I. The question of the deposit for Polish war material in transit had already on several occasions engaged the attention of the Council when, on December 14th, 1925, the latter invited the Chairman of the Advisory and Technical Committee for Communications and Transit and the President of the Permanent Advisory Commission on Military, Naval and Air Questions each to appoint two experts to form a Committee of Enquiry. This Committee visited Danzig during January and February 1924, and recommended the Roßpunkt peninsula as a site for the depot of Polish war material. On March 14th 1925 the Council adopted a resolution from which I extract the following passages:

"(a) The Westerplatte peninsula shall be placed at the disposal of the Polish Government, solely for the purpose of the unloading, storage and despatch to Poland of war material and explosives in transit. The ownership of the peninsula shall be transferred, according to the provisions of M. Quiñones de León's report of March 14th 1924, to the Harbour Board, but the exclusive use of this area for the purpose mentioned above shall be permanently leased to Poland, without payment of rent, taxes or any other charge.

"(b) The Harbour Board shall be requested to provide immediately for the construction of the basin and the railway extension provided for in the report of the Committee of Enquiry dated February 8th 1924, and to plan for its completion within one year. Any question concerning the execution of this work or of its financing by the Board shall be finally settled by the decision of the Board."
"(g) After Poland has begun to use the Westerplatte peninsula, the Polish Government alone shall be responsible for providing any reasonable compensation for injury to individuals and damage to property in the event of an explosion of her munitions or other explosives in transit through the territorial waters or territory of the Free City, such compensation being fixed at the time by agreement between the two Governments."

The report which I had the honour to submit to the Council on this occasion was accompanied by a map showing the landward boundary of the peninsula. A red line was also drawn on this map, marking off a strip of ground, 150 metres wide, upon which Poland was not to erect any buildings which might subsequently place difficulties in the way of using this ground for a new harbour entrance.

II. In a report to the High Commissioner, dated June 4th, 1925, which was communicated to the Council, the President of the Harbour Board suggested that, for technical reasons, the Council's resolution of March 14th, 1924 should be amended and supplemented in regard to delimitation. He explained that part of the Harbour Board's repair shops were situated on the strip of ground shown in red on the above-mentioned map. He suggested that the south-eastern boundary between the peninsula and the mainland should be a straight line drawn 200 metres to the north-west of the repair shops, and cutting across the isthmus from south-west to north-east. As regards the other boundaries of the peninsula, he suggested that strips of ground should be left to the Harbour Board to enable it freely to carry out any work for the protection of the port against the action of the sea, the upkeep of the mole (on which the light-house is situated) and the quays along the Vistula in a proper state of repair for shipping to moor alongside.

These proposals by the President of the Harbour Board
were laid before the Danzig and Polish delegations to the Board. The Danzig delegation declared itself in agreement with the Chairman's conclusions, but the Polish delegation, whilst making concessions, did not see its way to accept them in their entirety.

On June 4th 1925, the High Commissioner suggested that this matter be placed on the agenda of the Council meeting in June 1925. At its meeting on June 11th, however, the Council decided not to deal with this question, but to let the matter pursue its course, as the documents had reached it too late and one of the parties had stated that it was not ready to discuss the question.
In a subsequent letter, dated June 12th, the High Commissioner asked for the matter to be placed on the Agenda of the present session of the Council. He explains in his letter that the President of the Harbour Board does not feel disposed to give a decision as he considers that his decision would necessarily bring him into conflict with the Council's resolution of March 14th, 1924. The High Commissioner is of the same opinion and does not feel that he can himself settle the point at issue by means of a decision. He has, therefore, referred the matter to the Council. In the High Commissioner's opinion the question should be settled in the manner indicated in the Report of the President of the Harbour Board and, since the Council of the League has already left matters of detail concerning the execution of the work on the Westerplatte to the final decision of the Harbour Board, the High Commissioner suggests that, failing agreement between the two parties, this body should similarly be left to decide on modifications resulting from delimitation.

III. On August 15th 1925, the High Commissioner forwarded to the Secretary-General the observations made by Danzig, in which the Free City stated that it was in agreement with the proposals for a settlement made by the President of the Harbour Board. The Senate took the view that there was no question of a modification of the Council's resolution of March 14th 1924; all that was involved was the execution of the resolution.
For this reason the Senate held that the Harbour Board was competent to give a final decision in the matter of delimitation.

On August 14th, 1925, the High Commissioner forwarded the observations of the Polish Government. The Polish Government first of all raised objections to the procedure adopted. It held that Article 39 of the Treaty of Paris did not apply in this case, since no dispute between Poland and the Free City of Danzig involving a decision by the High Commissioner had arisen. (According to the Polish note of September 1st - see below - the fact of a dispute having arisen was recorded in the High Commissioner's office on August 27th, 1925).

The Polish Government contended, moreover, that the fact of a decision having already been given by the Council in its resolution of March 14th, 1924, not only precludes the President of the Harbour Board and the High Commissioner from reconsidering the matter, but also leaves no legal ground for a fresh examination by the Council, unless the parties concerned give their consent. The Polish Government also pointed out that the prospect of this question of delimitation being reconsidered might serve as a pretext for further delay in handing over the Westerplatte to Poland. Without wishing to discuss the merits of the question, the Polish Government pointed out to the Council that the decision of March 14th, 1924 was a complete decision which must be taken as a whole.
This decision was intended to ensure the isolation of the Westerplatte from its surroundings to the greatest possible extent. Isolation of this kind was unquestionably the reason for making the Polish Government entirely responsible for any unfortunate accidents which might occur in connection with the Polish war material depot. The Polish Government declared that it was prepared to continue negotiations with the Senate of the Free City on the points raised by the President of the Harbour Board, and stated its belief that mutual agreement was the only possible means of settling the questions under discussion.

In a further letter dated August 19th, 1925, the Polish Government made a number of observations on the Danzig Senate's note. In addition to arguments already contained in its first note, it pointed out that, in accordance with the resolution of March 14th, 1924, the powers of the Harbour Board to give a final decision in any questions which might arise are strictly limited to the carrying out of the work and to the financial arrangements in connection with the establishment on the Westerplatte.

Negotiations were begun but not continued. The two Governments have submitted further observations on this matter, Danzig in a note dated August 27th, and Poland in two notes dated September 1st and 4th respectively.
In the note dated August 27th, Danzig declares that under the terms of the Council's resolution of March 14th 1924, the ownership of the Westerplatte Peninsula shall be immediately transferred to the Harbour Board, and the exclusive right of use of this land shall be granted permanently to Poland. Ownership can only be transferred to the Harbour Board if the Board does not already possess it. But a part of the land on the Westerplatte was already the property of the Harbour Board in virtue of a Resolution of the Conference of Ambassadors regarding the allocation of former German public property. That part of the Westerplatte which was not assigned to the Harbour Board was handed over to the Free City of Danzig. Under the terms of the Council's Resolution of March 14th, 1924, the use of this latter property and of it alone, was to be granted to Poland, and the right of ownership to this land was to be transferred from the Free City to the Harbour Board. On the other hand, the land already assigned by the Conference of Ambassadors to the Harbour Board might fulfill its obligations, was not to be affected by the Council's Resolution and therefore Poland's right of use was not to extend to this land.

Poland in her two last notes maintains that the property of the Harbour Board belongs from an economic
point of view to Poland and Danzig in common. The question of the utilization of certain land belonging to the Harbour Board may therefore be the subject of a decision by the High Commissioner or of a Resolution of the Council of the League of Nations. Further, the Allocation Committee in a letter of March 9th, 1922 stated emphatically that it must be understood that allocations carried out by it related solely to rights of ownership over the property allocated, and in no way related to decisions which may have been given or which might subsequently be given, either by the High Commissioner or by the Council of the League of Nations, with regard to the administration or the use of this property (such questions as for instance, the site of the depot for war material, or the port attache for Polish warships). The Polish Government maintains that the intention of the Council was to grant to Poland the use of the whole of the Westerplatte.

IV. The first problem to be examined is whether the Council in its Resolution of March 14th 1924 settled the various delimitation questions now brought before us. My own opinion is that on that occasion the Council did not enter into these questions, which had not at that time even raised, either in the report of its experts or by either of the two parties. The line indicated in my report of March 14th 1924, which approximately marked the boundary between the peninsula and the main land was traced without noticing at the time that this line would include in the territory reserved for Poland for her depot for munitions in transit some of the Harbour Board's installations. It is certain that the Council did not intend by this decision to hamper in any way the free exercise by the Harbour Board of the
future duties entrusted to it. If the Council of the League has decided to put the Westerplatte Peninsula at the disposal of the Polish Government to be used "exclusively" for the unloading, etc., of war material and explosives in transit and if it has granted to Poland the "exclusive" use of this land for the purposes indicated, it certainly did not mean to exclude the normal activities of the Harbour Board, which is responsible for the security and satisfactory working of the Port. I consider therefore, that to fix certain limits to the activities of the Harbour Board as regards the site reserved for the Polish Government would not involve a modification of our 1924 Resolution.

The second problem to be examined concerns the legal question raised by Danzig in the Note of August 27th relating to the right of ownership over certain parts of the Westerplatte Peninsula which was granted by the Conference of Ambassadors to the Danzig Harbour Board. The views of the two Governments have been quoted above. I have come to the conclusion that in the decisions of the Conference of Ambassadors regarding the allocation of property formerly belonging to the German State, there is nothing inconsistent with our decision of March 14th 1924. By this decision the Council intended to put at Poland's disposal the whole of the Westerplatte Peninsula - the only exceptions being those which might result from the exercise of its duties by the Harbour Board. It is for the Harbour Board to decide - taking into account the new situation created by the installation of a Polish Depot for war material - whether it needs the whole or a part of the land mentioned by the Allocation Committee.
The reason for bringing this question before the Council is that the President of the Harbour Board and the High Commissioner thought that they ought not to give a decision in the matter which would bring them into conflict with our resolution of 1924. The legal question concerning the relation between the decisions of the Conference of Ambassadors and the Council's resolution of March 14th, 1924, was raised later. If the Council adopts my view, all doubts with regard to the real scope and validity of this resolution will be removed and the Harbour Board will be able to proceed to the necessary delimitation. With regard to the boundary (indicated by the line mentioned in the report of March 14th, 1924) between the peninsula and the main land, which was fixed with an inadequate knowledge of local circumstances, I hope that all parties interested will agree that the Harbour Board should be authorised to examine this boundary also in order that a practical and satisfactory solution may be found.

The question raised by Poland of obviating the risk of accidents will certainly be very carefully considered by the Harbour Board, which will not take a decision until it has obtained the advice of one or two experts chosen in agreement with the Secretary-General. Under these conditions, I think that no appeal should be allowed against the Harbour Board's decision.

Finally I am of opinion that Poland is entitled to take possession of the Westerplatte peninsula as soon as possible, and I hope that the delimitation will be completed shortly in order that the transfer to Poland may be effected without delay.

RESOLUTION:
The Council adopts the conclusions of the present report.