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STANDING COMMITTEE ON PETITIONS

SUMMARY RECORD OF THE FIVE HUNDRED AND THIRTY-FIFTH MEETING

Held at Headquarters, New York,
on Wednesday, 13 April 1960, at 3.10 p.m.

CONTENTS

Classification of communications: draft 247th report of the
Standing Committee on Petitions (T/C.2/L.415)

Examination of petitions concerning New Guinea (T/C.2/L.413)

PRESENT:

Chairman:

Mr. RASGOIRA

India

Members:

Mr. D'ANETHAN

Belgium

Mr. YIN

China

Mr. ANTONOV

Union of Soviet Socialist
Republics

Mr. CASTON

United Kingdom of Great Britain
and Northern Ireland

Mr. BACON

United States of America

Also present:

Mr. FORSYTHE

Australia

Mr. JONES

Special Representative of the
Administering Authority for
the Trust Territory of
New Guinea

Secretariat:

Mr. CHACKO

Secretary of the Committee

CLASSIFICATION OF COMMUNICATIONS: DRAFT 247TH REPORT OF THE STANDING COMMITTEE ON PETITIONS (T/C.2/L.415)

The 247th report was adopted unanimously.

EXAMINATION OF PETITIONS CONCERNING NEW GUINEA (T/C.2/L.413)

I. Petition from Mr. To Vetenger, Councillor of the Toma area (T/PET.8/13)

The CHAIRMAN drew attention to Trusteeship Council resolution 2005 (XXIV), which expressed the hope that the investigation of the question would be completed without delay, preferably before the twenty-sixth session of the Trusteeship Council. He asked whether the Special Representative could give any fresh information on the subject.

Mr. JONES (Special Representative) said that he had recently visited the area in question and had been impressed by the thoroughness with which the investigation was being carried out. Just before his departure the Native Affairs Officer had completed the investigation of all the claims relating to areas totalling more than 800 hectares. The investigation had shown that a large section of the area had been proclaimed a Native Reserve: i.e., it had been set aside for use by the people if ever required. Some of the land included in the claims was even owned by indigenous inhabitants.

The investigation had clarified the situation with regard to plantations for which leases had been granted. With regard to Toma 1 and Toma 2, the Land Commissioner had decided that the properties should be held in trust by the Director of Native Affairs and on the expiration of the present lease should revert to the indigenous owners. In the meantime, all rents paid on the properties as far back as 1925 would be handed over to the Director of Native Affairs as Trustee for the claimants and would be used for the benefit of the community. An appeal could be lodged against that order by the claimants if they so desired. Their legal advisers were considering whether it would be to their advantage to do so or whether they would do better to accept the decision.

(Mr. Jones, Special Representative)

As far as the remaining three properties were concerned, the Department of Native Affairs had completed its investigation and was now awaiting a hearing by the Land Commissioner, which would probably take place not later than July or August of the current year.

Adjacent to the areas in question, the Administration had inaugurated pilot schemes for making land available to indigenous inhabitants for farming purposes. One method that was being tried was for the Council to lease a large area and to sublet it in suitable blocks. Another method was for the Administration to grant leases direct to individuals. Twenty-eight of the claimants in the area under consideration had been granted leases for areas of fifteen acres each. The Special Representative had visited the area and had found that work was proceeding satisfactorily and that the indigenous inhabitants were content with the system. A further sixty-six blocks of land would be made available in May of the current year.

In reply to a question by Mr. YIN (China), Mr. JONES (Special Representative) said that the leases of the plantations known as Toma No. 1 and Toma No. 2 would expire in the year 2024.

Mr. YIN (China) asked whether the local population was satisfied with the decision that the rents collected would be held in trust by the Native Affairs Officer.

Mr. JONES (Special Representative) replied that the people had made it clear that they were willing to relinquish claims to the actual plantations in question so long as they obtained compensation. They appeared to be quite satisfied with the arrangement under which the land would eventually revert to them and in the meantime the rents would be paid to them annually. There was no shortage of land in the area; the amount of land already made available to the people was more than double the size of the two plantations.

The CHAIRMAN, speaking as the representative of India, asked what was the amount of the rentals collected for the land which would go into the Trust Fund.

Mr. JONES (Special Representative) said that for the two properties, comprising about 130 hectares, the rent was revised annually. It had been increasing ever since 1925 and at present amounted to about £160 per annum, which was a normal rent whoever the occupier of the land might be.

The CHAIRMAN, speaking as the representative of India, asked whether any decision had been reached about the administration of the Trust Fund.

Mr. JONES (Special Representative) said that no decision had yet been reached; the Director of Native Affairs would no doubt discuss the matter with the local councils.

Mr. YIN (China) suggested that the Secretary of the Committee should be asked to draft a resolution drawing the petitioners' attention to the observations of the Administering Authority and to the statements of the Special Representative. Since the investigation was still proceeding, the Council would probably also wish to request the Administering Authority to furnish whatever additional information it could at a later date.

It was so decided.

II. Petition from the President of the Gynea Branch of the Communist Party of Australia (T/PET.8/14)

Mr. ANTONOV (Union of Soviet Socialist Republics) asked if the representative of Australia could provide further information concerning the incident dealt with in the petition.

Mr. FORSYTHE (Australia) explained that Mr. Suriembai had received a light blow from his employer presumably in a moment of anger. Such a blow would not normally have had serious effects, but the workman's spleen had been so enlarged that, according to medical opinion even a slight accidental jolt would have resulted in death.

He stressed the Australian Government's view that the petition was inadmissible under rule 81 of the rules of procedure of the Trusteeship Council.

Mr. ANTONOV (Union of Soviet Socialist Republics) thanked the Australian representative for his information but pointed out that not only the Soviet delegation but the Committee as a whole appeared to regard the petition as admissible since it had approved the recommendations of the Committee on Classification of Communications, which had not classified the petition inadmissible.

With regard to the substance of the petition, he felt that the matter was a serious one, for it involved the death of an inhabitant of a Trust Territory and, under the Charter, the Administering Authority of a Territory had a sacred trust to protect the life and interests of its inhabitants. The Soviet delegation appreciated the fact that the case had been tried in a court of justice and, while it had no objection to the finding of manslaughter, it felt that the lightness of the sentence had distinctly colonial overtones. Moreover, rule 81 could not be interpreted so as to prevent consideration by the Trusteeship Council of petitions against legislation on the grounds of its incompatibility with the provisions of the Charter. The Soviet delegation therefore felt that the United Nations should seek to prevail upon the Administering Authority to comply with the provisions of the Charter and to respect the principles set forth in the Universal Declaration of Human Rights.

Mr. FORSYTHE (Australia) said that the fine imposed in no way implied a low assessment of human life. The term manslaughter covered a wide variety of circumstances, involving different degrees of fault. The case under consideration fell within the lowest category of manslaughter, since there had clearly been no neglect of human life. Under the laws of New Guinea fines were admitted for all offences except murder. The fine in the present case had been comparatively heavy.

Mr. CASTON (United Kingdom) felt that the fact that the petition had appeared on the Committee's agenda could not be assumed to preclude its being found inadmissible by the Committee.

(Mr. Caston, United Kingdom)

With regard to the substance, he would like to know whether the finding of manslaughter had been a finding of fact by the Court on the basis of evidence. He would also like to have further information concerning the competence of the court and wondered if any appeal lay from its decision under the laws of the Territory.

Mr. FORSYTHE (Australia) replied affirmatively to the first question. The Court in question was the Supreme Court of Papua and New Guinea and was therefore competent; legally it was doubtful whether an appeal could be made to courts in Australia.

Mr. CASTON (United Kingdom) said that his delegation was satisfied that the petition was in the main directed against a judgement by a competent court and in so far as that was so, it should therefore not be considered further.

Mr. ANTONOV (Union of Soviet Socialist Republics) asked whether the Australian representative could give details concerning the size of the farm on which Mr. Suriembai had been employed and the nature of his employment.

Mr. FORSYTHE (Australia) said that he had no such information available at present but that it might be obtained.

Mr. ANTONOV (Union of Soviet Socialist Republics) wanted to know the circumstances in which Mr. Suriembai had been killed and whether incidents of that kind occurred frequently on farms in the Trust Territory.

Mr. FORSYTHE (Australia) stressed that it had been an exceptional case and that it was not the practice to strike workers.

Mr. ANTONOV (Union of Soviet Socialist Republics) asked whether the case had been investigated by the Administering Authority.

Mr. FORSYTHE (Australia) assured the Committee that a full investigation had been carried out.

Mr. ANTONOV (Union of Soviet Socialist Republics) asked what penalty would have been inflicted if the farmer had killed an Australian citizen and not an indigenous inhabitant of the Trust Territory. He was asking that question

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(Mr. Antonov, USSR)

because he had gained the impression from the petition and the observations that there was discrimination in the application of the laws. Under the rules of procedure the Council could criticize laws which were harmful to the inhabitants of a Trust Territory. The indignation which the incident had aroused in Australia, the long articles in the Press and the reaction of people in Tasmania supported the view that there had been discrimination.

Mr. FORSYTHE (Australia) said that in fact, there had been no discrimination in the application of laws in the Territory. The law was applied equally and fairly for all. The incident was of a kind that was likely to attract attention in newspapers.

He drew the Committee's attention to the affiliations of the originators of the petition in Australia.

Mr. ANTONOV (Union of Soviet Socialist Republics) said that the Committee examined petitions irrespective of sources. He shared the feelings which had prompted the Communist Party of Australia to appeal to the United Nations. In any case, he would point out that a petition referring to the same case (T/PET.8/15) had been received from the Chairman of the Tasmanian Rationalists.

Mr. CASTON (United Kingdom) suggested that the Committee could simplify its business by considering petition T/PET.8/15, concurrently with the petition at present under consideration. He would stress once again, however, that he considered the latter petition to be inadmissible under rule 81 of the rules of procedure.

The CHAIRMAN thought there would be no objection to the concurrent consideration of the two petitions.

Speaking as the representative of India, he said that rule 81 of the rules of procedure referred to normal cases and did not support the thesis that a court decision always removed the matter from the competence of the Committee. The Committee was dealing with an abnormal case and he did not think that it would be wise to adopt a hidebound attitude. He would like the Committee to discuss the matter as thoroughly as possible and to come to some conclusion.

Mr. YIN (China) drew attention to the report annexed to the petition according to which Mr. Hasluck, the Australian Minister for Territories, had said that the Australian Government had considered the case and had found that there had been no discrimination. He wondered if the Special Representative had with him a summary of the earlier cases which the Australian Government had considered before arriving at its decision.

Mr. JONES (Special Representative) said that he had no such information. He could say from his own experience of such matters that there had been no discrimination in the case in question. He recalled that only light prison sentences had been passed on the indigenous inhabitants who had killed two patrol officers in a savage attack.

The CHAIRMAN, speaking as the representative of India, asked whether Mr. Justice Kelly had been correctly reported as saying that to have imprisoned Seer would have meant his banishment from the Territory.

Mr. JONES (Special Representative) said that he understood that a statement on those lines had been made.

The CHAIRMAN, speaking as the representative of India, asked whether Seer's presence in the Territory was indispensable in any way and whether such a consideration could have influenced the judgement of the court.

Mr. JONES (Special Representative) said that he had no means of knowing whether that was so.

The CHAIRMAN, speaking as the representative of India, asked whether there were any laws in force in the Territory forbidding the imprisonment of Australian citizens in gaols in the Territory itself, whether there was a limitation on a term of imprisonment served in that way and whether there was any legal basis for such a practice.

Mr. JONES (Special Representative) said that he would have to make inquiries before replying to that question.

The CHAIRMAN, speaking as the representative of India, asked whether it was correct that Mr. Justice Kelly had said that Seer had "merely done what others have done" and whether that would have had a bearing on the disposal of the case.

Mr. JONES (Special Representative) thought the remark might have been made in passing; in any case the Judge was reported to have added the words "in the years past".

The CHAIRMAN, speaking as the representative of India, asked if the deceased had any dependents and whether any compensation had been offered.

Mr. JONES (Special Representative) said he had no information on that subject.

The CHAIRMAN, speaking as the representative of India, thought that the entire business of infliction of corporal punishment by a farmer was an unpalatable one and that the court ought to have passed an exemplary sentence on the offender.

Mr. JONES (Special Representative) said that, as the Cabinet had decided that an appeal was not warranted, it was obviously in agreement with the Judge's decision.

The CHAIRMAN said that the evidence made available to the Committee was still incomplete, because a number of questions had not been answered. He suggested that the Committee should defer its consideration for a few weeks, during which time the Special Representative could seek further information.

Mr. CASTON (United Kingdom) repeated that the petition was inadmissible under rule 81 of the rules of procedure. He did not feel that it would be profitable to pursue the matter any further. Many questions which in his view were neither proper nor necessary had been put to the Special Representative. His delegation could not go on record as requesting further information in the matter.

The CHAIRMAN, speaking as the representative of India, said that he disagreed entirely with the representative of the United Kingdom. The petition had been classified under rule 85 (1) of the rules of procedure. The point at issue was not the competence of the court but aspects of the administration of

the Territory. He himself had no objection to the Committee moving on to the next petition on the same subject.

Mr. ANTONOV (Union of Soviet Socialist Republics) said that the question was perfectly clear. There were colonial customs in the Territory under which the white settlers were apt to take arbitrary action and there was no guarantee of the life, rights and freedoms of the local inhabitants. He would like that view to be stated in a draft resolution, which should also contain a recommendation seeking protection for the indigenous inhabitants, in practice and in law, against arbitrary acts of violence by the white population. He had no objection to putting off the consideration of that petition for, say, one month if the Committee could then return to it and obtain more detailed information from the Special Representative.

Mr. FORSYTHE (Australia) said that while it was for the Committee to determine its own procedure the Australian delegation reasserted its view that the petition was inadmissible under rule 81 since nothing had been said in the discussion that proved the contrary. The Australian delegation, in a spirit of co-operation, had tried to furnish as much information as possible but it none the less felt that some improper questions had been asked. Moreover, since the judgement in question had been thoroughly reviewed by the Australian Government he doubted very much whether it would be possible to provide any further information at a later date. He fully reserved the position of the Australian Government on that point.

The CHAIRMAN, speaking as the representative of India, said that as far as his delegation's questions were concerned they had related to legislation as it existed in the Trust Territory and had accordingly had a bearing on the petition.

Speaking as Chairman, he invited suggestions concerning the disposal of the petitions dealt with in sections II and III of the working paper.

Mr. ANTONOV (Union of Soviet Socialist Republics) suggested that if consideration of the petition in Section II were to be postponed, then the first part of the petition in section III might similarly be postponed to await further

(Mr. Antonov, USSR)

information. The remaining points in the latter petition might be dealt with during the discussion of the annual report of the Trusteeship Council. The Committee could then send the petitioner the records of the discussion in the Trusteeship Council in answer to his petition.

Mr. CASTON (United Kingdom) expressed agreement with that suggestion.

The CHAIRMAN proposed that the Committee should proceed in accordance with the suggestion made by the Soviet representative.

It was so decided.

The meeting rose at 4.45 p.m.