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STANDING COMMITTEE ON PETITIONS

SUMMARY, RECORD OF THE SIXTY-SIXTH MEETING

Held at Headquarters, New York,
on Thursday, 11 June 1953, at 10.45 a.m.

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PRESENT:

Chairman:

Mr. YANG

China

Members:

Mr. CASSIERS

Belgium

Mr. QUIROS

El Salvador

Mr. SCOTT

New Zealand

Mr. ZONOV

Union of Soviet Socialist
Republics

Mr. McKAY

United States of America

Also present:

Mr. HURE

Mr. APEDO-AMAH

)
France

Secretariat:

Mr. RANKIN

Secretary of the Committee

Mr. BERENDSEN

Assistant Secretary of the
Committee

PETITIONS CONCERNING TOGOLAND UNDER FRENCH ADMINISTRATION (T/C.2/L.30, L.30/Add.1, L.30/Add.2) (continued)

The CHAIRMAN pointed out that the Committee was very behind hand in its work and asked the members to confine their questions to requests for explanations.

Petition from Mr. Gabriel Eklunatay, Vice-President of JUVENTO (T/PET.7/326), (T/C.2/L.30, page 31)

Mr. QUIROS (El Salvador) asked the French representative for an explanation of the measures taken against Mr. Ben Apaloo, Mr. Quacoe and Mr. Bamezon.

Mr. HURE (France) said that the persons concerned had been charged with the publication and dissemination of false news likely to cause a breach of the peace. As he had already stated in connexion with a similar petition, the offence was punishable under French law. According to the law no offence had been committed unless the intention to cause harm had been established.

The accused had been arrested on 28 February 1953 and the matter was sub judice. Mr. Bamezon had been released on bail at the end of April. The two other accused were in preventive custody. The examining magistrate hesitated to release them on bail in view of the proximity of the frontier.

Replying to a number of questions from the New Zealand representative, he explained that it was not a matter of punishing a person for his opinions, as that was not an offence under French law. It was a matter of false news likely to cause a breach of the peace, published with the intent to do harm.

French legislation certainly recognized the right of reply, whereby the editor of a newspaper was bound to publish all corrections sent to him by any person mentioned or referred to in an article. But something quite different was involved. It was a matter of false news inciting people to commit a breach of the peace.

Mr. SCOTT (New Zealand) noted that there was a complete contradiction between the complaint in the petition and the Administering Authority's statements.

The Committee could, therefore, note that the Administering Authority allowed the newspapers complete latitude in the publication of information on United Nations activities of concern to the Territory. It could then express the hope that freedom of the press would continue to be respected and could decide that the petition called for no action on the part of the Council as the matter was in the hands of the courts.

Mr. McKAY (United States of America) supported the New Zealand representative's proposal, and, in particular, the latter part of the statement.

He drew attention to paragraph 313 of the Report of the United Nations Visiting Mission to Trust Territories in West Africa, 1952, Report on Togoland under French Administration (T/1041) in which the Mission said that it had obtained the impression that the people were well acquainted with the aims and activities of the United Nations and particularly the Trusteeship Council.

Mr. HURE (France) pointed out that at the present time eight newspapers were published at Lomé, a town of fifty thousand inhabitants, or four more than when the Mission had visited the town.

Mr. ZONOV (Union of Soviet Socialist Republics) observed that in the present petition, as in the preceding ones, the petitioner complained about the measures taken by the Administering Authority against persons who wished to inform the people of Togoland of the activities and decisions of the United Nations. Moreover, it was the fourth case of arrest of journalists, or in other words, a violation of that freedom of the press which the Administering Authority had undertaken to safeguard.

He could not believe that the facts which the French representative systematically denied had been invented out of whole cloth. It was clear that two political organizations, the Comité de l'Unité togolaise and Juvento, were being persecuted.

Consequently, the Committee should complete the New Zealand representative's proposal by (1) taking note not only of the Administering Authority's statements but also of the petitioners' statements; and (2) recommending that the

Administering Authority should put an end to its anti-democratic policy, which violated the rights and freedoms of the people of the Territory.

Mr. SCOTT (New Zealand) thought that the French representative's last statement was very important. The Committee could note that since the Mission's visit four new newspapers had been published at Lomé.

With regard to the serious charge brought by the USSR representative against the Administering Authority, he pointed out that Mr. Zonov had mentioned only two parties. He had not referred to the Parti togolais du progrès, although it was also in favour of unification.

Mr. ZONOV (Union of Soviet Socialist Republics) said that he had brought no direct charge against the Administering Authority. He had merely supported the petitions and had mentioned the two parties referred to in the petitions.

The CHAIRMAN proposed that the Secretariat should prepare two draft resolutions, one reproducing the New Zealand representative's proposal and the other drafted along the lines suggested by the USSR representative.

Mr. ZONOV (Union of Soviet Socialist Republics) thought that his proposal was not incompatible with that of the New Zealand representative; it merely completed it. It was therefore unnecessary to prepare two draft resolutions.

Mr. SCOTT (New Zealand) was opposed to the addition proposed by the USSR representative.

Petitions concerning disputes over chieftainships (T/C.2/L.30/Add.1)

In reply to Mr. McKAY (United States of America), Mr. APEDO-AMAH (France) explained the system of chieftainships. The chief was elected by the people in accordance with custom and his appointment was approved by the administration. Each village had a traditional Conseil coutumier. In some regions, when a chief was to be appointed the custom was that the son or a near relative of the former chief should succeed him. Elsewhere several candidates could be submitted because,

by tradition, several families had the right to aspire to the office of chief. In both cases the Conseil coutumier reviewed the candidates and usually selected one. It called the people together and submitted a candidate whom the people either accepted or rejected. A representative of the Administration was present at the proceedings to see that everything was done in accordance with law and custom. The Administration then issued a decree sanctioning the appointment.

It was therefore impossible that a single village should have two chiefs and two lawful councils, as certain petitioners for whom politics tended to take precedence over tradition and the democratic way would like to have it believed.

The Administration adhered to the two-fold principle of not infringing custom and of taking the wishes of the people into consideration. It took the same attitude in the case of the dismissal of a chief, for which provision was made, in accordance with custom in certain circumstances. The initiative in removing a chief lay with the people, and the Administration sent to the spot a representative who had to ensure that that was the wish of the majority and that the legal forms were respected. If a chief had committed a wrongful act, punishable under French law, the initiative reverted to the Administration, but even that procedure was in accordance with custom.

Mr. ZONOV (Union of Soviet Socialist Republics) wished to know what the Administration was doing to replace that archaic political organization by a democratic régime.

Mr. APEDO-AMAH (France) replied that, while the present system was admittedly very ancient, it was in harmony with custom, and the Africans did not complain of it. The Administration could not consider overthrowing established customs; in order to lead the population to adopt a different conception of society it made use of cultural institutions. New schools were opened every year, at which the Africans and their Conseils coutumiers learned to manage their affairs in a more democratic manner. It was undeniable that through contact with the schools the tribal system was tending to disappear and the supremacy of the chief waning daily.

Mr. ZONOV (Union of Soviet Socialist Republics) asked whether there were cases in which the people, instead of the chiefs, elected representatives equivalent to the mayors of the western countries.

Mr. APEDO-AMAH (France) said that the hereditary chieftainship, which was not the most widespread form, was nevertheless subject to a plebiscite. The eldest son did not automatically succeed a deceased chief.

In the towns with mixed communities, where the indigenous inhabitants took part in the management of municipal affairs, the local chiefs were usually the heads of the municipal council, but in order to exercise their functions they must have had their names placed on the electoral lists in the manner prescribed by the law, and have been elected.

Petition from Mr. Gaston Wonou (T/FET.7/307)

Mr. APEDO-AMAH (France) explained that Mr. Gaston Wonou had perhaps been a chef de quartier or a family chief, but those titles did not confer on him any right to chieftainship, and he had never been a village chief. When the previous chief had died in 1948, the Conseil coutumier had submitted three candidates to the people. The petitioner had obtained 33 votes, the present chief 55, and the third candidate 14. Thus the petitioner could not have been deprived of an office which he had never held.

Moreover, Mr. Wonou, who was a member of the Comité de l'Unité togolaise, held political opinions different from those of the present chief, whose authority he had refused to acknowledge. He had then gathered a few villagers around him and had collected taxes from them. Taxes, however, could not be collected by anyone other than the village chief or a person authorized by him to collect them. The petitioner had refused to surrender the proceeds of the tax to the present village chief, who had therefore filed a complaint.

Mr. McKAY (United States of America) thought that the Committee should take note of the French representative's explanations in its draft resolution and that no other action was necessary.

Mr. QUIROS (El Salvador) remarked that the petitioner spoke of "corporal punishment" to which he alleged he had been subjected. He would like to know whether that practice still existed in Togoland under French administration.

Mr. APEDO-AMAH (France) had no information showing that the petitioner had received corporal punishment, which, moreover, was prohibited by law.

The CHAIRMAN felt that the Committee should take note of that statement in its draft resolution.

Petition from the Conseil coutumier of Badou (T/PET.7/315 and Add.1)

Mr. BERENDSEN (Assistant Secretary of the Committee) pointed out that the complaints of the petitioners were repeated in petitions T/PET.7/316; T/PET.7/318 and Add.1, and T/PET.7/320.

Mr. MCKAY (United States of America) observed that there was a contradiction between the Administering Authority's statements that Mr. Hermann Egblomassé had been elected chief of the canton of Litimé by 45 votes to 5, and the petitioners' contention that Mr. Kwami Appeti had been unanimously elected chef traditionnel coutumier supérieur. He also asked for a clarification of the contradictory dates of 10 October 1952, and 1950, which were given as the date of the election.

Mr. APEDO-AMAH (France) explained that on the death of the previous chief, his son, Hermann Egblomassé, had been appointed regent by the Litimé council. At the end of the term prescribed for the funeral ceremonies, the Conseil coutumier had confirmed him in his office as chief. The council which had elected Mr. Kwami Appeti had no legal standing; it was not even known who were members of it.

Mr. MCKAY (United States of America) asked whether Mr. Egblomassé had been appointed regent in accordance with the procedure normally applicable in such cases.

Mr. APEDO-AMAH (France) replied in the affirmative. The prescribed procedure was the same as for the election of a chief, since the prerogatives involved were the same.

In reply to a further question by Mr. McKAY (United States of America), Mr. APEDO-AMAH (France) stated that the Conseil coutumier alone had the right to nominate candidates for the chieftainship, and to put them forward at the tribal elections.

Mr. McKAY (United States of America) asked why there had been such a long regency between the death of the former chief and the election of his successor.

Mr. APEDO-AMAH (France) explained that according to the religious usages of South Togoland, the succession to a chief was not open immediately upon his death. A long period of ritual ceremonies must first elapse. During that interregnum, which might last two or three years, the prerogatives of the chief were exercised by a regent.

Mr. McKAY (United States of America) thanked the French representative for his explanation. As regarded the accusations against Mr. Mally, he expressed the view that the matter did not call for any action by the Council since it was within the jurisdiction of the courts.

Mr. SCOTT (New Zealand) asked whether there were in Togoland tribunals competent to deal with disputes relating to the election of chiefs.

Mr. APEDO-AMAH (France) stated that the customary courts were competent in respect of cases of that kind, at least so far as the qualifications of candidates before their appointment were concerned. Once a chief had been elected by popular vote, however, and the Administration had officially ratified that decision, the matter was removed from the customary domain. The Conseil du contentieux alone was competent to decide whether a chief's confirmation was valid.

Mr. SCOTT (New Zealand) asked whether the Administering Authority could not ensure publicity for the nominations decided upon by the Conseil coutumier and fix a time-limit within which any person might assert his rights and, if necessary, challenge the validity of a candidate's qualifications.

Mr. APEDO-AMAH (France) recalled that in elections the initiative lay with the Conseil coutumier, which informed the notables in good time. All precautions were taken to enable anyone to make his qualifications known.

Mr. SCOTT (New Zealand) was satisfied with the explanations given. It might perhaps be to the advantage of the Administration to publish the names of the chiefs elected, at the same time fixing a term during which appeals could be lodged. It would be well to inform the petitioners that they could bring their objections before the appropriate courts.

The meeting rose at 1 p.m.