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PETITIONS CONCERNING TANGANYIKA

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I. Petition from Mr. P.G. Tapscott (T/PET.2/212)

1. In a letter dated 27 August 1957, the petitioner states that in 1955 he was granted a 99-year lease on a farm in the Matomondo valley, subject to the payment of Shgs.30,800 in respect of unexhausted improvements and Shgs.4,050 for an official survey to check and confirm the boundaries. The land had been previously farmed by the Veterinary Department, which had allowed seven African tenants-at will, or "squatters", to cultivate plots in the southern section of it on a year to year basis, but the petitioner was told that these people would be given notice to quit before the farm changed hands. A period of about a year had elapsed between the time the Veterinary Department ceased actively farming the land and the time when it was granted to the petitioner and during this period no objections were raised by any local people to the sale of the land.

2. During the first year of his occupancy, the petitioner was busy on other parts of his farm and by the time he was ready to start developing the southern section, some twenty more squatters had come and planted crops on about fifty acres of it. Appeals to the local authorities to remove the squatters were unsuccessful and by March 1957, their number had increased to fifty-five and they occupied over 100 acres of the petitioner's farm.

3. In order to develop what land remained in the southern section, the petitioner decided to build several houses for his employees there and to start clearing the land before any more squatters moved in. Shortly after commencing to build their houses, his employees were ordered to pull them down by the Village Headman, who told them to inform the petitioner that this land had been taken over by members of the Tanganyika African National Union (T.A.N.U.) which refused to recognize his title to it and that he must get out within twenty-four hours.

4. On appeal to the District Commissioner, a meeting of all concerned was held when it was pointed out that at the time the land was alienated to the Veterinary Department there were practically no Africans living in the area and the few who were preferred to cultivate the hillsides rather than clear the thick undergrowth of the tsetse-infested valley. The petitioner contends that this goes to show that the present squatters, many of whom moved into the valley from other parts

of the Territory in the last few years, have no claim to tribal rights in the land granted to him.

5. In order to live in peace with his neighbours, the petitioner proposed a scheme, with the approval of the District Commissioner, whereby the majority of the squatters would be allowed to remain on his land as nominal tenants. It appeared at first, that the greater number were prepared to accept this proposal but were dissuaded from doing so by members of the local branch of T.A.N.U. pending further instructions from their headquarters in Dodoma.

6. The petitioner points out that close to his farm there is another one, held by a Government Department, awaiting a purchaser and that, if the acquisition of land was the only objective of the squatters, then they would have long since made representations to Government for a portion of this farm sufficient for their needs. The fact that they have not done so seems to suggest that the present situation is the result of a deliberate attempt by a political party to stir up racial strife. He mentions that he is a married man with two children, that he invested all his savings in the farm thinking that the 99-year lease on which it was granted to him would be honoured by Government. He appeals to the United Nations for an assurance that the rights of minority races will be safeguarded in the Territory and that some security of tenure will be ensured where Government-allocated land is concerned.

7. In its observations (T/OBS.2/42), the Administering Authority states that the petitioner's farm is held under a 99-year Right of Occupancy dating from 1 August 1955 and granted by the Governor of Tanganyika. He appeals for an assurance that the rights of minority races in Tanganyika will be safeguarded and that there will be some security of tenure in respect of land allocated by the Tanganyika Government. He also refers to certain difficulties which have arisen on his farm due to the infiltration of certain persons. The petitioner's farm is situated in the Matamondo Valley of the Mpwapa District of the Central Province of Tanganyika.

8. The Tanganyika Government is not in a position either to confirm or deny many of the statements made in the petition since these are almost entirely concerned with the actions of the petitioner himself. The Tanganyika Government, however, has no reason to believe that the petitioner is incorrect in any material respect in any of his statements.

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9. In the second paragraph above, the petitioner implies that he developed the northern portion of his farm in the first year of occupation, and that no great attention was given to the southern portion of the farm at that time. It is suggested that this lack of attention may well have encouraged unauthorized persons to infiltrate on to the petitioner's farm without his knowledge. Although this lack of development may possibly have aggravated the problem it can under no circumstances be regarded as giving those who infiltrated any right whatsoever in the land.

10. In the sixth paragraph above, the petitioner states that "within a few hundred yards of my boundary there is a farm held by a Government Department awaiting a purchaser". It is presumed that this is the Mr. English's farm which is at present being managed by the Tanganyika Land Bank to which the farm is mortgaged. There has been no suggestion locally that this land should be acquired for the local inhabitants. The Tanganyika Government is unaware of any infiltration of persons onto this property. All the information at the disposal of the Tanganyika Government supports the petitioner's contention that he was the subject of a personal vendetta and that the problem of infiltration on his farm did not arise in any way owing to a shortage of land for the local population. It is to be noted in this connexion that the Mpwapa District is a sparsely occupied area of Tanganyika where there is no great problem of land shortage.

11. Also in the sixth paragraph above, the petitioner asks for certain assurances which are referred to in the seventh paragraph above. The policy of the Government of Tanganyika in this matter was reiterated by the Minister for Lands and Mineral Resources of the Tanganyika Government on 20 September 1957, during the thirty-third session of the Tanganyika Legislative Council, where he made the following statement:

"Government policy has been and will continue to be that legal rights, including the legal rights in land must be and will be safeguarded. It should be emphasized that the primary duty of guarding his legal rights rests with the occupier of the land and I would like to state categorically that he will have the full protection of the law in exercising those rights."

It is the full intention of the Government of Tanganyika to see that this policy is carried out and that the rights of the individual, no matter of what race, are

safeguarded and that all land legally held in private ownership shall have the full protection of the law.

12. Since the receipt of this petition, there has been one prosecution in the Court in respect of an offence committed on 17 September 1957. One of the persons who infiltrated was prosecuted on two charges: the first on two counts of tampering with the fence belonging to the petitioner and marking his boundary; the second also on two counts of causing malicious damage to property. On conviction the accused was sentenced to a total of 4 months' imprisonment on the first charge, and fined Sh.20 or 14 days' imprisonment on each count under the second charge. The petitioner, who is now apparently on amicable terms with the local population, has so far cleared 15 to 20 acres of the total area of about 60 acres formerly occupied by the squatters. He has gladly given permission to a number of the former squatters to remove their castor before it is cut down, asking them in return to do a day's work for him at the appropriate local wage rate. This agreement seems perfectly acceptable and other former squatters are expected to come forward immediately they have cleared their own new fields.

II. Petition from Mr. Wenceslaus Lulanika (T/PET.2/213)

1. In a letter dated 1 September 1957, the petitioner, a teacher, makes the following complaints that (a) his agricultural property was seized by the Roman Catholic Mission, Kigoma; (b) he was dismissed without cause or notice by the Mission and (c) he was not paid his wages by the Mission during the six months he was in hospital in 1956. He requests that he be paid for the years remaining until he reaches pensionable age and that his things, which were seized, be returned to him.

2. The petitioner goes on to voice some adverse comments on the actions of the religious missions in the Territory and of the Government. He concludes his letter by advocating that a date should be set for self-government and that the period before the Territory becomes independent, which the Tanganyika Radio announced would be in 1960, should be shortened.

3. The petitioner attaches four letters to his petition. The first, dated 25 April 1957, is from the Labour Officer, Western Province, in reply to the petitioner's complaint that he was dismissed without notice and deprived of wages for the period during which he was in hospital. After investigation, the Labour Officer found that the petitioner was employed on monthly terms, on oral agreement; either party having the right to terminate the agreement at the end of any month without notice; that the Mission paid him up to the end of December 1956, although he had actually worked only until 2 December 1956 and that the Mission dismissed him on the ground that his illness was such that it was unlikely he would ever return to normal employment. With regard to the deduction of Shgs.60 from the petitioner's salary for December 1956, the Labour Officer was informed that the petitioner failed to produce this amount which represented school fees paid by parents and for which the Mission holds the receipts. The question of payment of wages during the time spent by the petitioner in hospital has been referred to the Provincial Education Officer. The second letter dated 15 May 1957, is from the Member for Local Government, who states that since the petitioner has not been employed by the Mission since 1956, he has no claim for salary from it and that if he considers that he has been unjustly deprived of his land he should take the case to court. The third letter, undated, is a petition to Her Majesty the Queen, in which the petitioner repeats his complaint of being dismissed without cause and that he was only paid for six months by the Education Department instead of for nineteen and a half years. The fourth letter dated 7 August 1957, from the Ministry of Social Services informs the petitioner that no action can be taken on his petitions to the Secretary of State for the Colonies and to Her Majesty the Queen.

4. In its observations (T/OBS.2/40), the Administering Authority states that Mr. Lulanika was formerly employed by the White Fathers (Roman Catholic) Mission, Kigoma, as a teacher. From 1945 - 1955 he was a heavy drinker. In May 1955 he became involved in a fight and was sentenced to fifteen days imprisonment. This lapse, which was caused by his excessive drinking, was overlooked by his employers (the Mission) and he accordingly resumed his employment. Soon after his return to work he again started drinking heavily and began to have systematized

delusions of persecution. His violent behaviour led to his admission to the Mental Hospital at Mirembe in the Dodoma District on 16 March 1956, where his condition was diagnosed by the Specialist Psychiatrist as alcoholic hallucinosis. The specialist reported that his delusions were deeply rooted. He subsequently recovered and, in the hope that there might be continued improvement in his condition, the specialist discharged the petitioner from Mirembe on 27 November 1956. He was discharged into the care of his brother-in-law at Kigoma, Ali bin Omari, who undertook to look after him and to ensure his continued good behaviour. When he was discharged the Specialist Psychiatrist wrote: "You will remember that a great deal of trouble has arisen in the past over this man writing anonymous letters. As he has now recovered I have no alternative but to discharge him. I trust no further letters will be written by Wenceslaus but should this occur he will have to return to Mirembe as a permanent resident". Owing to his history of drink and mental illness, he was not re-employed by the Mission. Recently there has been a recurrence of the condition which led to his admission to the mental hospital in 1956, and at the present time the question of recertifying him for admission to Mirembe is being considered.

5. There is no evidence to substantiate the petitioner's claim that his agricultural land has been seized by the Roman Catholic Mission at Kigoma. He was informed in May 1957 by the Tanganyika Government in answer to a petition that if he considered that he had been deprived of any land unjustly by any person he was, of course, at liberty to proceed against that person in the civil courts. He subsequently petitioned the Secretary of State for the Colonies and Her Majesty the Queen but the Secretary of State found himself unable to intervene in the matter or to advise Her Majesty to take any action thereon.

6. The petitioner was employed by the Mission on monthly terms on an oral agreement. Either party, therefore, had the right to terminate the agreement at the end of any month without notice. Moreover, since the petitioner's illness was brought on by his own acts, the Mission had every justification for dispensing with his services.

7. The salaries of approved teaching staff in grant-earning voluntary agency schools attract a 100 per cent grant from the Tanganyika Government. The school at which the petitioner taught is a grant-earning school and he himself was an

approved teacher. Mission teachers are not entitled to the privilege enjoyed by Government teachers who are entitled to not more than six months' pay during a period of illness. In the petitioner's case, however, the Government did, in fact, as an act of grace, make available to the Mission a sum of money equivalent to six months' pay. This sum was duly paid by the Mission to the petitioner.

8. The views of the Administering Authority on the attainment of self-government have been frequently expressed to the Trusteeship Council. The Governor reflected these views in a recent address to Legislative Council when he said that "the aim of the Administering Authority is to grant Tanganyika self-government when she is ready for it. Indeed, this aim is written into the Trusteeship Agreement. We have every intention of fulfilling it. It is, therefore, our duty to prepare the territory as quickly and as thoroughly as possible for self-government. But the intermediate target must be responsible government When that has been firmly established it will be time enough to look to the next steps required to reach self-government".

III. Petition from Mr. Said Nassoro (T/PET.2/214)

1. This petition has already been summarized in accordance with paragraph 3 of rule 85 of the rules of procedure and is therefore not reproduced in the present document. The summarized version will be included in the Committee's report to the Trusteeship Council. Below are given the observations of the Administering Authority.

2. In its observations (T/OBS.2/40, section 2), the Administering Authority states that the petitioner complains that:

- (a) he was not allowed to sit for the promotion examination of the Medical Department of Tanganyika;
- (b) persons educationally of a lower standard than himself were promoted to the graded service in the Tanganyika Government;

(c) his application for the post of African Chief Warder in the Prisons Department of the Tanganyika Government was not forwarded by the Medical Department;

(d) he was dismissed without due cause and without being given one month's notice;

(e) on dismissal he was not paid a bonus or pension.

3. The petitioner was employed in the Medical Department of the Tanganyika Government from October 1934 until his dismissal on 16 December 1955. He started as a Laboratory Boy at Sh.15/- per month and by 1947 was an ungraded Laboratory Assistant at Sh.65/- per month. In that year he applied for permission to sit for the Medical Department promotion examination to the Junion Service (which has now been abolished). Prior to 1949 candidates for this departmental examination were selected by the Director of Medical Services on the basis of ability. The petitioner's work was not considered by the Director of Medical Services to be of a sufficiently high standard to justify permission being granted to him to sit for the examination. In 1949 the Director of Medical Services decided that, thereafter, before qualifying for promotion to the graded post of Laboratory Assistant, candidates must be of educational standard X on entry and have completed three years' formal full time training followed by an examination. The petitioner did not satisfy these qualifications and was therefore not considered for promotion to the graded post of Laboratory Assistant. He was, however, promoted to the lower pensionable post of Laboratory Auxiliary in 1950, a post for which the above qualifications were not required.

4. The only persons of a lower educational standard than the petitioner who were promoted were ex-Service personnel, who had reached an appropriate standard during their service with the army and who had passed the appropriate army examination.

5. On 11 March 1957, the petitioner applied for the post of African Chief Warder. This post is normally filled by persons with long service in the Prisons Department and the petitioner's application was not forwarded by the Director of Medical Services who considered that the petitioner did not possess the qualifications which fitted him for a post of Warder let alone the senior post of African Chief Warder.

6. From the date of his admission to the graded service, the petitioner was the subject of a succession of adverse reports, and despite repeated warnings continued to be inefficient and unamenable to advice and discipline. On 5 August 1955 he was interdicted from duty as a result of insolence and disrespectful behaviour to a superior officer. The petitioner failed to carry out instructions lawfully given to him and absented himself from duty without leave. An inquiry into his conduct was ordered under the terms of Colonial Regulations, which are the general regulations governing service in H.M. Overseas Civil Service. Colonial Regulation 66 (since renumbered as 58) provides that an officer holding a post, appointment to which is not subject to the approval of the Secretary of State, may only be dismissed by the Governor in accordance with certain rules which, inter alia, provide for an inquiry by the Governor with the aid of the Head of the Officer's department, or such other officer as the Governor may appoint. In the petitioner's case a member of the Judiciary, in the person of the Resident Magistrate of the Shinyanga District, was properly appointed to conduct the inquiry. The specific charges against the petitioner which were inquired into were:

- (1) On 23 June 1954 he failed to carry out the orders of his superior officer to examine the smear from the ulcer of a patient;
- (2) On 29 July 1955, when warned by his superior to carry out a "Kahn" test he failed to do so;
- (3) On 29 July 1955 he absented himself from duty twice without the consent or knowledge of his superior officer;
- (4) On the same date he behaved in an insolent and disrespectful manner to his superior officer, when he was questioned about charges 2 and 3 above;
- (5) On various occasions during 1955 in spite of repeated warnings by his superior officers, he failed to wear, whilst on duty, the uniform issued to him.

7. The Resident Magistrate, after full investigation, recorded that the first charge was not proved, but that charges Nos. 2 to 5 were proved. The Tanganyika Government did not consider that there were any mitigating factors in the case and the petitioner was accordingly dismissed on 16 December 1955. On such

dismissal all rights and privileges under an officer's terms of service cease and there can, therefore, be no question of giving one month's notice.

8. It should, however, be noted that according to Government records he was born in November 1918 and not, as stated in the petition, in 1908. The petitioner himself states in his petition that he left school in 1934: if he was born in 1908 he must have remained at school until he was 26. He was thus 37 years of age at the time of his dismissal and would not have been eligible at that age for any bonus or pension even if he had not been dismissed.

9. The petitioner appears to have acquired a persecution complex which was reflected at times in his work and conduct.

IV. Petition from Messrs. J. Mwamso, M. Wilson, A. Mwandemele, Anion Mwansasu, B. Ngwilulupi and M. Anyingisye (T/PET.2/215)

1. In a letter dated 3 September 1957, the petitioners, writing on behalf of the congregation of the Kyimbila Mission, state that in 1901, a German missionary was permitted to use two acres of land at Kyimbila on which to build a church. The church was actually built of local materials supplied by the Christian converts communally. A little later, another German missionary extended the original two acres in order to plant trees. Since the construction of the church and the planting of the trees were done free of cost by the Christian members of the Mission, the land, church and trees were regarded as theirs in trust for the purpose of furthering the gospel. After the outbreak of the war in 1939, the German missionaries were interned and the Mission was run by an African priest, the Reverend Asegelile Mwankemwa. In 1940, a Danish missionary, Rev. Knudsen, took over the Mission and remained until 1949, when he announced to the congregation of Kyimbila that he had sold the land, the buildings and the unexhausted property to the Kingange Tea Estate. No one, including the African priest and the native ruler of the area, was ever consulted regarding this transaction, nor does anyone know for how much the property was sold or to what use the money obtained has been put. The total area of land sold comprises about 245 hectares, the improvement of which was carried out by the local Christian population, who feel that they have been cheated of their natural birthright.

2. In its observations (T/OBS.2/40, section 3), the Administering Authority states that the land comprises two blocks, one of 12.18 hectares and the other, surrounding it, of 180 hectares. The first was granted to the Moravian Church by the former German Administration on a Contract of Purchase dated 14 August 1901, and the second block was similarly granted on a Contract of Purchase dated 10 April 1909. Both properties were thus held on freehold tenure and continued to be so held by the Moravian Church until 1950. On 30 January 1950, the Registered Trustees of the Moravian Church conveyed both properties at Kyimbila to Kiganga Estates Limited and the Conveyance was duly registered in the Register of Documents. The Registered Trustees reserved to themselves the property in the Church building and the right to enter upon the land and remove the building within one year. The former girls' school on the properties was subsequently transferred to Loleza in the Tukuyu District and in 1952 the Kiganga Estates Limited offered to transfer without consideration the Church plot to the African Moravian Church. This transfer has not so far been effected owing to the delay in registration of the African Moravian Church as a Corporation permitted to hold land.

3. The Tanganyika Government, as such, had no control over the disposal of this property which was freehold and at the disposal of the Trustees. Moreover, at no time previously have the petitioners petitioned the Tanganyika Government in regard to the restoration of this land. The Administering Authority is now advised that the Attorney General of Tanganyika has certain rights and duties in relation to charitable trusts and that he has the power to intervene where he is of the opinion that it is in the public interest to do so. In order to assist him to decide whether the present case is a proper one for his intervention, the Attorney General of Tanganyika is instituting inquiries immediately now that this matter has come to his notice.

4. The Administering Authority suggests that the Trusteeship Council should take note that this is a private dispute in which the Attorney General of Tanganyika may have an interest and that the Attorney General is, therefore, making further investigations. His decision will be communicated to the Council in due course. It is further suggested that the petitioners should be informed in this sense.

V. Petition from Mr. Augustino Lupindo (T/PET.2/216)

1. In a letter dated 8 September 1957, the petitioner complains that he has been unable to obtain a passport to permit him to go to Moscow for the purpose of studying medicine on a scholarship offered to him by the Government of the USSR. The latter have sent him an air ticket for travel from Dar es Salaam to Moscow via London.
2. In its observations (T/OBS.2/41), the Administering Authority states that Mr. A.P.M. Lupindo applied, on 29 August 1957, for travel facilities to enable him to take up a scholarship offered by the USSR at the Medical Institute, Moscow. The petitioner was informed that Her Majesty's Government, as the Administering Authority for the Trust Territory of Tanganyika, did not consider in all the circumstances that this scholarship would be advantageous to the Territory.

VI. Petition from Mr. Mistry Ranchhod Velji Rajyagor (T/PET.2/217)

1. In a letter dated 16 August 1957, the petitioner submits a series of complaints, primarily concerning a property, Plot No. 143, Block T, on Tabora Road, Mwanza. He states that he has encountered difficulties with this property since 1952 and that he brought the matter to the attention of the 1954 Visiting Mission to East Africa but received no satisfaction.
2. It would appear, both from the petition itself and from the enclosures attached to it, that in July, 1952, the petitioner was offered a right of occupancy over Plot No. 143 for a period of 99 years. There then ensued difficulties regarding the title deed to this plot; the approval of the plans for the building to be erected and the rates due from this plot. Finally, on 21 July 1956, the plot was sold through the Court for the sum of Shgs. 51,000. Notice of the impending sale was previously published in the Tanganyika newspapers but the petitioner was absent in Nairobi until the end of August 1956.
3. The petitioner states that at the time the plot was sold, there were on it timber worth about Shgs. 8,000; some concrete blocks, a workshop and toolshed and a fence of corrugated iron, all of which have disappeared.

4. Other complaints, apart from the sale of all his property, are that his business has been stopped and he cannot even work for pay; his house was set fire to several times, attempts were made on his life, seven times on the Fichaficheni Road in December 1953, once at Nyakalo in January 1954 and in September 1954; his son died in June 1955 due to lack of medical attention which he could not afford, and his children were prevented from attending school in September 1956.

5. In its observations (T/CBS.2/40, section 4), the Administering Authority makes the following comments:

(a) The Administering Authority has no record of the petitioner having addressed any complaints to the United Nations Visiting Mission in 1954;

(b) Plot No. 143 Block "T" was sold by the Mwanza Court Broker as a result of a Court Order, on 21 July 1956, to Taank Construction Company Limited. The proceeds of this sale, Sh. 51,000/- were deposited with the High Court, Mwanza. On 24 August 1956, Messrs. Taank Construction Company Limited wrote to the Court Broker informing him that there were materials on Plot 143 Block "T" which they would like him to remove. The Broker replied on 27 August 1956 stating that it was not his business to remove the materials left on Plot 143 "T" and that they should contact either the petitioner himself or his advocates. The District Commissioner has interviewed one of the Directors of Messrs. Taank Construction Co. Ltd., and has been shown the materials which were on the plot, but which are now lying just off it. There was no timber and the corrugated iron to which the petitioner refers is a few rusted and broken sheets which are valueless. There are about 50-100 broken concrete blocks of no value. The tools were sold on 31 January by the Court Broker as a result of a Court Order, and the proceeds of this sale, Sh. 2,622/50, were deposited with the High Court, Mwanza. There was no workshop or tool shed on the plot. If the petitioner alleges that his property was stolen, he would be well advised to report it to the Police authorities and has been so informed.

(c) The petitioner's straitened circumstances were due to his failure in business and not to any of the causes alleged in the petition. He is now receiving financial assistance from members of his own community. His 2-1/2 year old son died on 19 June 1955 from bronchial pneumonia

and cardiac failure. The child was attended by Dr. Hari Singh, a Sub-Assistant Surgeon at Mwanza Hospital and his death was in no way due to lack of medical attention.

(d) An examination of the Charge Book at the Mwanza Police Station does not contain any reference to any of the attempts on his life which the petitioner alleges occurred during December 1953 and January 1954, nor the alleged attempt to burn down his house. If the petitioner has any evidence to support these allegations, he would be well advised to place it before the Police authorities in Mwanza and has been so informed;

(e) In 1956 the petitioner's son was admitted to the Indian Public School, Mwanza without payment of fees which were waived by the Headmaster owing to the petitioner's poverty. In September of that year the petitioner, of his own accord, removed his son from the school and sent him to Nairobi contrary to the advice of the Headmaster who wished him to stay until December to complete his examinations. Of his own accord the petitioner also removed his second son from the school at the end of September, having removed a daughter on 30 July 1956. The Headmaster is prepared to take the children back into the school next year, without payment of fees, if Mr. Velji so wishes.

6. It is to be regretted that the petitioner's financial failure in business has apparently caused a mental breakdown and, although not certifiable, he shows every sign of being mentally deranged and appears to be suffering from a form of persecution mania.

VII. Petitions from Mr. Lal Singh (T/PET.2/218 and Add.1)

1. These three petitions have already been summarized in accordance with paragraph 3 of rule 85 of the rules of procedure and are therefore not reproduced in the present document. The summarized versions will be included in the Committee's report to the Trusteeship Council. Below are given the observations of the Administering Authority.

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Compensation in respect of service with the occupied Enemy Territory
Administration

2. In its observations (T/OBS.2/42) the Administering Authority states that the petitioner claims that in July 1941 the then District Commissioner, Tanga, promised that, if he joined the O.E.T.A., he would receive a salary of 600 shillings a month (plus 25 per cent allowance) and that he would be posted to Addis Ababa. However, the District Commissioner's letter of 23 July 1941 (to which the petitioner refers), does not promise either of these things, which would of course be the sole responsibility of the Military Authorities in wartime; it merely recommends the petitioner as "worthy of posting in one of the higher grades". This in fact happened, as the petitioner was engaged as a Grade B Clerk at a salary of 400 shillings a month (plus 25 per cent allowance). It is clear that no question of compensation arises on this account.

3. In the course of his service with O.E.T.A., the petitioner received free medical treatment from the Army medical authorities for a number of minor ailments, none of which were of sufficient gravity to warrant his entering hospital. While on leave in Nairobi in December 1942, he was examined at his own request by the Medical Officer at the Civil Affairs Headquarters, who recommended that the petitioner should be discharged from the O.E.T.A. on medical grounds. He was informed at this time by the Medical Officer that he could receive free treatment, but he declined and stated that he preferred to have treatment in Moshi at his own expense. In accordance with the Medical Officer's recommendation, the petitioner was invalided out of the O.E.T.A. on 16 January 1943. The Regulations for the Employment of Civilian Personnel in the O.E.T.A. state that, when the medical report shows that an invalided employee's illness is directly attributable to his service in the O.E.T.A., and is likely to be prolonged, an ex gratia gratuity may be granted to him. In fact, there was no evidence that the petitioner's illness was directly attributable to his sixteen months' service in the O.E.T.A., or was likely to be prolonged, and therefore he did not qualify for any ex gratia payment. In addition, as he declined free medical treatment, he is not entitled to any refund in respect of private treatment.

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Compensation for loss of water rights

4. In January 1946, the petitioner purchased a small freehold farm in the Lushoto district from Mr. Malik Raj. He then applied to the District water Board for the transfer to himself of the previous owner's right to make furrows for the purpose of drawing water from the Misui and Bombo Hills. This application was granted. A dispute subsequently arose between the petitioner and his African neighbours about the use of water from an existing furrow, and the District Water Board conducted an investigation in December 1948. The Board found that the furrow in question was a very old one which had been constructed by the Africans and used by them long before the petitioner extended it to his estate; and that the right to make furrows granted to the petitioner in 1946 did not give the petitioner permission to take over any existing furrow or to deprive African users of their long-established rights. In the circumstances, the Board proposed that the petitioner should have the right to use all water in the disputed furrow from 6 p.m. to 6 a.m., while the Africans should have the right to use all the water from 6 a.m. to 6 p.m. In addition, the Board gave the petitioner permission to draw water from an entirely different source (the Soni River). This compromise solution, by which the existing furrow was to be equally shared, and which gave the petitioner an alternative source if he so desired, was an equitable one, and the petitioner would appear to have no valid cause for complaint. In any case, an appeal to the High Court from the Board's decision was always open to the petitioner, but he took no advantage of this right of appeal.
5. The petitioner further alleges that the decision of the Water Board caused his crops to die through lack of water. In fact, there was a drought in the district in 1949, the consequences of which were suffered equally by all users of the disputed furrow, and the Tanganyika Government cannot be held liable for losses to the petitioner's crops due to natural causes.

Compensation in respect of mining operations

6. The petitioner contends that he made applications in 1950 for the registration of a gypsum claim at Mkomasi in Tanga Province and complains that it was rejected on the grounds that the district was within an area closed to prospecting although the registration of claims over the same land was granted to a European firm a

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year later. The petitioner also asserts that an application made by him in 1957 for a gypsum claim in the same area was refused out of hand for the same reason, with the suggestion that he could appeal to the Governor against this adverse decision if he so wished. The petitioner contends that these refusals are in fact examples of racial discrimination. He also complains that the Geological Survey Department of the Tanganyika Government gives deliberately inaccurate reports.

7. The Mkomasi gypsum area in the Pare District of Tanga Province was closed to prospecting in 1949 in order that the orderly development of the deposit could be controlled. Under section 16 of the Tanganyika Mining Ordinance the Governor's consent had to be obtained before claims can be pegged in any area closed to prospecting. Applications for the Governor's consent are, however, never refused unless the application conflicts with the object or reason for which the area has been closed.

8. In a letter dated 1 July 1950, addressed to the Regional Mines Officer, Tabora, the petitioner inquired whether an area opposite to the Mkomasi Railway Station was closed to prospecting. This letter referred to radio-active minerals; no mention was made of gypsum. No application has ever been received from the petitioner for gypsum claims at Mkomasi or anywhere else. In 1951, claims covering some 400 acres within the Mkomasi closed area were pegged with the Governor's consent, by Overseas Marketing (East Africa) Limited. These claims were subsequently forfeited for non-compliance with working obligations. Claims over a somewhat smaller area at Mkomasi have since been registered by Gypsum Products Limited, the firm to which the petitioner refers. At no time have registered claims covered the whole area of the known gypsiferous deposits. It was open to the petitioner to apply for the Governor's consent under section 16 of the Mining Ordinance if he wished to peg a claim in the area not taken up, but he has never done so.

9. The application made by the petitioner in April 1957 was not, as he alleges, rejected. He was, in fact, informed by the Regional Mines Officer, Morogoro, in a letter dated 11 April 1957, that, as the land in question formed part of a closed area, it would be necessary for him to obtain the prior permission of the Governor under section 16 of the Ordinance. The petitioner has not at any time applied for the Governor's permission to peg gypsum claims within the Mkomasi area in accordance with the advice given to him by the Regional Mines Officer in 1957. The petitioner

is still at liberty to apply for such permission if he so wishes. There is no justification for the statements that his application has been refused and that the Tanganyika Government has discriminated against him.

10. The Tanganyika Department of Geological Survey analyses free of charge any samples of rock or mineral which are submitted to it by members of the public. The only condition imposed by the Department is that the sender of the sample shall inform the Department from which area in the territory it has been taken. This information is required not only to assist in identification and analysis of the sample but also in the compilation of a complete geological coverage of the whole territory. This information is confidential to the Department and its source is not revealed to other members of the public. The identification of the petitioner's samples carried out by the Department at Dodoma was signed by the Emeritus Professor of Chemistry of Reading University in the United Kingdom, who was at that time working with the Tanganyika Department of Geological Survey. The suggestion that such a man would risk his professional reputation by a dishonest analysis cannot be entertained.

11. It is not considered that, with regard to the matters raised in the petition, the petitioner has suffered any injustice on account of any act of the Tanganyika Government, nor that he is entitled to any form of compensation. It is suggested that the Trusteeship Council should take no action on this petition other than to draw the petitioner's attention to the observations of the Administering Authority.
