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PETITIONS CONCERNING THE TRUST TERRITORY OF TANGANYIKA

Working paper prepared by the Secretariat

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I. Petition from Mr. J.T. Woodcock (T/PET.2/175 and Add.1-2)
dated 27 August 1954

1. The petitioner complains to the Visiting Mission of 1954 that his house and many large farm buildings are a "sorry mess of sabotages", and that a number of his dairy cattle have been maimed. These, he says are some of many "official persecutions" aimed at driving him from his lands, like "they drove the previous British owners up to 1923...". At that date, however, there came a change of regime, when attempts were made to "clear up the mess" that officials had made for their own "illegal gains". At the invitation of the new regime, the petitioner put his capital into Lushoto District - but had he known then what had happened earlier, he would not have invested anything in it.
2. The petitioner goes on to say that when the Mandatory Power assumed the administration from the military Government in 1919, officials selected several farms in Lushoto District for themselves. He says that these officials used their influence with Africans, Asians, Native Authorities and the police against the settlers who had purchased those farms from the then Custodian of Enemy Property, in order that in due time they - the officials - could take over the farms.
3. Soon after he took over his farm in 1924, the petitioner says that officials "again renewed their illegal pact... with natives... against... my farm", and that "retired officials have returned to this district... to claim from higher officials their portions of my lands illegally allotted them...".
4. At this point the petitioner says that he thinks that he has written enough to enable the Visiting Mission to decide on his request; and it is to be inferred that his complaint is to this effect:
 - (a) when the Mandatory Power assumed the civil administration of the Territory in 1919, a number of British settlers bought ex-German farms;
 - (b) in the early days of British administration (early 1920's), certain officials decided that they would like to have possession of those farms and used their official position to that end;

(c) the petitioner is the present owner of one of those farms, and there has been a recrudescence of activity against him by the officials concerned (or their heirs and successors).

5. The petitioner concludes by detailing how he has taken his complaint to various authorities - but all to no avail. He concludes summarily with a statement of regret that his petition was not typed: but "my large and my small typewriters was smashed by one of the police burglars".

6. In an addendum to the present petition, Mr. G.A. Williams writing as joint executor of the will of Mr. Woodcock states that Mr. Woodcock's dead body was found on his farm near his house on 18 September 1954. He had been dead about six days and death was due to a depressed compound fracture of his skull. At the inquest an open verdict was returned, but subsequently evidence was found which most definitely pointed to murder.

7. Mr. Williams states that he is aware that Mr. Woodcock sent petitions at various times to the authorities without satisfaction and he suggests that "no useful purpose will be served but by an entirely independent enquiry if any enquiry should be deemed necessary."

8. In a subsequent letter dated 4 May 1955, Mr. G.A. Williams states that the verdict of an inquest into the death of the late J.T. Woodcock was "Murder by some person or persons unknown." The date of the verdict is given as 2 May 1955.

9. In its observations (T/OBS.2/16, section 3) on T/PET.2/175, the Administering Authority states that the petitioner settled in the Lushoto District as a farmer in the year 1923 and from the start his relations with his African neighbours were not satisfactory and that for many years prior to his death he suffered from a delusion that the Tanganyika Government officials and the neighbouring Native Authorities were endeavouring to compel him to vacate his farm land, and that most of the grievances contained in several petitions addressed by him to the Tanganyika Government and to Her Majesty's Government on the subject of alleged wrongs and persecution proved upon investigation to be imaginary.

10. The Administering Authority states further that a careful investigation failed to uncover any evidence to support his allegation relating to the maiming of his cattle. The Veterinary Officer who had inspected the cattle was of the opinion that the udders had been damaged by thorn bushes and by the cattle horning each other, and the investigating Police Officer discovered nothing to suggest that the wounds were other than accidental.

11. Regarding his land claims, the Administering Authority states that the complaint which was still sub judice at the time of his death was basically a claim that he had been deprived of his title to a portion of land by the wrongful actions of a Government surveyor and the Land Office, but it also contained some of the allegations made in his petition. Although many of his claims appeared on the face to be barred by limitation, the Governor consented to the initiation of proceedings against the Attorney General under the Government Suits Ordinance. The petitioner was given every consideration both by the Governor and by Government in the preparation of his case, in which he appeared in person, even though there appeared to be little or no evidence to substantiate it.

12. While it is true that he encountered real difficulties, partly of his own making, in his relations with his African neighbours, his allegations that the Native Authorities and the Tanganyika Government deliberately attempted to compel him to leave his farm and put obstacles in the way of his obtaining redress for his alleged wrongs (as for example by refusing to allow him to interview various visiting missions and committees), are without foundation in fact.

II. Petition from Mr. William Milangusi (T/PET.2/190) undated **

1. The petitioner states that his eldest child, having completed school Standards 1, 2, 3 and 4 and passed the examinations, must now choose between the schools located at Mpapwa and Kilimatinde where he could complete his studies.

** A double asterisk after the title of a petition indicates that, at the time of writing, the observations of the Administering Authority on the petition had not been received.

However, the fee at both these schools is £10 per year which he cannot afford to pay and he requests that he be given assistance.

III. Petition from Mr. Edward Levy (T/PET.2/191) dated 20 January 1955 **

1. The petitioner states that he is not satisfied with the manner in which his petition (T/PET.2/165) was dealt with by the Council, and he requests that it be placed once more before the Council together with his letters of 7 November 1953 and 2 June 1954 (T/COM.2/L.13). He expresses the hope that the Council's resolution 870 (XIII) of 22 March 1954 drawing his attention to the observations of the Administering Authority be revised.
2. The petitioner states that he is unable to construe resolution 870 (XIII) as a rejection of his petition, but that he considers it as a request to comment on the observations of the Administering Authority and, if necessary, to refute them.
3. He states that had he been informed clearly and precisely at the time the Council took its decision in his case, he would have been able to take other steps "as, in consideration of the actual facts, the matter is not yet closed". He turns again to the United Nations in the hope that it will safeguard his rights, particularly, since he is a man of 77 years of age.
4. Mr. Levy in his petition T/PET.2/165 stated that he was a native of Luxembourg, and a German citizen by naturalization. In 1929 he emigrated to Tanganyika where he acquired and developed a 420-acre farm. He and his family were interned in 1939 by the Government which vested his farm and property in the Custodian of Enemy Property. This was done despite the fact that he had lost his German citizenship by virtue of his being a Jew. He then claimed that in 1949 his house and land were returned to him, but charged that due to neglect in safeguarding his property the Custodian of Enemy Property was responsible for losses valued at £25,000.
5. The observations of the Administering Authority (T/OBS.2/9) are to the following effect. In the first place, it has never regarded the process of "Ausbürgerung" that began in Germany in 1933 as conferring the status of a

stateless person. The petitioner was therefore regarded an enemy alien and interned in September 1939. He was nevertheless regarded as harmless and on his release in November 1939, he was allowed to return to his farm. By August 1940, however, an important military line of communication had been established, and the petitioner, together with all other enemy aliens living near it, had to be transferred to a concentration area at Oldeani. Secondly, the main factor responsible for the depreciation of the petitioner's farm was his own lack of funds to maintain it. Thirdly, the petitioner is in error in thinking that the Custodian of Enemy Property held the farm in trust for him: enemy property is confiscated at the beginning of a war with a view to reparations at the end of the war; the former owner has no interest in it thereafter, and can look only to his own State for compensation.

6. There were two periods, therefore, during which the management of the farm was vested in the Custodian: September to November 1939; and November 1939 to 1949 (when the farm was revested in the petitioner). The petitioner, the Administering Authority states, wrote to the Custodian and stated that he was satisfied with the manner in which the farm had been run during the first period. He received some £163 as the credit balance in the accounts, and 117 bags of coffee available for sale and which were sold for some £292.

7. When the petitioner was interned for the second time, a request by him that he be allowed to run the farm with African supervision was at first granted, but, as the petitioner did not make arrangements for such supervision, the Custodian once again took over the property. A bank then came forward with a claim against the estate and, in order to meet it, all the cattle and some other assets had to be sold to meet it. The Custodian was left, therefore, with no funds with which to maintain the farm, and the proceeds of the coffee produced under his management were used in liquidating a debit balance incurred as a result of his management.

8. In November 1940 an agricultural officer had reported that the coffee on the farm was not worth maintaining and advised uprooting it, and an order to uproot it was subsequently issued under the Plant Pest and Disease (Coffee)

Regulations. Paw-paw trees growing on the farm had been interplanted with coffee, were overrun with couch grass and not maintained. Eventually the farm was leased to someone else at a rent of £22.10s. a year, until it was revested in the petitioner in 1949.

9. The Administering Authority concludes that, while the petitioner has undoubtedly been unfortunate, it seems probable that he would be in the same position as he is now even had he not been interned.

10. On 2 June 1954, the petitioner addressed a letter (T/COM.2/L.13) to the United Nations in which he commented at length on the observations of the Administering Authority. This communication was circulated by the Secretary-General in accordance with rule 24 of the Council's rules of procedure and the Standing Committee approved the classification of T/COM.2/L.13 at its 201st meeting on 13 August 1954. He was subsequently informed by the Secretariat of the Committee's decision relating to T/COM.2/L.13.

11. His present petition (T/PET.2/191), however, was circulated in view of the doubt expressed regarding the meaning of resolution 870 (XIII), and because it appears to contain new material.

12. The petitioner comments (T/COM.2/L.13) that the Administering Authority does not appear to dispute the fact that

(a) he had suffered losses amounting to £25,000;

(b) he was deprived of his property for ten years, and that it was vested for that period in the Custodian of Enemy Property;

(c) the property was turned into wasteland and as such was returned to him; and

(d) that although wrongly considered as an enemy alien he "was considered as unlikely to engage in anti-allied or subversive activities".

13. He then goes on to state that the Administering Authority admits that he was a "naturalized German" only. It is not disputed that he was by birth either a stateless person or a Luxembourgian. Still he says that as a naturalized citizen he could legally be deprived of his nationality, which indeed he was. The fact that the German "Ausbürgerungsgesetze" have not been

recognized by the British Government and Jewish refugees stood for a long time before the dilemma of being required by British authorities to produce a valid German passport which they could not get, does not change the fundamental rules of reciprocity. Whereas a born German could not rightfully be deprived of his German nationality, a naturalized German could, in analogy at least to British Law. He therefore was unlawfully treated as an enemy alien. At the time of his internment he had severed all connexions with Germany, and had settled in Tanganyika.

14. He adds (T/PET.2/191) that the Administering Authority's suggestion that he "can only look to his own state for compensation" is erroneous since he did not possess a nationality.

15. He then comments on the Administering Authority's view that he was in error in thinking that the Custodian held his property in trust. He argues that British Law recognizes a variety of trusts which are, if not created expressly, either implied, i.e. inferred from the conduct of the parties and the circumstances of the transaction, or constructive trusts even against the intentions of the constructive trustee. In his view, the Custodian is a statutory trustee, appointed under the Custodian Ordinance. He is a public trustee and the Government is responsible for any loss due to his administration. His property was "vested" in the Custodian and this legal term in itself, used only in the Law of Trust, should support his view. However the conduct of the Custodian throughout the vesting period was such that a relationship of trust must be inferred.

16. Thus, he states, he was neither an Enemy Alien nor was his property confiscated by the Government of Tanganyika. No such decision was made by the Government nor was he informed of such decision. He considers that the Government's action was an "improvisation by force of which the proximate executors, who knew me well, were rather ashamed, but had not the civil courage to say so."

17. He goes on to state that only now has he learned that he was removed from his farm in July 1940 "for military reasons in protection of the Great North Road", which runs about 20 km far from his farm. When he was removed from his farm at the outbreak of the war in September 1939 and his wife and children were left to look after his property, he was ready to understand this action for the sake of general security. In fact he was released after only a few weeks' internment.

18. When, however, he was warned at the beginning of July 1940 that he would be interned again, he did not dream of the possibility to be removed for ten years, which was done for reasons of "security of the Great North Road". He asserts that the road could not have been endangered by him and that at any rate the military authorities of Tanganyika did not waste one single man on the protection of the Great Road. Yet, he was moved in 1941 to a farm directly situated on the Great North Road which runs through the farm. He states that it never occurred to him that anyone could be considered a menace to the Great North Road especially as from 1942 onward, many Italian internees from Abyssinia were brought to Arusha and worked on the Great North Road. But what puzzles him is that he was on the Great North Road from 1942 onwards but for another seven years could not go to his farm which is 20 km away from any next point of the Great North Road.

19. He does not agree to the Administering Authority's argument that "lack of money" to maintain his property was responsible for the entire destruction, and asserts that had he been in possession of the farm, he could have obtained the necessary credits from the banks to run it.

IV. Petition from the Heirs of Otto Werner, deceased (T/PET.2/194 and Add.1)
dated 27 February 1955 **

1. This petition was circulated in summarized form because of its length and has not been resummarized in this section in order to avoid unnecessary duplication. It is suggested that the summaries contained in T/PET.2/194 and Add.1 should with minor editorial modifications be used as part of the Committee's report to the Council.
