

authoritatively interpreted and shown to be applicable by a decision given by General Haking on December 23rd, 1922, and a letter addressed by General Haking on January 6th, 1923, to the Commissioner-General of the Polish Republic at Danzig. He has accordingly (paragraph 18 of the decision of February 2nd, 1925) reaffirmed, in language intended to make explicit its application to the present dispute, the decision which he considers General Haking to have given.

"The Council has the honour to request the Permanent Court of International Justice, in conformity with Article 14 of the Covenant, to give an advisory opinion upon the following questions:

- " 1. Is there in force a decision of General Haking which decides, in the manner stated in paragraph 18 of the present High Commissioner's decision of February 2nd, 1925, or otherwise, the points at issue regarding the Polish postal service, and, if so, does such decision prevent reconsideration by the High Commissioner or the Council of all or any of the points in question ?
- " 2. If the questions set out at (a) and (b) below have not been finally decided by General Haking:
 - " (a) Is the Polish postal service at the Port of Danzig restricted to operations which can be performed entirely within its premises in the Heveliusplatz, or is it entitled to set up letter-boxes and collect and deliver postal matter outside those premises ?
 - " (b) Is the use of the said service confined to Polish authorities and officials, or can it be used by the public ?

"The Secretary-General is authorised to submit this application to the Court, together with all the documents relating to the question, to explain to the Court the action the Council has taken in the matter to give all the necessary assistance for the examination of the case, and, if necessary to take steps to be represented before the Court."

M. SKRZYNSKI said that, in questions of this kind, the Senate of the Free City could appeal to the Council of the League but not to the Permanent Court of International Justice.

M. SAHM asked whether the representative of Poland contested the right of the Free City to defend its case before the Permanent Court of International Justice.

The PRESIDENT said that it was not an appeal by Poland or Danzig to the Permanent Court of International Justice but a point of great difficulty on which the Council desired to have the advice of the Court. It would be for the Court to call before it anyone whom it wished to hear before giving its opinion.

M. QUIÑONES DE LEÓN said that the Minutes of the meeting should be included in the documents to be sent to the Court.

The Council adopted the resolution proposed by M. Quiñones de León.

1461. Free City of Danzig Principles applicable to the Conclusion of Agreements between Danzig and Poland.

M. QUIÑONES DE LEÓN read his report (Annex 747), which concluded as follows:

"As regards the expression 'ratification' there is no reason why this term should not be employed in the relations between Poland and Danzig. The important point is to realise the concrete and limited character of the question submitted to us. In paragraph 18, No. 5, of the High Commissioner's decision, it is stated that 'a distinct undertaking to ratify the agreement under notice must be put into effect'. The interpretation which I give to this sentence is that, if Poland desires definitely to give effect to the Agreement concluded, the formalities of ratification must be observed. That being the case, the sentence in question calls for no comment.

"I consider that the High Commissioner, in deciding the question of ratification in the manner indicated above, has settled the real point at issue in the dispute which was submitted to him.

"Further, the expression 'State' is used in such a general sense and is applied under such different conditions that the Council will not consider it necessary to examine the meaning of this term and its application to Danzig. The international status of the 'Free City' is defined by the Treaty of Versailles.

"I have the honour to propose the following resolution:

"The Council approves the present report, which will be substituted for the High Commissioner's decision of November 7th, 1924."

M. SKRZYNSKI said he accepted the resolution.

M. SAHM took note with satisfaction of the opinion of the Rapporteur to the effect that Poland had to undertake to ratify the Agreement dated July 22nd, 1922, concerning the railway traffic. Although in this special case Danzig had received full and complete satisfaction, he regretted that the decision of the Council had been limited to this point and that it had not made

clear its attitude in regard to the rest of the decision of the High Commissioner. This decision clearly laid down once more that Danzig was a State in the international sense of the word. It was precisely for this reason that Danzig had concerned itself with this dispute and had demanded a ruling.

Danzig had no doubts as to its status as an independent State. No State other than Poland and no international organisation had contested its position. Owing to the fact that its status had been called in question, a general discussion had arisen between Danzig and Poland in regard to the definition of the term 'independent State'. This divergence of view would certainly give rise to fresh disputes, for the Free City would always remain convinced of her status as an independent State and maintain that conviction even in relations with Poland.

Mr. MACDONNELL said that a dispute on the above point had formed the substance of a case presented to him, and in consequence he had found difficulty in settling the particular dispute without determining the question of principle. He hoped that the way in which the case had been settled by the Council would prevent the realisation of a possibility mentioned by the President of the Danzig Senate — namely, that this dispute might recur in another form.

M. QUIÑONES DE LEÓN asked the Council, in the event of its approving his report, to add to it the recommendation made by the High Commissioner to the effect that disputes of a similar nature should not in future be brought before the Council.

The PRESIDENT agreed with the Rapporteur.

The resolution, with the addition suggested by M. Quiñones de León, was adopted.

1462. Free City of Danzig. Polish Railway Direction at Danzig.

M. QUIÑONES DE LEÓN read the following report:

"On December 12th, 1922, the High Commissioner of the League of Nations at Danzig took the following decision in virtue of Article 39 of the Treaty between Poland and the Free City of Danzig dated November 9th, 1920:

"Poland has no right to establish on Danzig territory a railway direction which deals with the management of railways other than those situated within the territory of the Free City except by agreement with the Free City of Danzig.

"In virtue of the same Article 39, Poland lodged an appeal with the Council of the League of Nations against the High Commissioner's decision and, after several attempts at conciliation, the Council decided, at its meeting in Rome on December 12th, 1924, to ask the opinion of a committee of three jurists, one of whom must have made a special study of railways, with regard to the following question:

"Was the High Commissioner's decision of December 12th, 1922, in conformity with the treaties, decisions and agreements in force?"

"The Committee consisted of:

"Jonkheer W. J. M. VAN EYSINGA, Professor at the University of Leyden,
"M. NIQUILLE, Director-General of the Swiss Federal Railways and
"M. C. VIVANTE, Professor at the University of Rome.

"After studying the documents submitted to it by the Secretariat of the League, especially the Danzig and Polish memoranda summarising the arguments of the two parties, the Committee met at Geneva on February 18th and 19th, 1925, and formulated an opinion which has been communicated to the Members of the Council (Annex 748). The conclusions of this opinion constitute a reply in the affirmative to the question put to the Council.

"There is no need, I think, to examine in detail the arguments advanced by the jurists. I consider that the Council should base its decision on the conclusion reached in the opinion and should confirm the High Commissioner's decision of December 12th, 1922.

"Before proposing a resolution, I venture to remind the Council that this matter has been held over for some time in the hope that the parties would reach an agreement. In his decision, the High Commissioner speaks of the possibility of such an agreement, and the fact that the Council confirms the decision should not be taken to mean that it is now indifferent on the question of this agreement or that it no longer wishes it to be concluded. On the contrary I think it would be desirable that the efforts which have been made for the last two years to determine the conditions on which the Polish Railway Direction could remain at Danzig should be brought to a successful conclusion, and I hope the two parties will make a fresh attempt to reach such an agreement.

"I beg to propose the following resolution:

"The Council adopts the Spanish representative's report of March 13th, 1925, regarding the Polish Railway Direction at Danzig, and confirms the High Commissioner's decision of December 12th, 1922, on the same subject."

M. STRASBURGER said that the railway direction which was at present established at Danzig had not been placed there by the Polish authorities but was already in existence before the war — in fact, since 1895. The direction of the railways was a source of profit to the Free City and