LEAGUE OF NATIONS.

Communicated to
the Council.

C.391.1939.V.

Geneva, December 12th, 1939.

COMPLAINTS FROM FORMER OFFICIALS OF THE GOVERNING COMMISSION OF THE SAAR TERRITORY.

Report by the Secretary-General.

On 27th May, 1939, I had the honour to make a declaration to the Council which appears in the minutes in the following terms:

The Secretary-General reminded the Council of the complaints put forward on various occasions by former officials of the Governing Commission of the Saar Territory in regard to the prejudice occasioned to them by the expiry of the powers of the Governing Commission, and their attempts in that connection to invoke the responsibility of the League of Nations.

The Members of the League having never admitted any financial responsibility for the acts or orders of the Governing Commission in the exercise of its functions as laid down by the clauses of the Treaty of Versailles, the Council had consulted a Committee of Jurists, which had heard the complainants. The Committee of Jurists having returned a negative opinion, the Council had not admitted any legal basis for the complaints of these ex-officials; but, on humanitarian grounds, it had made them grants ex gratia (1) on two different occasions.

The complainants nevertheless contended that they had been condemned without both sides being heard; and their contention had given rise to a movement of public opinion in their favour. At each successive session, the President of the Council for the time being had been the recipient of petitions and requests. The Secretary-General was himself convinced that the Council, though unable to admit any pecuniary responsibility on the part of the Members of the League, for which there was no legal basis, would nevertheless be reluctant to have its previous decisions - which were pure acts of kindness on its part - represented as denials of justice. It was, in his opinion, desirable to give the complainants an opportunity to state their grievances in some form which would ensure both sides' being heard, so as to close the matter by a final decision. If the Council agreed, he would make proposals for the purpose at the opening of the next session.

The Council having agreed, I have now to submit a proposal.

The proposal which I feel able to make to the Council will be found in the attached draft resolution, the object of which is to submit the question under consideration to the Permanent Court of International Justice. The provisions of the Court's Statute make it necessary that the Court should be asked for an advisory opinion.

(1) See Annex.
The draft provides that the persons concerned shall themselves set out the claims which they consider themselves entitled to make in connection with the cessation of their functions in the Saar Territory, together with the arguments in support of these claims. The memorandum which they will lodge for this purpose will be followed by a statement on my part, and a further exchange of memoranda may, if necessary, take place. All these statements will be transmitted to the Court.

With the same desire to avoid any inequality of opportunity for submitting arguments to the Court, it is provided that the League of Nations renounces from the outset the opportunity of presenting written or oral statements, which is provided for in Article 55 of the Court's Statute, if the complainants cannot be given the same opportunity.

The members of the Council will not fail to perceive the gravity of the issues involved. Enquiry into the validity of the present claims involves the question whether, having regard to its constitution and the principles of international law which are applicable, it is possible that the League of Nations should have incurred financial responsibility by reason of accomplishing a function of the character given it by Section IV of Part III of the Peace Treaty of Versailles. A question of principle involving such grave consequences should, it would seem, be elucidated by a judicial body having the authority and special experience which the Members of the League of Nations, which are all interested in the matter, are entitled to expect for such a purpose. In my opinion, only the Permanent Court of International Justice fully satisfies this condition and it is for this reason that I propose recourse to the Court.

Draft Resolution.

THE COUNCIL OF THE LEAGUE OF NATIONS,

Being desirous that it should be made clear by the highest judicial authority what is the legal position of the League of Nations in the matter,

Decides as follows:

1. A period expiring on March 31st, 1940, shall be allowed to M. Danzebrink, Lauriolle, Lehnert, Machts and Ritzel, for lodging with the Secretariat, jointly or singly, a memorandum or memoranda addressed to the League of Nations, setting out, together with the arguments upon which they rely, the claims which they make against the League of Nations in connection with the cessation of their services as officials of the Governing Commission of the Territory of the Saar Basin.

The complainants shall choose an address at Geneva to which all communications intended for them may validly be addressed.
Within ninety days from April 1st, 1940, the Secretary-General will furnish a statement of the point of view of the League of Nations regarding the memorandum or memoranda lodged before that date.

Within sixty days from the dispatch of the Secretary-General's statement the complainants, if they so desire, may lodge an additional memorandum to elucidate further the questions at issue. If they use this opportunity, the Secretary-General may himself produce another statement within sixty days.

The President of the Council may prolong the periods fixed above.

2. The above-mentioned documents shall be transmitted to the Permanent Court of International Justice at the same time as the request for an advisory opinion provided for in paragraph 3 of the present resolution. The Court will, of course, remain free to take account of any other element of fact or law which may be relevant for the purpose of giving the advisory opinion which is requested.

3. In virtue of the present resolution, which he will communicate to the Permanent Court of International Justice, the Secretary-General of the League of Nations, on behalf of the Council, shall lay before the Court a request for an advisory opinion of the Court upon the following questions:

a) Has the League of Nations any legal obligations towards the authors of the memoranda lodged in accordance with article 1 of the present resolution in connection with the claims formulated in these memoranda?

If the answer is affirmative, on what basis of law and of facts, duly proved, are these obligations founded?

b) And further, if the answer is affirmative, what sums are due to each complainant in execution of the obligations in question?

4. The League of Nations hereby renounced the exercise of the right of presenting the written and oral statements provided for by Article 55 of the Statute of the Court, if the same possibility cannot be given to the petitioners, since it does not wish to have greater opportunities of furnishing information to the Court than the petitioners themselves.
ANNEX.

GRANTS RECEIVED BY THE EX-OFFICIALS OF THE SAAR.

<table>
<thead>
<tr>
<th>Names</th>
<th>Annual salary received from Saar Commission</th>
<th>Grants made by Council on September 26, 1936</th>
<th>Additional grants made by Council on May 13, 1938</th>
<th>Total grants from League budget (cols. 3 &amp; 4)</th>
<th>Payments received from Saar Commission.*</th>
</tr>
</thead>
<tbody>
<tr>
<td>M. Danzebrink</td>
<td>9,222</td>
<td>5,000</td>
<td>8,833</td>
<td>13,833</td>
<td>9,241</td>
</tr>
<tr>
<td>M. Ritzel</td>
<td>8,286</td>
<td>5,000</td>
<td>7,429</td>
<td>12,429</td>
<td>7,047</td>
</tr>
<tr>
<td>M. Machts</td>
<td>7,268</td>
<td>5,000</td>
<td>5,902</td>
<td>10,902</td>
<td>5,993</td>
</tr>
<tr>
<td>M. Lehnert</td>
<td>6,670</td>
<td>5,000</td>
<td>5,005</td>
<td>10,005</td>
<td>5,029</td>
</tr>
<tr>
<td>M. Lauriolle</td>
<td>5,873</td>
<td>5,000</td>
<td>3,810</td>
<td>8,810</td>
<td>5,996</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>37,319</strong></td>
<td><strong>25,000</strong></td>
<td><strong>30,979</strong></td>
<td><strong>55,979</strong></td>
<td><strong>33,306</strong></td>
</tr>
</tbody>
</table>

* Converted from French francs into Swiss francs at the average rate of exchange for 1935 - viz., 100 French francs = 20.31 Swiss francs - 1935 being the year in which the officials' service in the Saar terminated. It appears that in certain cases these payments included compensation for loss of furniture and other effects in Germany.