

GENERAL ASSEMBLY

THIRTEENTH SESSION

Official Records


 Monday, 3 November 1958,
at 10.50 a.m.

NEW YORK

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Chairman: Mr. Frederick H. BOLAND (Ireland).

**Requests for hearings (A/C.4/377/Add.3, 4 and 5)
(continued)**

REQUESTS CONCERNING AGENDA ITEM 13 (REPORT OF THE TRUSTEESHIP COUNCIL) (A/C.4/377/ADD.3, 4 AND 5) (continued)

1. Mr. CLAEYS BOUUAERT (Belgium) said that he had outlined his delegation's position on hearings at the 774th meeting. After reading Mr. Kale's reply to the telegram addressed to him on 28 October (A/C.4/377/Add.4), the Belgian delegation was more than ever convinced that the Committee would not be justified in granting a hearing to the petitioner. It was clear that the petitioner intended to outline his views on the Uganda problem. His request for a hearing on Ruanda-Urundi was only a pretext to circumvent the provisions of the Charter. Moreover, the Belgian delegation had many reservations concerning Mr. Kale's competence in the matter and doubted whether he was qualified to speak on Ruanda-Urundi.

2. Mr. KENNEDY (Ireland) said that when his delegation had asked at the 774th meeting for information concerning Mr. Kale's request for a hearing (A/C.4/377/Add.3), its object had not been to deprive the petitioner of his right to be heard, but rather to preserve the right of petition and to ensure respect for the dignity of the Committee.

3. It should be noted in the first place that the question before the Committee related only to the report of the Trusteeship Council. Mr. Kale's telegram mentioned other problems which might be examined later, but any reference to such questions would of course be out of order in the present context.

4. The request for a hearing on Ruanda-Urundi called for certain comments. His delegation recognized that certain petitioners might be heard in a personal capacity, but Mr. Kale's case was rather a special one, as he did not live in the Territory on which he intended to supply information, and was not the spokesman of any group of inhabitants of that Territory. Those considerations had not applied to any of the petitioners to whom a hearing had been granted regarding the Cameroons or South West Africa. If the Committee granted a hearing in such circumstances, it might set a dangerous precedent which would be detrimental to the right of petition itself.

5. His delegation had also been anxious to know what were the urgent problems with regard to which the petitioner wished to furnish explanations to the Fourth Committee. The problems relating to the political and educational situation mentioned by the petitioner were dealt with in detail in the Trusteeship Council's report (A/3822) and did not appear to be urgent enough to justify a hearing. Whatever the Committee's decision, the request would at least have been useful in drawing the Committee's attention to the need for vigilance and caution in the matter. The right of petition was so valuable that it would be wrong to allow it to be abused.

6. His delegation would therefore vote against the granting of a hearing to Mr. Kale.

7. Sir Andrew COHEN (United Kingdom) considered that Mr. Kale's request for a hearing raised some issues of principle which the Committee should examine with care.

8. His delegation had not opposed the granting of hearings to petitioners from Trust Territories when it had considered that the hearings might be helpful. It did, however, consider that the Assembly should ask itself in each case whether the hearing was likely to contribute to the welfare of the people of a Trust Territory and to the good working of the Trusteeship System. Any abuse of the right of petition, and any undue restriction, would be harmful to the exercise of that right.

9. It was clear from Mr. Kale's telegram that he was not an inhabitant of Ruanda-Urundi and that he did not represent any group or organization of the Territory; there was no precedent for granting a hearing on a Trust Territory to a person who was not an inhabitant. It was true that the Charter did not confine the right of petition to the inhabitants of the Territory concerned or to representatives of groups or organizations of that Territory, but the Charter did give discretion to the General Assembly and the Trusteeship Council to hear petitioners or not. The Fourth Committee was under no obligation to grant a hearing to anyone who asked for it. Nor would it be practicable in the long run to hear all petitioners automatically, just because so far only a certain number had presented themselves. There must be some logic and order in the matter. That would not prejudice the right of petition; on the contrary it would be safeguarded thereby. There must be some principles by which the Committee should be guided; he was sure that no one would maintain that a hearing should be granted automatically to all who asked for it. It would seem that the essential minimum requirements were that a petitioner who was not an inhabitant of the Trust Territory concerned should at least be able to show, firstly, that he was the spokesman of a section of the people of that Territory and, secondly, that he had some particular reason

for asking to be heard by the Committee either because of the urgency of the problem involved or for some other reason.

10. Mr. Kale was not an inhabitant of Ruanda-Urundi. He had been born in Uganda and had lived there until the previous year, when he had moved to Cairo. He said that he wished to speak on Ruanda-Urundi in a personal capacity and that he was strongly backed by the people of the Territory. The latter, however, was only a general statement; there was no suggestion that he represented any group in the Territory who were unable to come before the Committee themselves. The present case was therefore essentially different from the only other one in which a petitioner had been heard on behalf of a territory of which he was not an inhabitant. The other matters on which Mr. Kale wished to speak were exhaustively considered in the report of the Trusteeship Council and had been examined the previous year by the United Nations Visiting Mission to Trust Territories in East Africa, 1957. The petitioner asserted that the situation was urgent but gave no grounds to justify that view. There were therefore no special grounds for granting Mr. Kale a hearing.

11. It should also be noted that the petitioner had originally intended to speak on Uganda, ostensibly on behalf of a political party in that Territory. It would appear that he was now asking to be heard on Ruanda-Urundi because he thought that would be the best way to obtain a hearing. That seemed to make it clear that Mr. Kale had no genuine claim to appear on behalf of the Trust Territory of Ruanda-Urundi. Sir Andrew hoped that the Committee would demonstrate its opposition to such manoeuvres by voting against granting the hearing. The petitioner could be advised to submit his views in a written petition in the appropriate way.

12. Mr. ZULOAGA (Venezuela) said that he wished to make a few general remarks. Three speakers had already opposed Mr. Kale's request for a hearing, the main reason for their opposition apparently being the fact that the petitioner did not live in the Territory about which he wished to speak. It was possible that he lived outside the Territory because of difficulties with the local authorities and in that case he should undoubtedly be heard. The Administering Authorities had accepted as a sacred trust the obligation of promoting the well-being of the inhabitants of the Territories for which they were responsible and had in consequence assumed special responsibilities. The United Kingdom representative had suggested that Mr. Kale might be invited to submit a written communication, but the Venezuelan delegation considered that the Committee should hear the petitioner precisely because he did not live in the Territory. Although the Committee should, as the Irish representative had said, be wary of setting dangerous precedents, it was equally important to avoid an appearance of undue caution.

13. There was no reason why the granting of a hearing to Mr. Kale should waste the Committee's time since it would always be possible to stop the petitioner if his statements were off the point.

14. In principle, his delegation was in favour of granting a hearing to Mr. Kale to enable the Committee to perform the supervisory role referred to

in Article 75 of the Charter, but reserved the right to return to the subject at a later stage in the discussion.

15. The CHAIRMAN read out a further telegram from Mr. Kale dated 31 October 1958 (A/C.4/377/Add.5) requesting a personal hearing on the ground that no other course was open to him since political parties were prohibited in Ruanda-Urundi under Belgian law.

16. Mr. MUFTI (United Arab Republic) observed that the Irish and United Kingdom statements raised important questions which called for comment.

17. From Mr. Kale's telegram of 30 October (A/C.4/377/Add.4), it appeared that the petitioner was particularly concerned with the question of the administrative union between the Belgian Congo and Ruanda-Urundi, a question which was discussed in the report of the Trusteeship Council and which would be examined by the Committee. Uganda had a common frontier with the Congo and there was, as was noted in the Council's report, a substantial movement of workers between the two Territories. It was, moreover, evident that, when political views could not be freely expressed in a Territory, persons living outside the Territory were able to speak more freely; it followed that persons living outside Ruanda-Urundi might be able to provide information which the inhabitants of the Territory could not provide themselves. Mr. Kale's telegram of 31 October confirmed that view.

18. His delegation reserved the right to speak at greater length if the Committee decided to postpone its decision and pointed out that persons granted hearings need not be inhabitants of a Territory or represent any particular group or party.

19. Mr. PACHACHI (Iraq) felt that, in his telegram of 30 October, the petitioner had referred to Uganda because he was not aware of the difference between the Non-Self-Governing Territories and the Trust Territories. The Committee should not hold that against him and might grant him a hearing on the subject of Ruanda-Urundi, indicating that he would not be entitled to discuss Uganda.

20. Although his delegation agreed with Ireland and the United Kingdom with regard to the general principles involved, its conclusions were different. Ireland and the United Kingdom appeared to attach great importance to the fact that Mr. Kale did not live in Ruanda-Urundi, although they had recognized that that was not an essential requirement. The Committee had in fact already granted hearings to persons who did not live in the Territories they had represented before the Committee.

21. It had also been said that the matter was not urgent. That was a question of personal opinion and it was certainly a fact that in the matter of land tenure, political progress and social conditions, Ruanda-Urundi lagged far behind the other African Territories. The Committee had hitherto done no more than note, year after year, the slow rate of progress made in the Territory and it was time that it took action and made a detailed study of the situation. The same rules could not in fact be applied to Ruanda-Urundi as to more highly developed Territories: petitioners could not be required to represent

parties or groups in a country in which political life was still rudimentary, a fact that was clear from the petitioner's last telegram.

22. For those reasons his delegation would support Mr. Kale's request for a hearing on the subject of Ruanda-Urundi.

23. Sir Andrew COHEN (United Kingdom) pointed out that he had referred to inhabitants and not to residents, a term with completely different connotations, and that he had said that petitioners should represent some section of public opinion, not necessarily a political party.

24. Mr. MUFTI (United Arab Republic), commenting briefly on the United Kingdom representative's statement, said that neither the rules of procedure of the Trusteeship Council nor the United Nations Charter required that the petitioner should represent the views of any group in the Territory concerned. That was a new idea which had been injected into the discussion and was not to be found in those texts.

25. Mr. RASGOTRA (India) said that his delegation would support the right of petition which was guaranteed by the Charter. In its view there was not the least doubt about the admissibility of Mr. Kale's request. Nevertheless, as the Committee was examining the Trusteeship Council's report, he considered that any reference to Uganda might be excluded.

26. Those who opposed the granting of the petitioner's request had relied on various arguments: firstly, that Mr. Kale was not an inhabitant of the Territory of Ruanda-Urundi; secondly, that he represented neither a group of the population nor a political party; thirdly, that the question he mentioned was not sufficiently urgent to justify a hearing and that it would be enough if he submitted a written communication to the Committee; fourthly, that the petitioner should have made his request to the Trusteeship Council and not to the Fourth Committee.

27. With regard to the first argument, it was nowhere stated in the Charter that a petitioner must be an inhabitant of the Territory concerned. In any case precedents had been established over the previous ten years. For example, the Committee had agreed a few years previously to grant a hearing to inhabitants of the Gold Coast in connexion with the situation in Togoland. That was a precedent, and if the petitioner came at his own expense, there was no reason to refuse him a hearing because he did not live in Ruanda-Urundi. Moreover, it often happened that petitioners were not permitted to reside in the Territory to which their petition referred; refusal of a hearing when one was justified would deprive them of their only means of recourse and prevent the Committee from exercising its supervisory function.

28. As regarded the argument that the matter was not urgent, it might well be asked whether it was necessary to have a rising or a civil war before a question could be regarded as urgent. The Committee should reach a decision and express its views on the situation in Ruanda-Urundi. The time appeared to be ripe to do so.

29. The fourth argument was refuted by Article 87 b of the Charter; the Fourth Committee was a committee of the General Assembly and there was no need for requests for hearings to be submitted first

to the Trusteeship Council, which was a subsidiary organ.

30. In view of those considerations, his delegation thought that Mr. Kale's request was a reasonable one and would vote in favour of granting the hearing.

31. Mr. AZNAR (Spain) said that his delegation, though initially well disposed towards Mr. Kale, had changed its mind after learning of the petitioner's telegram of 30 October. His country did not think that the fact of being an inhabitant of the Territory concerned was a major factor in the case of requests for a hearing or that it was necessary to require credentials from petitioners. However, they must be required to represent groups of the population or political parties. Mr. Kale had asked to be heard on the subject of Uganda; on learning that that request could not be granted, he had telegraphed that he wished to be heard on the subject of Ruanda-Urundi. Thus it did not seem that he could claim to speak in the name of any very well defined group.

32. He pointed out that, under Article 87 of the Charter, the General Assembly and the Trusteeship Council might accept petitions and examine them, but that the petitioners had no recourse if their request was refused. Petitioners should certainly be heard, but it was regrettable that the regulations did not stipulate certain limiting conditions; there was a danger that abuse of the right of petition would lower the prestige of the Committee and impair the authoritative character of its proceedings. For those reasons his delegation would be obliged to vote against Mr. Kale's request for a hearing.

33. Mr. BUSNIAK (Czechoslovakia) considered that Mr. Kale had replied very clearly to the questions put to him in the telegram of 28 October. There was nothing in the Charter or in the rules of procedure of the General Assembly to prevent a petitioner from being heard in a personal capacity. The first question on which the petitioner wished to be heard, namely, the political and educational situation in Ruanda-Urundi, was certainly relevant to the Committee's consideration of the Trusteeship Council's report. The fact that the second point raised by the petitioner—the alleged intention of Belgium to cede Ruanda-Urundi to the Belgian Congo—was not considered in the report was certainly no reason to prevent the petitioner speaking about it. Similarly the fact that the petitioner did not live in Ruanda-Urundi could not constitute an obstacle. The Trusteeship Council, which only granted hearings with the greatest circumspection, had decided at its twenty-second session (897th meeting) to grant a hearing on the subject of the Trust Territory of the Pacific Islands to United States citizens who had never resided in the Territory. Consequently, his delegation would vote for hearing Mr. Kale.

34. Miss BROOKS (Liberia) proposed that the debate should be closed and the vote taken.

35. The CHAIRMAN stated that, if there were no objections to the Liberian proposal, he would put to the vote forthwith Mr. Kale's request for a hearing as expressed in his telegram dated 23 October 1958 (A/C.4/377/Add.3), that was, his request for a hearing on Ruanda-Urundi, under Article 87 of the United Nations Charter.

It was so decided.

36. Mr. BOZOVIC (Yugoslavia) asked for permission, in accordance with rule 129 of the rules of procedure, to explain his vote before the voting.

37. Mr. CLAEYS BOUUAERT (Belgium) asked that he too should be allowed to explain his vote before the voting, so as to reply to the remarks of certain delegations; otherwise, the reply would have no point.

38. The CHAIRMAN observed that the Committee had decided to close the debate and that if explanations of votes were permitted before the voting the debate would be reopened. In accordance with rule 129 of the rules of procedure, he decided, therefore, to put Mr. Kale's request for a hearing to the vote immediately.

At the request of the representative of India, the vote was taken by roll call.

Poland, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Poland, Romania, Sudan, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Uruguay, Venezuela, Yemen, Yugoslavia, Afghanistan, Albania, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Ceylon, Czechoslovakia, Ethiopia, Federation of Malaya, Ghana, Greece, Haiti, Hungary, India, Indonesia, Iran, Iraq, Jordan, Lebanon, Liberia, Libya, Mexico, Morocco, Nepal, Philippines.

Against: Portugal, Spain, Sweden, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Honduras, Ireland, Italy, Luxembourg, Netherlands, New Zealand, Norway, Peru.

Abstaining: Thailand, Tunisia, Argentina, Bolivia, Chile, China, Colombia, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Israel, Japan, Pakistan, Panama.

The hearing requested by Mr. John Kale was granted by 36 votes to 23, with 16 abstentions.

39. Mr. BOZOVIC (Yugoslavia), explaining his delegation's vote, said that he regretted that Mr. Kale's reply made in his telegram of 30 October (A/C.4/377/Add.4) had created some confusion. In his view, however, the fact that he had mentioned Uganda simply showed his ignorance of the General Assembly's rules of procedure and was proof of his good faith. His delegation upheld the right of the inhabitants of Trust Territories to submit petitions, but it did not consider that right reserved to the inhabitants alone, particularly in the case of a Territory such as Ruanda-Urundi where the people were not always very well informed of their rights under the Trusteeship System. As regarded the urgency of the questions on which Mr. Kale wished to speak to the Committee, which certain delegations had denied, he would point

out that that was an essentially subjective question; moreover, in view of the rapid development of the Trust Territories, it was impossible to say that a matter which did not seem urgent today would not be so tomorrow.

40. Mr. EL-RIFAI (Jordan) said that he had voted in favour of the request for a hearing in so far as it concerned Ruanda-Urundi, because the petitioner's reply left no doubt as to his right to be heard on the subject of that Territory. As the representative of Iraq had observed, the fact that Mr. Kale had asked to speak on Uganda was not an adequate reason to refuse to hear him on Ruanda-Urundi.

41. Mr. EDMONDS (New Zealand) expressed misgivings as to the way in which the Committee had interpreted the principles governing the hearing of petitioners in deciding to hear Mr. Kale. In his delegation's opinion, Mr. Kale clearly did not fulfil the required conditions for being heard on the subject of Ruanda-Urundi. Each request should be considered on its own merits and it was regrettable that a certain number of delegations seemed to have decided to accept a priori all requests for hearings, whether well founded or not. His delegation had voted against hearing Mr. Kale because it was anxious to maintain the prestige of the United Nations and to ensure respect for the rights of genuine petitioners and, consequently, for the real interests of the peoples of all Trust Territories.

42. Mr. MACQUARRIE (Canada) said that he had voted against the request for a hearing because he thought that the Committee would not be showing good judgement by deciding to hear Mr. Kale and that there was a danger of establishing an unfortunate precedent.

43. Mr. MUFTI (United Arab Republic) objected to the New Zealand representative's accusation that the delegations which had voted in favour of the request for a hearing had preconceived views.

44. Mr. TARCICI (Yemen) stated that he had voted in favour of hearing Mr. Kale because he had observed that no inhabitant of Ruanda-Urundi had asked to be heard by the Committee and he thought that the petitioner would be able to throw some light on the reasons for that state of affairs.

45. Mr. MESTIRI (Tunisia) said that his delegation had decided that Mr. Kale's request was not admissible, because a decision to grant a hearing to a petitioner who was not a national of the Territory on which he asked to be heard, and who was evidently interested in another Territory, seriously impaired the right of petition.

46. Mr. BENLER (Turkey) said that he had voted against the petitioner's request because he was anxious to ensure respect for the right of petition as it had been established by the United Nations.

The meeting rose at 1 p.m.