

GENERAL ASSEMBLY

THIRTEENTH SESSION

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

Tribute to the memory of His Holiness Pope Pius XII

1. The CHAIRMAN asked the members of the Committee to observe a minute's silence in tribute to the memory of the late Pope Pius XII.

The Committee observed a minute of silence in memory of His Holiness Pope Pius XII.

Requests for hearings (A/C.4/377/Add.2) (*continued*)

REQUESTS CONCERNING AGENDA ITEM 13 (REPORT OF THE TRUSTEESHIP COUNCIL) (A/C.4/377/Add.2)

2. The CHAIRMAN called attention to a telegram (A/C.4/377/Add.2) in which the Union nationale des étudiants kamerunais asked for a hearing for two delegates. If there was no objection, he proposed that the Committee should hear the delegates concerned.

It was so decided.

AGENDA ITEM 39

Question of South West Africa (*continued*):

- (a) Report of the Good Offices Committee on South West Africa (A/3900);
- (b) Report of the Committee on South West Africa (A/3906 and Add.1)

GENERAL DEBATE ON SUB-ITEM (a)

3. The CHAIRMAN declared open the general debate on the report of the Good Offices Committee on South West Africa (A/3900).

4. Mr. ESPINOSA Y PRIETO (Mexico) regretted the absence of the representative of the Union of South Africa and of the members of the Good Offices Committee now that the Fourth Committee was at last beginning its debate on sub-item (a) of agenda item 39. During the preceding meetings, several delegations had unsuccessfully suggested a procedure that might

be acceptable to the Union of South Africa. The summary records of those meetings would show who was responsible for the present situation.

5. His delegation had been one of the first to accept hopefully the establishment of a good offices committee. It had also unfortunately been one of the first to express its disappointment at one of the features of the Committee's report. The first results of the exceptional method adopted at the twelfth session were disconcerting, and the possibility of arriving at an agreement and dispelling misunderstandings would depend mainly on the course of the discussion. If the Fourth Committee did not arrive at an understanding, the settlement of the problem might be even further off than it had been in 1957.

6. Although the report of the Good Offices Committee contained certain very doubtful features, the method adopted had brought about at least one positive result: the resumption of contact with representatives of the Union of South Africa. That result was due in part to the efforts made by the negotiators, but also to the attitude of the Union itself. When submitting his draft resolution (A/C.4/L.492) to the Committee at the twelfth session (664th meeting), the Chairman of the Fourth Committee had not disguised the fact that the Union had shown goodwill during the negotiations, which had preceded the drafting of that text. The Mexican delegation took credit for having been among those whose conciliatory attitude had prompted the Union of South Africa to resume its place in the General Assembly. Everyone would recognize that the restoration of cordial relations could have beneficial results both for the United Nations and for the Union of South Africa.

7. The members of the Good Offices Committee had had an extremely delicate task. Their report contained positive features but it also contained a proposal which was not presented in a satisfactory fashion. The fault lay less with the members of the Good Offices Committee than with the Governments which had appointed them. Contrary to custom, the Assembly had not directly nominated the members of the Committee, but had requested the United Kingdom, the United States and the President of the Assembly to designate one representative each. He himself had hoped that the members of the Good Offices Committee, who had not taken part in the Assembly's debates, would be informed by their Governments or by the United Nations Secretariat of certain details which did not appear in the documents, that they would be warned that their appointment was not really representative of the Assembly's opinions and that they would be asked to show more than ordinary prudence in order to avoid introducing into their report any element of surprise for the Assembly. It should not be forgotten that strong resistance had had to be overcome before the Fourth Committee had accepted the establishment

of the Good Offices Committee. The Fourth Committee had known that the mediators would spare no effort in the course of the negotiations. The possibility that the Union might refuse to co-operate with the United Nations had not been overlooked. Also, according to certain rumours, the prospect had had to be faced of the Union proposing a partition of the Territory.

8. His delegation had therefore been astonished to find that the Good Offices Committee had itself taken the initiative in proposing a partition of the Territory, despite the conclusion which it had reached and had formulated in paragraph 24 of its report. In fact, from paragraph 47 onwards, the report was very one-sided and gave so much prominence to the idea of partition that all other solutions were relegated to the background. That impression was confirmed by paragraph 51 and by paragraph 52, sub-paragraph (7), in which the hope was expressed that the General Assembly would encourage the Union Government to carry out an investigation of the practicability of partition. The explanation given by the Good Offices Committee in paragraph 23 of its report would be of value only if that Committee had drawn up a complete list of all the proposals that had come to its notice. The idea of partition, which had first been suggested by the Anti-Slavery Society,^{1/} had not been considered by the General Assembly. On the other hand, other proposals which had been examined by the General Assembly had not been mentioned in the Committee's report. Thus, during the tenth session, the Mexican delegation had made a specific proposal at the Committee's 495th meeting which was received with interest by many delegations but which the report of the Good Offices Committee did not mention, although the solution proposed in paragraphs 17 to 21 of the report was in some respects similar to the Mexican proposal. The Good Offices Committee had hastened to welcome the idea of partition, but had failed to indicate the origin of the idea, to reproduce it faithfully or to explain that the General Assembly had never considered it. It should be noted that the representatives of Brazil, the United States and the United Kingdom had never made the slightest allusion to such a solution.

9. The Committee on South West Africa had recently had occasion to examine a petition asking that the whole of South West Africa, and not only part of the Territory, should immediately be placed under the Trusteeship System; that petition was reproduced in annex V of the report of the Committee on South West Africa (A/3906 and Add. 1). The Committee on South West Africa had been examining that part of its report at the very time when the report of the Good Offices Committee had been published. The Committee on South West Africa had been examining that part of its report at the very time when the report of the Good Offices Committee had been published. The Committee on South West Africa had seen fit not to refer to the petition and had confined itself to reproducing it as an annex in order not to prejudice the important discussion to be held in the Fourth Committee.

10. Despite the criticism which his delegation had felt bound to level at the report of the Good Offices Committee, the return of the Union of South Africa was a welcome development. It was not the Union

which had proposed partition but rather the Good Offices Committee. His delegation regretted that it was in complete disagreement with the Good Offices Committee on that point and felt that the Fourth Committee should not come to any decision that would imply acceptance of that part of the report. Obviously if the Union itself were to propose a partition plan, the Fourth Committee would agree to consider it, but it was not for the United Nations to invite the Union to undertake an investigation of the subject. Technically speaking, partition or annexation was not out of the question, but two fundamental principles must be respected: the right of peoples to self-determination and equality. With regard to the first principle, the report provided that the people of the Territory would be consulted. As to the second principle, the people of South West Africa must be given certain formal guarantees by the Union. It was clear that no member of the Fourth Committee would agree to South West Africa's being attached to the Union in the absence of such guarantees.

11. His delegation would not object to a tie based on the will of the people, in conditions as specific as those which had accompanied the tie between Greenland and Denmark. Unfortunately, the Union of South Africa was pursuing its policy of apartheid. According to the report of the Committee on South West Africa, the great majority of the inhabitants of South West Africa were still subjected to inequality of treatment, to displacement etc., and were very far from enjoying equality of rights. If the conditions in which the United Nations could consider South West Africa's being attached to the Union did not exist, there seemed no point in the Fourth Committee's examining a proposal which had not even been submitted by the Union, which the United Nations had never envisaged and which the Good Offices Committee itself had advanced only with reservations. The Good Offices Committee said that it had not submitted any precise proposal to that effect. The representative of the Union of South Africa, on the other hand, had said that a very clear proposal was involved. The only idea of that nature which had ever been put forward was the suggestion of the Anti-Slavery Society, which was not relevant because the International Court of Justice had clearly stated in its 1950 opinion^{2/} that the Territory was a Mandated Territory; it did not belong to the three remaining Principal Allied and Associated Powers to which the Anti-Slavery Society referred.

12. The representative of the Union of South Africa had expressed the conviction that many delegations had preconceived ideas and intended in any case to attack the work of the Good Offices Committee. If, however, only that part of the report dealing with the possible partition of the Territory were considered, the Committee, in the light of the prerequisites for such a solution, would obviously be bound to take an unfavourable attitude. By accepting the suggestion of the Good Offices Committee, the United Nations would seem to be accepting partition in principle and would assume responsibility for that idea. If the Union Government, on its own initiative, wished to present a proposal for partition, it would have to be considered.

^{2/} International status of South West Africa, Advisory Opinion: I.C.J. Reports 1950, p. 128. Transmitted to Members of the General Assembly by a note of the Secretary-General (A/1362).

^{1/} See A/1901/Add.2, appendix III.

It must not be forgotten, however, that the report of the Good Offices Committee contained other elements which the presence of South Africa would make it possible to consider. It could not be expected that that difficult problem could be solved in a hurry. Any display of impatience would be unfortunate. Every effort should be made in a spirit of goodwill to find a solution acceptable to both parties. Perhaps it was the fate of South West Africa to be attached to the Union. The only conditions under which the United Nations could consider such a possibility had already been stated. His delegation hoped that the United States of America would continue to assist the United Nations on the South West African problem. Inasmuch as the Mandate was undertaken in the name of His Britannic Majesty, it was to be hoped that the United Kingdom would make a special effort.

13. Mr. WESTERMAN (Panama) noted from the report of the Good Offices Committee that the Union of South Africa reiterated its proposal for an agreement with the three remaining Principal Allied and Associated Powers. In South Africa's opinion, the General Assembly, bearing in mind that the interests of the inhabitants of the Territory were the primary consideration, should examine that proposal. It contended that the Bantus, who constituted the majority of the Africans in the Territory, had indicated their satisfaction with the Union's administration.

14. The statements of the Union Government were contradicted by the report of the Committee on South West Africa and the accompanying petitions, which clearly indicated the privileged position of the European community and the arbitrary and discriminatory legislation to which non-Europeans were subject. Furthermore, the three Allied and Associated Powers would not have the authority necessary to ensure that kind of international supervision which, according to the International Court of Justice, would safeguard the rights of the people. That was why that proposal, which had been rejected by the General Assembly in its resolution 749 A (VIII), was still unacceptable to his delegation.

15. He then turned to the idea of partition, which had been put forward by the Good Offices Committee on the understanding that, if such a solution proved practicable, the United Nations would be able to ascertain the views of the people before accepting it. At first sight the proposal might appear reasonable. Nevertheless, the information provided by the Committee on South West Africa and the petitioners made it clear that the indigenous inhabitants would not agree to a partition proposal which would mean the annexation of the greater part of the Territory by the Union. That plan, which would run counter to previous resolutions of the General Assembly, would deprive a considerable segment of the population of the protection afforded by United Nations supervision. Furthermore, the unhappy consequences of artificial partitions and the difficulties that had been created by that solution in various parts of the world should be borne in mind. The present trend throughout the world was towards association and not partition, which was a permanent separation, and that trend coincided with the principle that had been followed by the United Nations since its inception.

16. There was the further consideration, as pointed out by the Committee on South West Africa, that the Union of South Africa had intensified its efforts to separate the races in the Territory and that that had led to considerable transfers of population particularly in the region which the Union wished to annex and in which there were three times as many non-Europeans as Europeans. If the United Nations agreed to annexation, the African majority would have to choose between two equally painful possibilities: emigrating to the northern region which was to be placed under trusteeship, or remaining in the annexed region where they would be subject to the policy of apartheid and might be displaced again, according to the procedure employed by the South African Administration. In either case, the people would run the risk of being driven from their homes under the very aegis of the United Nations from which they might have hoped rather to obtain respect for their rights. The United Nations had not used all the means at its disposal to protect the inhabitants, and if it agreed to annexation, it would patently be divesting itself of its responsibilities. That was why the mere fact that the United Nations was considering the possibility of partition was enough to arouse considerable apprehension among the indigenous inhabitants. There was nothing to prove that even an investigation of the practicability of partition carried out with the authorization of the United Nations would not be accompanied by and serve as the pretext for further transfers of population.

17. The vast majority of the people had no voice in the government of the Territory. So long as the Territory as a whole retained an international status under the supervision of the United Nations, the inhabitants had the possibility, if they so desired, of forming an independent State administered by a government representing the people. If the United Nations accepted partition, that possibility would disappear.

18. He emphasized the interdependence of the northern and the southern areas of the Territory, which was prosperous, although the economy was essentially a European one. The richest and most advanced part of the Territory was the South, which the Union wished to annex. The northern part had never been developed and served as a reservoir of labour for the South, which could not exist without it. Accordingly, partition would destroy the Territory's viability and leave under United Nations protection only outcast regions. It might well happen that, having annexed the southern part of the Territory, the Union Government would want to annex the North on the grounds that that region was not self-sufficient.

19. His delegation was therefore opposed to the proposals of the Good Offices Committee, none of which assured the Territory international status. It noted with satisfaction the efforts that had been made by the Committee to carry out its task. The Committee's activities had had one positive result in that the Union of South Africa had been persuaded to participate once again in the work of the United Nations. However, the very short duration of the Union's co-operation with the Fourth Committee diminished any hope of finding in the near future a solution that would be satisfactory to both parties and capable of ensuring the political, economic and social development of all the people in the Territory and the recogni-

tion and application of the principle of equal rights for all.

HEARING OF PETITIONERS (Continued)

At the invitation of the Chairman, the Reverend Michael Scott and Mr. Mburumba Kerina took places at the Committee table.

20. Mr. DORSINVILLE (Haiti) asked Mr. Scott what proportion of the 50,000 Europeans living in the Territory were opposed to partition.

21. The Reverend Michael SCOTT said that the opposition party had come forward at the time of the general elections to the Legislative Assembly of the Territory in 1955 as opposed to the claim that the Mandate had already lapsed. The Nationalist Party candidates, who maintained that the Mandate was dead, had won 15,534 votes and sixteen seats. The opposition candidates, who recognized the continued existence of the Mandate but would seek its termination through the United Nations, had won 11,335 votes, but as a result of the peculiarities of the electoral law they had obtained only two seats. The opposition would welcome an independent status for the Territory, believing that its economic progress was sufficient to make it a viable entity. There was no denying that there had been great changes in the economic life of South West Africa. The total budget for the whole of the period 1920-1933 had been £SA12.6 million, whereas the total for the last financial year alone had been £SA12 million.

22. He stressed the part played by the German community in the Territory. Because in the present circumstances that community held the balance between the two parties and was in a position to tip the scales either way, it had reacted strongly against the idea of partition, which would result in the loss of its privileged position.

23. The original proposal to partition the Territory had been made by the Anti-Slavery Society and differed considerably from the proposal set forth in the report of the Good Offices Committee. The Anti-Slavery Society's principal aim had been to remove the rest of the Territory and of the African population from the control of the Union of South Africa and entrust them to a government which would govern them in conformity with the United Nations Charter, or in other words to withdraw the greatest possible number of Africans from the jurisdiction of the Union of South Africa.

24. Mr. EL-RIFAI (Jordan) asked Mr. Scott why he had thought it necessary for the Fourth Committee to hear petitioners on the report of the Good Offices Committee.

25. The Reverend Michael SCOTT said that in his view it was important for the General Assembly to be made aware of the hopes and fears of the people of South West Africa before discussing partition. The indigenous inhabitants feared partition, which would have the effect of making a large number of them subject to the system of apartheid, and even a preliminary inquiry, which might give rise to further transfers of population. There seemed to be a danger for the people in the United Nations' agreeing to acceptance of the principle of partition as a basis for discussion and investigation by the Union Government. Also it would undermine any possible legal action

through the International Court of Justice such as that contemplated under sub-item (c) of agenda item 39.

26. Mr. DORSINVILLE (Haiti) thanked Mr. Scott for his clear explanation of the reasons for the initiative taken by the Anti-Slavery Society. He then asked what would be the effect of a transfer of population from the southern part of South West Africa to the northern part, which was much less extensive. He asked Mr. Scott whether inhabitants of the reserves about which Mr. Scott had spoken in his statement at the 748th meeting would be affected by such a transfer of population.

27. The Reverend Michael SCOTT said that the Union of South Africa gave no clear indication of which reserves would be affected, but that the measure would most probably affect the peoples who had submitted petitions. Even though the inhabitants had improved their land by their own labour, it was still very difficult for them to provide for their own needs, and their difficulties and the social effects of the migratory labour system which had grown up were illustrated by the disproportion between the number of men and the number of women, which led to the disruption of family life and of the whole social fabric. Those evils would be perpetuated and increased by a transfer of population.

28. The Government of the Union of South Africa intended to conduct an inquiry into the wishes of the people, but the inhabitants of South West Africa, remembering the way in which the referendum had been carried out in 1946, were uneasy and distrustful about that proposal.

29. Mr. DORSINVILLE (Haiti) said that according to a statement made by the Government of the Union of South Africa, only the Hereros were opposed to the idea of incorporating the Territory in the Union of South Africa; the Bantus would accept it. He asked Mr. Scott to comment on that statement.

30. The Reverend Michael SCOTT said that in reply to that question he could only refer to the petitions. The overwhelming majority which it was claimed in 1946, had declared itself in favour of the incorporation of the Territory in the Union of South Africa at the time of the referendum had been due entirely to the way in which that referendum had been carried out. The inhabitants had not fully understood what was in question and had not even been given any explanation of the Trusteeship System.

31. Mr. KENNEDY (Ireland) asked to what extent the Territory of South West Africa constituted an ethnic unit, and to what extent the frontiers were artificial lines, taking no account of the wishes and interests of the indigenous population, drawn at the time of the colonial conquests of the nineteenth century.

32. The Reverend Michael SCOTT said that the frontiers of the Territory did not really correspond to any clear lines of demarcation. The Bushmen, for instance, who moved back and forth across a purely artificial frontier, had interests in common with the peoples of Bechuanaland, whereas the peoples of the North had closer affinities with Portuguese West Africa. The inhabitants of South West Africa had no more links with the Union of South Africa than with any other Territory.

33. Mr. KENNEDY (Ireland), referring to paragraph 41 of the report of the Good Offices Committee, in which it was stated that "Apart from Hereros, the Bantu inhabitants had ... indicated their satisfaction", asked if that was the view of the chiefs or of the people.

34. The Reverend Michael SCOTT said that the view expressed had been that of certain spokesmen. The referendum had in no way been a plebiscite, and the appointment of the spokesmen had not been on the basis of universal suffrage. In many cases the people concerned had been given very little time to make their choice, and many of them had voted in the belief that they were voting in favour of the status quo.

35. Mr. KERINA referred to a letter dated 4 November 1957 testifying that he spoke on behalf of the Ovambo people and stating that many of the Ovambo chiefs had been nominated by the white men.

36. Mr. KENNEDY (Ireland) said that according to Mr. Scott's statement the Hereros lived in eight reserves which they could not leave without a pass. He asked how it was possible for them in those circumstances to reach agreement and make known their opinion.

37. The Reverend Michael SCOTT said that although it was difficult for the indigenous inhabitants to express their views, they did move from one reserve to another and were thus able to consult together to a certain extent. Moreover, they met together every year for a service held in honour of their ancestors. On that occasion the Commissioner for Native Affairs called them together and they were able to make known their point of view. Mr. Scott pointed out that the fact that there had thus far been no contradiction of the state-

ments contained in the petitions relating to the Hereros and the Namas went to prove that those statements were correct.

38. Mr. KERINA, in order to enlighten the Fourth Committee as to how the annual regional conferences were conducted and how the Commissioners for Native Affairs tried to put pressure on the inhabitants, cited from a report of August 1958 a passage relating to the annual conference held in January 1958.

39. Mr. KENNEDY (Ireland) pointed out that if the Territory was partitioned, the inhabitants of the northern part of South West Africa would be placed under trusteeship. He asked what would be the attitude of the peoples concerned to the partitioning of the country if they were assured of enjoying the safeguards provided by Article 76 of the Charter.

40. The Reverend Michael SCOTT said that in that case some arrangement for informing the people would be necessary even though they were aware of some of the benefits that the Trusteeship System had brought to other African territories. Nevertheless it was difficult to believe that the Africans would willingly accept partition of the Territory and the transfers of population which might result from it. Moreover, he drew the Committee's attention to the fact that the great bulk of the Territory's mineral wealth, in particular the diamond and copper mines, were in the southern part of the Territory, which would be incorporated in the Union of South Africa, and that as a result the economic situation of the northern part would deteriorate still further.

The meeting rose at 12.50 p.m.