Order No. 33, 1934), are similarly construed.

In practice, no Jew has in actual fact been yet refused admission to Preparation for Law Service. Admission has, however, been refused to a number of Christians.

(g) *Economic Life.* — The alleged boycott of Jewish traders or Jewish employers and employees, to which reference is made in this section, cannot in the least, as the petition itself admits, be attributed to Government or administrative measures. The Government cannot therefore be made directly responsible for such occurrences. Only the indirect criticism is therefore submitted that the Government did not put an end to the boycott. Even this, however, is unjustified.

Article 73 of the Danzig Constitution merely provides that all Danzig nationals are equal before the law and in the matter of the administration of the law. The State is not placed under any obligation to bring pressure to bear upon the population in favour of any class which may be suffering neglect in consequence of popular opinions or some trick of popular favour. That, however, is exactly what the petition demands. Even the minority provisions of Article 33 of the Paris Treaty afford no grounds for such a demand, and have, indeed, not been quoted by the petitioners. Whenever, however, a boycott appeared to be in progress, the Government, as stated above, has made successful efforts to put an end to it.

It is remarkable that the petitioners do not quote the provisions of the Protocol of September 18th, 1933, No. VII, in respect of the Port Convention (printed as Danzig Green Book No. XIII, 1935, page 227). Even this provision does nothing more than confirm to the Jewish traders the right, which they in any case already possessed, of complete freedom in the exercise of their business activities. In this connection, the Danzig Senate has stated that it will see that such freedom is neither impaired nor restricted. The Senate has always kept this declaration in mind and has always acted accordingly As stated above, the Senate has always intervened whenever attempted boycotts have come to its notice, and will continue to do so in future. At the same time, it must be repeated that the State is in no way bound to buy from Jewish merchants, or to employ Jewish employees, when the people, of their own free will, refrain from doing so on account of their general outlook and political views. In such cases the State has no power to exercise compulsion. Compulsion with such an end in view would, indeed, constitute a violation of the equality principle embodied in Article 73 of the Danzig Constitution, such as those of which the petition so frequently complains.

It is therefore superfluous to go into details. Suffice it to say that the Winter Relief Organisation to which the petition refers is not a State but merely a party organisation. Similarly, it may be pointed out that there is nothing to prevent the organisation of a Jewish Fair, on the lines of the " Brown Fair ", which would be accorded exactly the same privileges in the matter of the luxury tax. The Brown Fair cannot therefore be regarded as an inequitable privilege bestowed upon one group alone, and, in any case, it, too, is a private institution.

" Conclusion " and " Motions "

The foregoing explanations bring the Government of the Free City of Danzig to a conclusion which is the exact opposite of that set out in the petition—namely that the position of the Jewish

nationals in Danzig is completely in accordance with the position guaranteed to them in the Constitution and the minority provisions of Article 33 of the Paris Treaty That the position of the Jews has for the time being changed somewhat for the worse cannot be denied, that, however, cannot be attributed to a violation by the Government of the provisions of the Constitution and the minority clauses, but merely to the attitude of the people, which it is impossible to influence or blame. It is because their general outlook and political attitude have changed that the people will have nothing to do with the Jewish elements of the population. *The Government has carried out the duties incumbent upon it as regards the Jewish section of the population of the Free City and of the Jewish minority, and will continue to do so in the future.* It believes, however, that the people's attitude to persons of Jewish extraction will not be improved if it becomes generally known—which has not hitherto been the case—that the Jews have decided to avail themselves of the right of petitioning, which is not denied them. The Government therefore regrets that such a course should have been adopted. It also considers that such complaints, some of which go into ridiculous details —as, for example, in the passage of the petition where the complaint is made that no orders for cloth were placed with a Jew " who was the only trader in shoes and textile goods " in the *village* of Gross Trampken—should not be heard before the world tribunal of the League of Nations, but would better be dealt with within the State of Danzig than outside. *The work of strengthening the State, which is earnestly striving to give effect, as far as permissible within the framework of the Constitution, to great political and social ideas of an entirely unexceptionable nature, cannot be furthered if small sections of the community attempt to hamper its action because their own petty individual interests are supposed to be injured.* This point of view, which seeks to strengthen the authority of the State and in that manner to develop a strong State organisation in Danzig which would foster justice and order and serve the cause of international peace, must obviously be the nobler, loftier and more valuable conception, to which petty interests might legitimately be sacrificed, though we are not asking that this should be done.

I therefore request that, when the petition is considered, this high conception of the importance of the Free City of Danzig may not be left out of account and that the dozens of trivialities which have been cited may be ignored.

As regards the *motions*, all that need be said, for form's sake, is as follows:

Ad 1. The motion for the cancellation of the nine decrees referred to is unjustified.

Ad 2. The motion for " reparation " and " non-repetition of this wrong in future " is unjustified.

Ad 3. The demand for protection of the honour of all citizens has already been acceded to. Without being unconstitutional, the special decree dealing with this matter is not applicable to Jews.

Ad 4. The boycott is being suppressed. Further legislative measures are not necessary.

C.219.1935.VII.

2. SUPPLEMENTARY PETITION, DATED MAY 14TH, 1935, FROM THE " VEREIN JÜDISCHER AKADEMIKER " TRANSMITTED TO THE SECRETARY-GENERAL THROUGH THE INTERMEDIARY OF THE HIGH COMMISSIONER OF THE LEAGUE OF NATIONS AT DANZIG, TOGETHER WITH THE OBSERVATIONS OF THE SENATE OF THE FREE CITY RELATING THERETO.

[*Translation furnished by the Petitioners.*] Danzig, May 14th, 1935.

To the petition we have presented you in connection with the Union of the Independent Jewish Tradesmen and Workmen in the Free City of Danzig, April 8th, 1935, we allow us to add the following facts:

The *Danziger Gesetzblatt*, May 8th, 1935 (No. 40, page 109), publishes a new Decree for altering the Law of the Industrial Court, that admits all advocates, without any exception, to plead in the Danzig Industrial Court. Herewith the complaint of our petition, treated in the section " Legislation " cipher 4, is adjusted and the aim of this complaint is attained.

On the other hand, we are compelled to add a new complaint to our petition. In the *Gesetzblatt für die Freie Stadt Danzig*, No. 42, a Decree, May 6th, 1935, is published on account of the career of the higher law and governmental service officials. We think this Decree to be unconstitutional on account of the following reasons and we fear that this Decree will, above all, injure the Jewish jurists. This Decree seems to have the aim to generalise the anti-Semitic and unconstitutional treatment of examined Jewish referendaries, mentioned in our petition. By this generalisation they try to refute the reproach that the former treatment of the referendaries in question has been evoked by their being Jews. Such an attempt of justification is perfectly wrong.

We have doubtlessly proved, I think, in our petition that, according to the official declarations of the *Justizsenator* the referendaries have been refuted on account of their so-called want of

" union with the nation "—that is to say, on account of their being Jews; while other non-Jewish referendaries who had worse passed their examinations than the Jewish ones had been urgently called for law service and have been appointed helping judges immediately after their examination. This unconstitutional fact cannot be changed by an attempt to veil it by a general legislation.

The mentioned Decree of May 6th, 1935, is unconstitutional and invalid on account of formal and positive reasons. According to Article 43 of the Constitution, a law is to be enacted by a common resolution of Parliament and Senate. Parliament has to co-operate in all laws and thus also in all decrees with legal power. The only exception is that for a certain time the Parliament may transfer its legal power to the Senate by a so-called *Ermächtigungsgesetz*. On such an *Ermächtigungsgesetz* the Senate has based the mentioned Decree of May 6th, 1935, for it refers to §§ 1 and 2 of the Law of June 24th, 1935 (*Danziger Gesetzblatt*, page 273). This law, indeed, was an *Ermächtigungsgesetz*. But it has not been enacted by the present but by the former Parliament. It is neither legal nor constitutional for a Parliament to transfer (the Senate) the power of legislation beyond the period of its own existence. It is possible, it is true, for a Parliament, and by delegation for the Senate too, to enact laws that shall and are valid beyond the existence of the Parliament. But the condition is that these laws have still been enacted during the period of the Parliament in question. Otherwise, the Parliament would get the right to make testaments. That is not compatible with a democratic Constitution. Because every Parliament has to pronounce its legal will only for that period it has been chosen for. Therewith it is doubtlessly proved that the *Ermächtigungsgesetz* of June 24th, 1933, has reached its end with the Parliament dissolved in February 1934. The will of the legislator himself seems to go in the same direction. § 4 of the Law of June 24th, 1933, namely runs: " This law is to be made invalid at the latest June 30th, 1934 " That was the time when the normal period of the Parliament, chosen in the year 1933, had reached its end. Nobody could yet know at the enactment of the law that it would be dissolved before that time.

Therewith it is proved that the Decree enacted with legal power May 6th, 1933, contradicts formally the Article 43 of the Constitution, but it contradicts also positively the Articles 61, 73, passage 1, and 91 of the Constitution. It prescribes that the referendary who has passed the great examination has to leave the official service immediately after having got his certificate, that afterwards, according to his demand, a time of probation of one or two years may begin for him but that even his admittance to the service of probation is revocable and shall only take place if the candidate is considered to be especially apt, not only on account of his attainments, but also on account of his " personality " and that otherwise the whole time of probation may be abolished or shortened if the candidate, on account " of his whole personality ", is highly qualified for becoming a judge, a public prosecutor or a higher official in administration. It is clear that by this way ever so talented a referendary may be excluded from the higher law and administrative service, if he does not please the Senate on account of his religion, his race or his political conviction. This violates, firstly, Article 73, 1, of the Constitution, that prescribes that all citizens of the State are equal before law, and have to be treated in the same way It violates too Article 61, that demands judges to be independent and only submitted to law. This important principle is at least highly endangered by this Decree. For every helping judge, fearing to be dismissed again from the service of probation, will try in his own interest not to displease by his administration of justice. Especially he will be tempted to decide against his conviction in favour of the State in lawsuits against it and to favour the political party of the just governing Senate in all political lawsuits. Thus the Decree gives way to worthless and dependent judges, while jurists of a firm character who have another conviction than the just governing Senate are excluded from law service. This violates, too, Article 91 of the Constitution, according to which all subjects of the State are to be admitted correspondingly to their capacities and their attainments. The Decree, it is true, speaks also about the attainments of the candidate, but it does not speak about their capacities, but instead of it about their " personality ", what in the practice of the National Socialists does not mean anything else than a perfect dependence on the National-Socialist programme. On account of these reasons we add to our petitions the demand that the League of Nations might request the Senate to revoke the Decree of May 6th, 1933.

On this occasion we must say that, with exception of the altered law for the Industrial Court, all the other complaints of our petition have remained disregarded. We even have to complain in a still higher degree than before of the fact that National-Socialist leaders attack the honour of the Jewish population in the hardest way According to the enclosed *Danziger Vorposten* of May 3rd, 1935, the District Leader Forster has tried to justify the devaluation of the Danzig gulden in a public meeting. Pointing towards a placard with the inscription " The Jews are our misfortune " hanging in the hall, he said that especially the last weeks and days have shown, more than ever, the evidence of this sentence, pronounced by a great historian. Herewith he makes the perfectly unfounded and defaming attempt to make the Jewish population responsible for the devaluation of the gulden, the real causes of which are surely known to your Excellency and are therefore not to be explained here. The Danzig Senate, however, has disregarded this public offence of the Jews by the German district leader as well as all the other numberless defamations committed by him.

In an energetic way, we therefore anew levy our protest against the toleration of such public defamations. They must incite the non-Jewish population against the Jewish one and trouble peace and order in the State. They prove again that, contradictory to the Constitution, the real Government of the Free City is not represented by the Danzig Senate but by a subject to the German Empire, and that the constitutional and guaranteed equality of the Jewish minorities has been disregarded.

Union of Jewish Academicians.

(Signed) GERSON.

Chairman.

OBSERVATIONS OF THE SENATE OF THE FREE CITY.

[*Translation from the German.*] Danzig, May 16th, 1935.

To the High Commissioner.

The Senate of the Free City of Danzig has received a supplement, dated May 14th, 1935, to the petition of April 8th, 1935, submitted by the "Verein Jüdischer Akademiker" and the "Vereinigung selbständiger Jüdischer Danziger Gewerbetreibender und Handwerker in der Freien Stadt Danzig"

I beg to communicate to you herewith the following observations on this supplement.

(Signed) WIERCINSKI-KEISER.

The Government of the Free City has the honour to submit the following reply to the petition of May 14th, 1935, supplementing that of April 8th, 1935, submitted by the "Verein Jüdischer Akademiker" and the "Vereinigung selbstündiger Jüdischer Danziger Gewerbetreibender und Handwerker in der Freien Stadt Danzig"

The only new point dealt with in the petition is the Ordinance—issued subsequently to the original petition—dated May 6th, 1935 (*Gesetzblatt*, page 631), regarding the careers of the officials in the higher judicial and administrative service.

The grounds of objection are two-fold.

1. The basis of the Ordinance—namely, the Enabling Act *(Ermächtigungsgesetz)* of June 24th, 1933 (*Gesetzblatt*, page 273)—is contested. It is claimed that this Act no longer forms an adequate basis, since it was passed by the previous Popular Assembly and therefore became invalid when the Assembly came to an end. This interpretation is erroneous. Any law—and the Enabling Act is after all a law—remains in force until it is abrogated by a special Act or through the lapse of its prescribed period. No act of abrogation has been passed, and the only provision regarding the expiration of the period of validity is as follows:

(1) Date of expiration, June 30th, 1937—*i.e.*, a date by which the Popular Assembly elected for four years on May 28th, 1933, would in any case have ceased to exist;

(2) Any other date to be decided by the Senate (§ 4, paragraph 3). No such date has yet been fixed by the Senate.

The expression "at latest" used in § 4 means simply that, unless a decision to terminate it is taken, the law will cease to be valid at latest on June 30th, 1937. I would point out that the new Popular Assembly could easily have decided to retain the Enabling Act in force had it thought such a decision necessary; for it has the same National-Socialist majority as the Popular Assembly which passed the Enabling Act. There is therefore no doubt that this Act still meets the views of the majority of the Popular Assembly—that is to say, of the Assembly itself.

Moreover, the previous Government also made use of the Enabling Act, which was then in force, at a time when the new Popular Assembly was already in existence. No party raised any objection. Thus, after the new election of May 28th, 1933, the former Senate promulgated the Ordinance of June 17th, 1933 (*Gesetzblatt*, page 268), in virtue of the former Enabling Act, and still regarded that Act as a sufficient basis.

2. Further, it is claimed that the new Ordinance is contrary to Articles 61, 73 and 91 of the Constitution. The objections raised on this point are conclusively refuted in the Senate's previous reply The only new point is the allegation that the Ordinance contravenes Article 61. Article 61 provides for the independence of *judges*. This matter, however, relates, not to judges, but to applicants for judicial functions. It cannot seriously be contended that *applicants* already possess the independence of judges, especially since the regulations also relate to candidates for the higher

posts of the *administration*, to which Article 61 does not apply The allegation that the Ordinance is directed against the Jews is erroneous and incapable of proof. If the instructions regarding the selection of future candidates for the higher posts in the State judicial administration are examined, it must be acknowledged that they are framed on wholly *general* lines, and really do not affect Jews alone. The State's requirements as regards its officials are clearly formulated for *all* without discrimination—Christian candidates as well as others—and prescribe strict selection among the Christian candidates themselves. The statement attributed to the senator in charge of the Department of Justice, which is to-day even described as " official ", was *never* made at all. That, too, was sufficiently clearly proved in the previous reply

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V PETITION FROM THE DIRECTORS OF THE *DANZIGER VOLKSSTIMME*.

C.203.1935.VII.

1. LETTER, DATED MAY 9TH, 1935, FROM THE HIGH COMMISSIONER OF THE LEAGUE OF NATIONS AT DANZIG TO THE SECRETARY-GENERAL, TRANSMITTING A PETITION, DATED APRIL 13TH, 1935, FROM THE DIRECTORS OF THE *DANZIGER VOLKSSTIMME*, TOGETHER WITH THE OBSERVATIONS OF THE SENATE OF THE FREE CITY RELATING THERETO.

Danzig, May 9th, 1935.

I have the honour to enclose herewith a copy of a petition, dated April 13th, from the directors of the *Danziger Volksstimme*, the daily newspaper issued here in the interests of the Social-Democratic Party concerning the Press Law of June 30th, 1933, and its application.

I also enclose the observations of the Senate with regard to this petition and other relevant documents [1] which, it seems to me, may be useful to the Council in considering the matter.

In requesting that the matter should be considered by the Council at its approaching meeting, I beg to refer to the letter, dated June 10th, 1925,[2] approved by the Council and subsequently addressed to the High Commissioner, relative to the procedure to be followed regarding petitions which relate to the danger of infringement of the Constitution of Danzig, placed under the guarantee of the League of Nations.

(Signed) Sean LESTER,
High Commissioner

PETITION FROM THE DIRECTORS OF THE " DANZIGER VOLKSSTIMME "

[*Translation from the German.*] Danzig, April 13th, 1935.

On behalf of the publishers and editors of the *Danziger Volksstimme*, I venture to draw your attention to the prohibition of the *Danziger Volksstimme* ordered on April 10th, 1935, by the Danzig Chief of Police and the numerous seizures of the newspaper which preceded that prohibition, and I request you to take steps to ensure that this prohibition, which represents an infringement of the free expression of opinion guaranteed by Article 79 of the Constitution of the Free City of Danzig, be raised and that measures be taken to protect the *Danziger Volksstimme* against the recurrence of such seizures and prohibitions, which are contrary to the Constitution and which prevent the circulation of the newspaper and are causing its financial ruin.

Since the Council's decision of January 18th, 1934, regarding the guarantee of freedom of the Press in Danzig, the *Danziger Volksstimme* has now been prohibited for the sixth time. On June 26th, 1934, it was prohibited for six months on the ground that the column " Streiflichter " in Nos. 141 and 144 of June 20th and 23rd, 1934, contained " statements which, expressed in cautious but unmistakable terms, accused the Danzig Government and its individual members of having violated the Constitution ". After an appeal, this prohibition was rescinded by the Senate at the end of sixteen days.

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[1] *Note by the Secretary-General.* — These documents consist of the letters addressed to the High Commissioner by the Senate which are mentioned on page 12 of the Senate's observations, (See page 868 of the *Official Journal*) together with the newspapers and articles in question. They have been placed in the Archives of the Secretariat, where they may be consulted by members of the Council.

[2] See *Official Journal*, July 1925, page 950.