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REPORT BY THE NIGERIA CONSTITUTIONAL CONFERENCE

HELD IN LONDON IN MAY AND JUNE, 1957

*Presented by the Secretary of State for the Colonies to Parliament
by Command of Her Majesty
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I. INTRODUCTION

1. The Conference on the Nigerian constitution held in London in July and August 1953 recommended in its Report (Cmd. 8934) that there should be a Federal constitution in Nigeria with specified powers vested in the Federal Government, certain powers held concurrently by the Federal and Regional Governments, and residuary powers resting with the three Regional Governments. It was also recommended that the Southern Cameroons should have quasi-Federal status. Lagos, on an award by the United Kingdom Government, was to become Federal territory. The new constitution based on these recommendations, and those of the resumed Conference held in Lagos in January and February, 1954 (Cmd. 9059), came into force on the 1st October, 1954.

2. Paragraph 27 of the Report of the 1953 Conference records the following:

“ . . . In addition the Conference agreed to recommend that a conference consisting of delegations from each Region of the Federation chosen by their respective governments in such a manner as to ensure adequate representation of all shades of political opinion in the Federation, should be convened in Nigeria not more than three years from the 31st August, 1953, for the purpose of reviewing the constitution, and examining the question of self-government”.

3. In January, 1956, after consultations presided over by the Governor-General, the Nigerian Governments requested, in response to proposals by the Secretary of State for the Colonies, that this conference should be held in the United Kingdom with the Secretary of State for the Colonies as Chairman, and that it should open in mid-September, 1956. In July, 1956, it became necessary for the Secretary of State for the Colonies to announce the postponement of the opening of the conference and after further consultations with the Nigerian Governments it was agreed that the conference should open in London on 23rd May, 1957.

II. COMPOSITION AND DURATION OF THE CONFERENCE

4. It was proposed by the Nigerian Governments and accepted by the Secretary of State that the Nigerian representatives should consist of ten delegates and five advisers from each of the three Regions and five delegates and three advisers from the Southern Cameroons. In addition the Federal interest was represented by the Governor-General, the three Regional Governors, the Commissioner of the Cameroons, two leading Federal Ministers and the Leader of the Opposition in the Federal House of Representatives, assisted by three official and three non-official advisers. Lagos was separately represented by two delegates. A list of the delegates and advisers attending the conference is at Annex I.

5. The Conference met at Lancaster House and held 21 plenary sessions between 23rd May and 26th June, 1957.

III. REGIONAL SELF-GOVERNMENT

6. Paragraph 28 of the report of the 1953 Conference, which dealt with the question of self-government for Nigeria by 1956, concluded as follows:

“The Conference eventually accepted a declaration of policy that in 1956 Her Majesty’s Government would grant to those Regions which desired its full self-government in respect of all matters within the competence of the Regional Governments, with the proviso that there should be safeguards to ensure that the Regional Governments did not act so as to impede or prejudice the exercise by the Federal Government of the functions assigned to it now, or as amended by agreement in the future, or in any way make the continuance of federation impossible”.

The Western and Eastern Regional Governments asked for the implementation, following the present Conference, of this undertaking by Her Majesty’s Government. The Northern Regional Government did not ask for Regional self-government before 1959, and the interim changes they proposed are dealt with in paragraphs 21 and 22 below. The Conference first discussed the constitution of self-governing Regions and reached agreement as follows.

The amendment of the constitution and the power to make laws for Nigeria

7. The Conference agreed to recommend that the power to amend the constitution should remain vested in Her Majesty. The exercise of this power should not be subject to any special procedure for recommending amendment but if any Nigerian Government submitted to the Secretary of State proposals for constitutional amendment (normally after the passage of a resolution approving them by the Legislative House or Houses concerned) it should also communicate the proposals to the other Nigerian Governments. The Secretary of State undertook that before advising Her Majesty he would take account of any views which might be expressed by the other Governments.

8. The Conference agreed to recommend that the power of the United Kingdom Parliament to make laws for Nigeria and Her Majesty’s general power to legislate for Nigeria by Order in Council should remain.

The appointment and emoluments of the Governor and Deputy Governor

9. The Conference accepted that the Governor would continue to be appointed by Her Majesty on the advice of United Kingdom Ministers. The Secretary of State gave an undertaking on behalf of the United Kingdom Government that before advice was tendered to Her Majesty by United Kingdom Ministers there would be informal consultations with the Regional Government concerned. The Conference also agreed to recommend that appointments to the offices of Deputy Governor of the Eastern and Western Regions (which are constituted by the Nigeria (Offices of Governor-General and Governors) Order in Council, 1954) should continue to be made by the Governor in pursuance of instructions given him by Her Majesty through a Secretary of State. To avoid the risk of public controversy, the emoluments of the Governor and Deputy Governor should be charged on the revenues of the Region and not be subject to vote.

The powers and duties of the Governor

10. The Conference agreed to recommend as follows:

- (a) The Governor should no longer preside in Executive Council but there should be constitutional provision that he should be kept currently informed of Executive Council business. The Governor would of course be free to hold informal discussions with Ministers and to invite the Premier to call the Executive Council together to discuss a particular matter but no constitutional provision for this was considered necessary.

- (b) The Governor's general powers not to consult with the Executive Council on certain matters and to act otherwise than in accordance with advice of the Executive Council and his reserved legislative powers should disappear, and in executive matters the Governor should act in accordance with the advice of Ministers.
- (c) The Governor, acting in his discretion, should appoint as Premier the person appearing to him to command a majority in the House of Assembly and, on the recommendation of the Premier, should appoint other Ministers and assign responsibilities to them. Provision for these arrangements should be made in the new Constitution Order in Council.
- (d) The power of assent by the Governor to all Bills passed by the Legislative Houses should be exercised in accordance with the advice of Ministers except in the following cases where the Governor should reserve Bills for Her Majesty's pleasure:
- (i) Any Bill appearing to be inconsistent with treaty obligations of the United Kingdom, including the Trusteeship Agreement.
 - (ii) Any Bill whereby the Royal Prerogative, or the rights of property of Her Majesty's subjects not residing in Nigeria, or the trade or transport or communications of any part of Her Majesty's dominions may be prejudiced.
 - (iii) Any Bill containing provisions which in the opinion of the Governor, acting in his discretion, might have the effect of impeding or prejudicing the performance by the Federal Government of any of its functions or endangering the continuance of federal government in Nigeria.
- (e) The powers of the Governors of the Northern and the Western Regions to convene a special joint sitting of the Legislative Houses in their Regions to resolve a deadlock between these Houses over the passage of a Bill should be exercised on the advice of Ministers; and at any such joint sitting the President of the Upper House should preside.
- (f) The Governor of the Eastern Region should cease to have power to direct, on the recommendation of the Eastern House of Assembly signified by resolution, that the seat in the Executive Council of a Regional Minister, other than the Premier, should become vacant.
- (g) The power to dissolve the Legislative Houses of a Region should be vested in the Governor, who would act on the advice of the Premier except in the following cases:
- (i) The Governor should dissolve a Legislative House when its life had expired whether or not any advice was tendered by the Premier.
 - (ii) When a vote of no confidence in the Premier had been passed in the House of Assembly and the Premier did not within three days thereof either resign or advise a dissolution the Governor should terminate the Premier's appointment and then, in his discretion, either appoint a new Premier or dissolve the Legislative Houses. The Governor should have power in his discretion to summon a meeting of the House of Assembly to debate a pending motion of no confidence if the Premier neglected or refused to advise the summoning of the House to consider the motion. The Governor might in his discretion dissolve a House of Assembly summoned to consider a motion of no confidence in the Premier if no quorum attended to debate the motion.

- (iii) The Governor should have power, in his discretion, to dissolve the Legislative Houses when there was no Premier and no person could within a reasonable time form a government which commanded a majority in the House of Assembly.
- (iv) The Governor should have power, in his discretion, to reject the Premier's advice to dissolve the Legislative Houses if he considered that the government of the Region could be carried on without a dissolution and that dissolution would not be in the interest of the Region.

Special Members of Legislative Houses

11. The Conference took note that the N.C.N.C. Delegation did not wish provision to be made for the appointment of Special Members of the Eastern House of Assembly, though provision should be made for them in the Eastern House of Chiefs (see paragraph 23), that the Action Group Delegation wished to retain the arrangements for Special Members in the House of Chiefs but not in the House of Assembly, and that the Northern Region delegates wished to retain the present arrangements. The Conference agreed to recommend these proposals.

Her Majesty's Power to Disallow Regional Legislation

12. The Conference agreed to recommend that this power should remain in the three cases referred to in paragraph 10 (d) above (in which the Governor would be required to reserve Bills for Her Majesty's pleasure), and also in the case of Bills which appeared to Her Majesty's Government to alter, to the injury of the stockholders, any of the provisions affecting the stock of a loan raised on behalf of a Region or to involve a departure from the original contract in regard to the stock.

Safeguards for Federation

13. There was full discussion of the proviso to paragraph 28 of the Report of the 1953 Conference quoted in paragraph 6 above. To cover this proviso the Conference agreed to recommend, in addition to the proposal in paragraph 10 (d) (iii) above, that the Governor-General in his discretion and with the approval of the Secretary of State for the Colonies should be empowered to issue such directions to a Region as might appear to him to be necessary for the purpose of ensuring that the executive authority of the Region was not exercised in such a way as to impede or prejudice the performance by the Federal Government of any of its functions or to endanger the continuance of federal government in Nigeria. The Governor-General in his discretion, and subject to the approval of the Secretary of State, should be empowered to make such regulations as he deemed fit for the purpose of enforcing such directions as he might issue in accordance with the foregoing provision.

Compensation for the compulsory acquisition of private property for public purposes

14. The Conference agreed to recommend that there should be constitutional provision applicable to all the Nigerian Governments for just compensation to be paid for property acquired for public purposes, with suitable rights of appeal to the courts for aggrieved parties; and that the provision should be similar to Section 34 of the Ghana (Constitution) Order in Council, 1957.

The Public Service

15. The Conference appointed a Committee consisting of representatives of all the Nigerian Governments and of the United Kingdom Government, under United Kingdom Chairmanship, to consider certain special questions concerning

the Public Services. The Report of this Committee, which was adopted by the Conference, is at Annex II. In particular the Conference endorsed the Committee's recommendations in respect of lump sum compensation schemes to be adopted by Nigerian Governments, the inclusion in Public Service Agreements of special safeguards for certain categories of officers and the conclusion of Special List Agreements between the United Kingdom Government and the Nigerian Governments. The Special List Agreements between the United Kingdom Government and the four Nigerian Governments were signed at Lancaster House on the 25th June, 1957.

16. On other Public Service matters the Conference agreed to recommend as follows:

- (a) The Governor's power to constitute offices in the Public Service should be exercised on the advice of Ministers.
- (b) The Governor's power in certain circumstances to prevent further proceedings on a Bill or motion relating to the Public Service should disappear as soon as a scheme for lump sum compensation for the Public Service in accordance with paragraphs 29 of the 1953 and 1954 Conference Reports came into force.
- (c) It was important that the Public Service Commission should be insulated from politics and that the provision for its appointment should not only make its independence a reality but also be clearly understood to do so. Accordingly there should be a Public Service Commission consisting of a Chairman and not less than two or more than four other members, all the members, including the Chairman, to be appointed by the Governor, acting in his discretion after consultation with the Premier. The Chairman should serve full-time and the other members either full-time or part-time. No member of the Commission should also be a member of the Public Service or of a Legislative House and no full-time member should hold any other office of profit under the Crown. Members should normally be appointed for five years, reappointment being permissible, and should be ineligible for appointment or further appointment to other public office. The salaries of members should be fixed by the Legislature and once fixed should not be subject to vote nor capable of being diminished during a member's term of office. A member, whether full-time or part-time, should be removable only by the Governor, acting in his discretion after consultation with the Premier, on grounds of inability or misconduct.
- (d) The appointment, promotion, transfer, termination of appointment, dismissal and disciplinary control of public officers (other than the Deputy Governor, the Governor's personal staff, Permanent Secretaries, the Director of Audit and public officers subject to the authority of the Judicial Service Commission) should be vested in the Governor acting on the recommendation of the Public Service Commission. The Governor should be empowered to refer a recommendation back once to the Commission for reconsideration.
- (e) Promotions to the Grade of Permanent Secretary should be made by the Governor in his discretion after consultation with the Public Service Commission and the Premier, and postings within the grade of Permanent Secretary should be made by the Governor on the advice of the Premier.
- (f) Regulations regarding the Public Service Commission should be made by the Governor in his discretion after consultation with the Commission. There should be constitutional provision setting out the

scope of the regulations and the Governor should be empowered to prevent members of the Commission from having an interest in, or otherwise benefiting from, government contracts.

- (g) It should be a criminal offence to interfere or attempt to interfere with the Public Service Commission or for a member of the Commission to compound or to be a party to such interference. There should be constitutional provision setting out the scope of the offence.
- (h) The Public Service Commission should be required to publish an annual report of its activities.
- (i) Provision should be made in the constitution similar to existing Nigerian legislation whereby a public officer whose office is abolished would be entitled to "abolition of office terms", that is to his accrued pension and/or gratuity plus an additional allowance or gratuity calculated as provided by law.
- (j) The Governor in his discretion should be entitled to fill the posts on his personal staff by selection either from within the Public Services of Nigeria or from outside; provided that in the former case the Governor should first consult the Public Service Commission, and that in the latter case no appointee should thereby become a permanent and pensionable member of the Public Service. The emoluments of the Governor's personal staff and the expenses of his office should be fixed by the Governor with the agreement of the Premier and should be charged on the revenues of the Region and not subject to vote.

Audit

17. The Conference was concerned to maintain the independence and competence of the Audit Service and agreed to recommend the following arrangements to this end:

- (a) The Director of Audit should be appointed by the Governor after consultation with the Public Service Commission, the Premier and the Director-General of the Oversea Audit Service. The Director of Audit should be removable only by the procedure recommended in paragraph 16 (c) above for removing members of the Public Service Commission. The Director's salary should be fixed by the Legislature and once fixed should not be subject to vote nor capable of being diminished during his term of office.
- (b) Officers of the rank of Assistant Auditor and above should be appointed by the Governor on the advice of the Public Service Commission after consultation with the Director-General of the Oversea Audit Service.

The Judiciary

18. The Conference agreed to recommend the following arrangements to ensure the independence of the judiciary:

- (a) The Chief Justice of a self-governing Region should be appointed by the Governor, acting in his discretion after consultation with the Chief Justice of the Federal Supreme Court.
- (b) There should be a Judicial Service Commission consisting of the Chief Justice as Chairman, the Senior Puisne Judge of the Regional High Court, the Chairman of the Public Service Commission, and a person who is a judge of the Regional High Court or has been a judge of that Court or of any other Court in the Commonwealth of similar or higher status, the last mentioned being appointed by the Governor acting in his discretion.

- (c) High Court Judges, other than the Chief Justice, should be appointed by the Governor acting on the recommendation of the Judicial Service Commission.
- (d) The emoluments and conditions of service of High Court Judges should be prescribed by or under laws made by the Regional Legislature. They should not be altered to the detriment of a Judge during his tenure of office and the necessary funds should not be subject to vote. The present number of posts of High Court Judges should be prescribed in the constitution as a minimum number not subject to reduction by the Legislature. It should also be provided that further posts might be established by the normal procedure with the concurrence of the Legislature but once established they could not be abolished except on the occurrence of a vacancy.
- (e) Subject to a maximum retiring age a High Court Judge should not be removable except by the Governor after an enquiry in the territory by a Tribunal of Judges to establish the facts of the case, followed by an enquiry into the merits of the case by the Judicial Committee of the Privy Council leading to a recommendation by the Judicial Committee that the Judge ought to be removed on grounds of inability or misconduct. The process of enquiry should be set in motion by the Governor if so advised either by the Premier or by the Chief Justice after consultation with the Premier. The Governor should appoint an *ad hoc* Tribunal for each enquiry including, as necessary, judges from other Commonwealth territories. It would always be open to a Legislative House, as it is at present, to debate a substantive motion calling in question the conduct of a judge.
- (f) The appointment (including appointment on promotion and transfer), dismissal and disciplinary control of Magistrates, and Chief Registrars, and such other judicial officers as may be specified by the Regional Legislature should be vested in the Governor acting on the recommendation of the Judicial Service Commission.

The Office of Attorney-General and responsibility for prosecutions

19. The Conference agreed to recommend that the office of Attorney-General should become a political appointment and that the qualifications for the office should be the same as those for a High Court Judge.

20. The Conference agreed to recommend that the office of Director of Public Prosecutions should be provided for in the constitutional instruments as an office in the Public Service and that the qualifications for the office should be the same as those for a High Court Judge. The holder of the office should have vested in him sole responsibility for the initiation, conduct and discontinuance of prosecutions (without prejudice to the law relating to the initiation and conduct of private prosecutions). The Director should be appointed by the Governor on the advice of the Public Service Commission and his tenure of office should be protected by special provisions in the constitution.

The Constitution of the Northern Region

21. The Northern Peoples' Congress delegates informed the Conference that they did not propose to ask for self-government for the Northern Region before 1959. They accordingly tabled proposals for interim changes in the constitution of the Region, and these proposals were discussed among all the Northern delegates before they were considered by the Conference. After consideration the Conference agreed to recommend as follows:

- (a) The Northern House of Chiefs should consist of all First-Class Chiefs, 47 Chiefs other than First-Class Chiefs who should be selected from their own number under regulations made by the Governor in Council, and an Adviser on Muslim Law. The Members of the Executive Council who are Members of the House of Assembly should be able to attend meetings of the House of Chiefs but should have no power to vote. The President and Deputy President of the House of Chiefs should be appointed by the Governor in Council from among the Members of the House of Chiefs.
- (b) The posts of Civil Secretary and Financial Secretary should be abolished and a post of Deputy Governor should be created.
- (c) The next House of Assembly should consist of a President, the Attorney-General, 170 elected Members and five Special Members appointed by the Governor in his discretion. The President and Deputy President of the House should be termed Speaker and Deputy Speaker.
- (d) The Executive Council should consist of the Governor, the Attorney-General, not less than 12 Members of the House of Assembly, one of whom should be the Premier, and not less than two nor more than four members of the House of Chiefs.
- (e) A Council of Chiefs should be established, consisting of the Governor, not less than two nor more than four Chiefs from the Executive Council, the Premier, and four other Chiefs from among the Members of the House of Chiefs. It should be empowered to approve the appointment, recognition, grading and deposition of Chiefs and the removal from any part of the Region to another of Chiefs whether as Chiefs or as members of Native Authorities.
- (f) On the abolition of the offices of Civil Secretary and Financial Secretary, existing officers in the Northern Region should be granted under certain conditions the right to premature retirement with their pension earned to date and an additional allowance or gratuity.
- (g) The constitution should empower the Governor in Council by Instrument under the Public Seal to constitute for each Province a Provincial Administration consisting of a Provincial Council and a Provincial Authority to perform such functions as might be specified in the Instrument. The Chairman of the Provincial Authority should be a Regional Government official. He should be the Chief Executive Officer of the Authority and should be styled Provincial Administrator.

22. It was agreed to take no decision at present on the possible need or desirability of convening a Conference in 1959 to work out the arrangements for the introduction of Regional self-government in the Northern Region, which would follow the pattern agreed for the Eastern and Western Regions, with any necessary modifications.

Proposals for the creation of a House of Chiefs in the Eastern Region

23. The delegates from the Eastern Region advanced proposals for the creation there of a second chamber of the Eastern Legislature and with the agreement of the Conference these proposals were first discussed between these delegates and United Kingdom representatives in a Committee presided over by the Minister of State for Colonial Affairs. After discussion in Conference of the Committee's proposals, it was agreed to recommend as follows:

- (a) There should be a second Legislative House in the Eastern Region named the Eastern House of Chiefs with a total membership of about 60.

- (b) Owing to the considerable doubt surrounding the existing chieftaincy titles and their complexity, it would be necessary, before this House was created, to evolve a formula for the classification of Chiefs in the Region which should be agreed so far as possible by all interested parties in the Region and accepted as satisfactory by the Governor.
- (c) When a satisfactory formula had been evolved, the Regional Legislature should by law provide for the classification of Chiefs in accordance with the formula.
- (d) It should then be for the Eastern Regional Government to propose that constitutional provision should be made for an Eastern House of Chiefs, to consist of Chiefs selected by and from among their fellow classified Chiefs.
- (e) All First-Class Chiefs should be members of the House of Chiefs. Representation otherwise should be on a geographical basis and at least one and, in principle, not more than two Chiefs, other than First-Class Chiefs, should be selected to represent each Administrative Division.
- (f) The House of Chiefs should also contain not more than five Special Members, possessing qualifications enabling them to make a particular contribution to the work of the House, appointed by the Governor on the advice of the Premier.
- (g) The first President of the House should be appointed by the Governor on the advice of the Premier and thereafter the House should elect its own President; the House should elect a Deputy President from among its own members.
- (h) Members of the Regional Executive Council who are members of the House of Assembly should be entitled to sit in the House of Chiefs but not to vote.
- (i) The life of the House of Chiefs should be coterminous with that of the House of Assembly.
- (j) No money Bill should be introduced initially into the House of Chiefs. The House should be empowered to delay the passage of Bills that have been passed by the House of Assembly (other than money Bills) for a period of six months. After that period a Bill passed again by the House of Assembly should be sent to the Governor for assent.
- (k) Not more than two members of the House of Chiefs should be eligible for appointment as members of the Executive Council; such members should be entitled to sit in the House of Assembly but not to vote.
- (l) No person should be qualified for election to the House of Assembly who was a member of the House of Chiefs by virtue of being a First-Class Chief.

Minority Problems and the question of New States

24. Many papers on the question of creating new States had been submitted to the Conference. There was lengthy discussion on the problems of minorities, and on specific proposals for the creation of new States and the desirability of breaking up existing Regions. The practical difficulties that this would involve were also carefully considered. The Conference finally reached agreement as follows:

- (a) A Commission of Enquiry should be appointed to ascertain the facts about the fears of minorities in any part of Nigeria and to propose means of allaying those fears whether well or ill founded.

- (b) Though the desire for the creation of new States in part arises from the fears of minorities, it would be impracticable to meet all these fears by the creation of new States. There are many different ethnic groups and peoples in Nigeria and however many States were created, minorities would still inevitably remain. It would therefore be the task of the Commission to propose other means of allaying these fears and to consider what safeguards should be included for this purpose in the constitution.
- (c) However, if no other solution seemed to them to meet the case, the Commission would be empowered as a last resort to make detailed recommendations for the creation of one or more new States, specifying the areas to be included and the governmental and administrative structure most appropriate.
- (d) The Conference took note that, before agreeing to any such recommendation as might be made, the United Kingdom Government would have to take into account the effect of the establishment of any such new States on the existing Regions in the Federation and on the Federation as a whole. The United Kingdom Government would also have to be satisfied by the Commission that any such new State would be viable from both the economic and administrative points of view, since it was the view of the United Kingdom Government that administrative and other practical reasons would inevitably limit most severely the possibility of the further sub-division of Nigeria into States modelled on the present Regional system.
- (e) The Conference also noted the view of the United Kingdom Government that while the creation of even one more State in any Region would create an administrative problem of the first order, the creation of more than one such State in any Region could not at present be contemplated.
- (f) The Secretary of State was invited to establish the Commission as soon as possible and to determine its precise terms of reference along the foregoing lines.
- (g) The Commission's Report would be submitted to the Secretary of State who would then consult with the Federal and Regional Governments as to whether it could be dealt with by correspondence or otherwise, or whether the Conference should be re-convened to consider it.

Arrangements to give effect to Regional Self-Government in the Eastern and Western Regions

25. At the conclusion of the item concerning Regional self-government, the Secretary of State informed the Conference that he would take steps forthwith to implement in respect of the Eastern and Western Regions the undertaking given in 1953 by the United Kingdom Government to grant Regional self-government. To hasten this process he proposed, in advance of the making of the main constitutional instruments, to submit to Her Majesty an amendment to the Nigeria (Constitution) Order in Council, 1954, to enable the Premiers of the two Regions to preside in Executive Council. He would also submit to Her Majesty certain proposals for interim amendments to the Royal Instructions with a view to requiring the Governors of the Western and Eastern Regions, in so far as that could appropriately be done in advance of the making of the main constitutional instruments, to exercise their powers in accordance with the decisions of the Conference. The Conference welcomed this statement.

IV. THE STRUCTURE OF THE FEDERAL GOVERNMENT AND THE DIVISION OF FUNCTIONS BETWEEN THE FEDERAL AND REGIONAL GOVERNMENTS

26. After preliminary reference to the question of independence for Nigeria, the Conference agreed to discuss this question as part of a composite item including the structure of the Federal Government, the franchise and other electoral provisions for the Federation, and the division of functions between the Federal and Regional Governments. After discussions among the Nigerian delegations, a number of agreed proposals which covered this composite item were put forward.

The Legislative Houses of the Federation

27. The Conference agreed to recommend that after the dissolution of the present House of Representatives there should be two Legislative Houses for the Federation, a House of Representatives and a Senate.

The Senate

28. The Conference agreed that the composition of the Senate should be:

- (a) 12 members from each Region and from the Southern Cameroons.
- (b) The Oba of Lagos, another Chief chosen by and from among the Chiefs of Lagos, and two other members appointed under regulations made by the Governor-General in Council so as to reflect the state of the political parties in the Lagos Town Council.
- (c) 4 Special Members appointed by the Governor-General acting in his discretion.
- (d) The members of the Council of Ministers who are members of the House of Representatives. These members should have no vote in the Senate.
- (e) The President, if he is elected from outside the Senate.

29. The Conference agreed to recommend that nominations of persons for membership of the Senate should be made by the Government of the Region subject to the affirmative vote of the majority of the members of both the Legislative Houses of the Region sitting together (where there were two Houses) or of the House of Assembly where there was no Second Chamber. The procedure for the selection of Senators should be prescribed by regulations made by the Government of the Region. Senators should possess the same qualifications as were required for membership of the House of Representatives, and in addition should be at least 40 years old, and should not be members or retain membership of any other Legislative House. Subject to these qualifications the Government would be free to nominate anyone they saw fit. The Conference, however, considered that in making nominations the Regional Government ought to recognise the desirability of ensuring that Senators should represent not only the Government but also the Opposition of the Region and that they should not consist entirely (or perhaps even mainly) of persons with party political affiliations.

30. The Conference took note of the intention of the Government parties in each Region that the 12 Senators from the Northern Region would each represent one of the provinces there; that each of the 8 provinces in the Western Region would be represented by at least one Senator; and that in the Eastern Region representation would be based on senatorial zones to be decided by the Regional Government after consultation with the Opposition.

31. The Conference further agreed to recommend that:

- (a) the life of the Senate should be coterminous with that of the House of Representatives.

- (b) the President of the Senate should be elected by the Senators from within or from outside the Senate; the Deputy President should be elected by the Senate from among its members.
- (c) the Senate should have similar powers to those of the House of Representatives save that it should have no power to initiate or delay money Bills, and that it should have a delaying power for a period of six months over Bills (other than money Bills) which had been passed by the House of Representatives.

The House of Representatives

32. The Conference took note of the understanding among the delegations of the major political parties that the present House of Representatives should run its full course. The Conference agreed to recommend that thereafter the House of Representatives should consist of 320 Representative Members, elected on the basis of one member for approximately each 100,000 of the present population of the country. It was recognised that this enlargement of the membership of the House of Representatives, together with the creation of a Senate, would make it necessary for new buildings to be erected in Lagos for them.

33. The Conference agreed to recommend that the members of the House of Representatives should be elected by universal adult suffrage in the Eastern and Western Regions, Lagos and the Southern Cameroons, and adult male suffrage in the Northern Region. It was agreed that the franchise in the Northern Region should be reviewed from time to time.

Electoral Arrangements

34. The Conference set up a Committee, under the chairmanship of the Governor-General, consisting of delegates from all political parties represented at the Conference and including United Kingdom representatives, to consider proposals for an electoral law for the Federation. The Committee reported to the Conference and after discussion it was agreed to recommend as follows:

- (a) The Governor-General acting in his discretion should appoint an *ad hoc* Delimitation Commission to make recommendations for the division of the Federation of Nigeria into single-member electoral districts. The Commission, which should consist of a Chairman and not less than two or more than four other members, should hold office during Her Majesty's pleasure under conditions of service determined by the Governor-General by regulation.
- (b) The Delimitation Commission should be instructed to divide the Federation of Nigeria into 320 electoral districts of approximately equal population. The Commission should not be required to adhere strictly to equality of numbers, but should have regard to physical features, transport facilities, existing local government or Native Authority areas and natural community of interest; and should ensure that no Administrative Division which is at present separately represented should lose such representation and that no electoral district should be partly in one Region and partly in another.
- (c) The Commission should submit its recommendations to the Governor-General who, acting in his discretion, should amend them as he deems necessary and embody them in a Proclamation determining the electoral districts for the purposes of the ensuing election.
- (d) There should be constitutional provision for the establishment of a permanent Electoral Commission, consisting of a Chief Electoral Officer as Chairman and four Commissioners, or such other number of Commissioners as the Governor-General in his discretion thinks fit.

The Commissioners, who should be persons of neutral views, should be appointed by the Governor-General acting in his discretion and should hold office during Her Majesty's pleasure; their conditions of service should be laid down by regulations made by the Governor-General.

- (e) The Electoral Commission should be responsible for:
- (i) The supervision and direction of the preparation of the Federal Electoral Register and for the conduct of all elections to the House of Representatives, in accordance with regulations made by the Governor-General.
 - (ii) The periodic review of constituency boundaries after each census has been published, saving that there should be no review for the five years immediately following the initial delimitation of constituencies.
- (f) The electoral regulations should include provisions to the following effect:
- (i) For each constituency there should be:
 - (1) a Registration Officer;
 - (2) an Electoral Officer;
 who should be appointed by the Electoral Commission by name and hold office until the revocation of their appointments.
 - (ii) In any case where it was considered expedient the Electoral Commission might appoint more than one Registration Officer for a constituency and in that event it should specify the area within the constituency for which each such Officer should be responsible.
 - (iii) A person might be appointed:
 - (1) Registration Officer of more than one constituency;
 - (2) Electoral Officer of more than one constituency;
 - (3) both Registration Officer and Electoral Officer of one or more constituencies.
 - (iv) Provision should be made for the appointment of subordinate officers to assist both the Registration Officers and the Electoral Officers in the performance of their respective duties.
 - (v) For the purposes of an election the Electoral Commission should have power to appoint Returning Officers, Assistant Returning Officers and Polling Officers as might be required, and any person appointed as an Assistant Returning Officer should have all the functions imposed or conferred on a Returning Officer; and there should be provision that a person might be appointed as Returning Officer of one or more constituencies.
- (g) The Committee should reassemble to continue its work in Lagos, if possible in the latter half of August, when it should consider *inter alia* the qualifications of candidates, the residential and registration requirements for voters, the functions of Registration and Electoral Officers, and draft electoral regulations for the Federation. The Committee should report to a resumed Conference.

The Conference took note that the N.C.N.C. Delegation proposed to raise the question of Regional electoral regulations at a resumed Conference.

Office of Federal Prime Minister

35. The Conference agreed to recommend the creation of the office of Prime Minister of the Federation. The Governor-General should appoint as Prime

Minister the person who appeared to him to command a majority in the House of Representatives. It was agreed that, in order to avoid confusion outside Nigeria, the title of Prime Minister should be restricted to the Federal Government and that in the Regions the title of Premier should continue to be used.

The Council of Ministers

36. The Conference agreed to recommend as follows:

- (a) The Chief Secretary should cease to be a member of the Council of Ministers and there should be established instead of the office of Chief Secretary the office of Deputy Governor-General.
- (b) The Attorney-General should cease to be a member of the Council of Ministers but until independence should remain a public officer with sole responsibility in the Federation for the initiation, conduct and discontinuance of prosecutions (without prejudice to the law relating to the initiation and conduct of private prosecutions).
- (c) The Financial Secretary should cease to be a member of the Council of Ministers, and there should be a Federal Minister responsible for finance appointed by the Governor-General on the advice of the Prime Minister.
- (d) At least one member of the Council of Ministers should continue to be drawn from the members of the House of Representatives elected in the Southern Cameroons.
- (e) There should be not less than ten members of the Council of Ministers other than the Prime Minister, and these members should be appointed by the Governor-General on the advice of the Prime Minister who should be free to recommend to the Governor-General the appointment as a Minister of any member of the House of Representatives, including any member representing a Lagos constituency, or of the Senate when this was established.
- (f) Ministers should hold office at the discretion of the Prime Minister and should automatically vacate office when he resigned.
- (g) There should be constitutional provision that when the Prime Minister was ill or absent from Nigeria the Governor-General might by instrument under the public seal appoint another Minister to perform the functions conferred on the Prime Minister by the constitution; and any Minister so appointed might for the duration of his appointment perform those functions. In exercising this power the Governor-General would act in accordance with the advice of the Prime Minister.
- (h) Until independence the Governor-General, and in his absence the Deputy Governor-General, should preside over the Council of Ministers. After independence the Prime Minister should preside.

37. The Secretary of State undertook to submit to Her Majesty at an early date an amendment to the Royal Instructions providing that, until the main constitutional instruments are made, Federal Ministers will be appointed on the advice of the person who appears to the Governor-General to command a majority in the House of Representatives and that that person will be styled Prime Minister.

The Governor-General

38. The Conference agreed to recommend that until independence the powers of the Governor-General should remain unchanged apart from the specific changes otherwise agreed by the Conference, and in particular that he should

continue to be responsible in his discretion for defence matters and for such external relations as might from time to time be entrusted to the Federation by the United Kingdom Government.

39. The Conference agreed to recommend that as there would no longer be *ex-officio* members of the House of Representatives there should be constitutional provision empowering the Governor-General in his discretion to send a message concerning a draft Bill or motion to the President or Speaker of a Federal Legislative House. This power would be similar to that vested in the Governors of the Eastern and Western Regions under section 67 of the 1954 Constitution Order, and would be required to enable the Governor-General to exercise his reserved legislative powers, should he deem it necessary to do so.

The Federal Supreme Court and the Judiciary

40. The Conference agreed to recommend that the existing arrangements for the judiciary in the Federation should remain unchanged until independence. The question of the appellate jurisdiction of the Federal Supreme Court should be referred to a resumed Conference.

The Public Service

41. The Conference agreed that on the abolition of the offices of Chief Secretary and Financial Secretary, existing officers in the Federal Public Service should be granted under certain conditions the right to premature retirement with their pension earned to date and an additional allowance or gratuity.

The Division of Functions between the Federal and Regional Governments

42. The Conference considered a number of changes proposed by various delegations in the assignment of items in the present Legislative Lists as between the Federal and Regional Governments. It was agreed to recommend the following amendments.

The Exclusive Legislative List

43. ITEM 2. Aliens, including naturalisation of aliens.

This item should be amended to relate only to the naturalisation of aliens.

ITEM 5. Banks and banking.

This item should be deleted and the 1954 Constitution Order should be amended at an early date in the sense that

(a) the Federal Government should continue to have exclusive responsibility for central banking matters, exclusive powers of legislation concerning banks and banking, and exclusive power to supervise banks and banking;

(b) the Regional Governments should be permitted to own or participate in commercial banks.

ITEM 9. Census.

This item should be transferred to the Concurrent Legislative List.

ITEM 30. Police, including bureaux of intelligence and investigation.

The Conference discussed this item at length and reached agreement on the following recommendations which took account of the many views expressed. The Conference—

(1) Agreed that no police force in Nigeria should, so far as its use and operational control were concerned, at any time come under the control of political parties. To this end, for example, at the stage when the use and operational control of the Nigeria Police ceased to be vested in the Governor-General acting in his discretion, the appointments of the

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Inspector-General of Nigeria Police and of the Regional Commissioners of Police, whether or not they were at that time subordinate to the Inspector-General, should be strictly safeguarded by special constitutional provision.

- (2) Recognised that the Federal and Regional Governments would always have a concurrent responsibility for law and order throughout the Federation and that after independence the ultimate responsibility for this, at present vested in the Secretary of State, would be inherited by the Federal Government.
- (3) Expressed the view that it would always be necessary to have a Federal Police Force and a Federal Police organisation to discharge the Federal Government's responsibility throughout Nigeria, to co-ordinate the training and equipment of all Police Forces in the Federation and to be responsible for the Federal C.I.D.
- (4) Took note of the professional view that the Nigeria Police could not for administrative reasons be regionalised during the next three years.
- (5) Agreed that during the transitional period every effort should be made to strengthen the contingents of the Nigeria Police stationed in the Regions, so that they could become the nucleus of Regional forces.
- (6) Recognised the value and importance of local police forces free from political control and agreed that every help be given by the Inspector-General of Police towards their development.
- (7) Agreed that, before his constitutional responsibilities for Nigeria came to an end, the Secretary of State, after consultation with all the Nigerian Governments, should reach a decision whether or not the Regional Governments should set up their own forces.
- (8) Agreed that, in the meantime, Item 30 of the Exclusive Legislative List should be deleted and an item on the following lines should be inserted in the Concurrent Legislative List:

"Police, provided that the Legislature of any Region shall not enact any law in pursuance of this item unless the Secretary of State has, after consultation with all the Nigerian Governments, decided that Regions should set up their own police forces."

ITEM 41. Wireless, broadcasting and television other than broadcasting and television provided by the Government of a Region or of the Southern Cameroons; allocation of times and wavelengths for wireless, broadcasting and television transmission. This item should be amended by the deletion of the words "times and".

New Items. It was agreed to add the following new items to the Exclusive Legislative List:

- (i) Marriage and matrimonial causes other than marriage and divorce under Muslim Law or other customary law.
- (ii) Commissions of Inquiry for the purpose of matters included in the Exclusive Legislative List.
- (iii) The establishment and regulation of a central authority empowered to apply for grants of representation in respect of the estates in Nigeria of deceased persons and to administer such estates.
(See paragraph 44 Item 1.)
- (iv) Insurance other than insurance undertaken by the Government of a Region.
(See paragraph 44 Item 14.)
- (v) Trustees.
(See paragraph 44 Item 30.)

The Concurrent Legislative List

44. ITEM 1. Administration of Estates.
This item should be deleted and a fresh item (as in paragraph 43 above) should be inserted in the Exclusive Legislative List. In reaching this decision the Conference agreed that the Regional Governments should take steps to ensure that the existing arrangements for re-sealing would continue.
- ITEM 6. Commissions of Inquiry.
This item should be amended to relate only to Commissions of Inquiry for the purpose of matters included in the Concurrent Legislative List.
- ITEM 7. Dangerous drugs.
This item should be amended to relate to dangerous drugs within the meaning laid down by international conventions.
- ITEM 8. Electricity.
- ITEM 11. Gas.
These items should be deleted and replaced in the constitutional instruments by provisions to the following effect:
- (1) Subject to the provisions of (2) below, a law enacted by the Federal Legislature or the Legislature of a Region or the Southern Cameroons may make provision with respect to electricity or gas other than natural gas.
 - (2) Except under the authority of a law of the Regions or the Southern Cameroons a law enacted by the Federal Legislature shall not—
 - (a) prohibit or restrict the establishment by or on behalf of a Regional Government or the Government of the Southern Cameroons of an agency for the manufacture, distribution or supply of electricity or gas in that Region or the Southern Cameroons, or
 - (b) regulate the production, distribution or supply of electricity or gas by the Government of a Region or the Southern Cameroons or any such agency.
- ITEM 9. Evidence.
This item should be deleted and it should be provided in the new constitutional instruments that the Federal Legislature should be empowered to provide by ordinance for matters of evidence, but that a Regional Legislature may enact laws varying the rules of evidence in respect of any matter within its legislative competence.
- ITEM 12. Higher education, that is to say, institutions and other bodies offering courses of a university, technological or of a professional character, other than the institutions specially listed. It was agreed to insert the words "or conducting examinations" after the word "courses".
- ITEM 13. Industrial development.
After discussion the Conference agreed that this item should remain unaltered. It took note of statements by the Governor-General and the Federal Minister of Trade and Industry that

the Federal Government would do nothing to handicap a Regional industrial undertaking and would give an assurance that it was its intention to encourage all industrial development, both Regional and Federal, in Nigeria and that its only care would be to ensure that the resources of the country were used to the best advantage.

ITEM 14. Insurance.

This item should be deleted.

ITEM 20. Professional qualifications in respect of such professions as, and to the extent that, the Governor-General may by Order designate; registration and disciplinary control of members of professions so designated.

It was agreed that the list of professions already designated should stand*, with the addition of auditors and accountants, and that amendments or additions to the list should be made by the Governor-General in Council after consultation with, and with the consent of, the Regional Governments.

ITEM 25. Sanctioning of cinematograph films for exhibition.

It was agreed that there should be constitutional provisions to enable separate boards to be established by the Governments of the Regions and the Southern Cameroons to sanction the exhibition of films within their areas. It was agreed that all films whether imported or locally produced should be initially scrutinised by a Central Censorship Board.

ITEM 30. Trustees, that is to say—

(a) general and official trustees;

(b) trustees of communities or of bodies or associations established for religious, educational, literary, social, scientific or charitable purposes.

This item should be deleted and an item should be added to the Exclusive Legislative List to enable the Federal Legislature to establish a Public Trustee and to prescribe and regulate his functions. An item should be added to the Exclusive Legislative List to enable the Federal Legislature to prescribe, or make provision for prescribing, the securities in which trust funds might be invested.

Inconsistency between Federal and Regional Laws

45. It was agreed that some difficulty had been caused by the provisions of section 57 of the 1954 Constitution Order as the effect of this section had been to prevent a Regional Legislature from amending any existing law relating to a matter on the Concurrent List, without conflicting with the provisions of section 58 that in the event of inconsistency between Federal and Regional law Federal law shall to the extent of the inconsistency prevail. The Conference agreed to recommend that, to overcome this difficulty, section 57 should be amended to provide that an existing law, as defined in that section, relating to a matter on the Concurrent List should have effect as if it were a law enacted by a Regional Legislature or by the Legislature of the Southern Cameroons.

* The present list is as follows: Architects, Chemists, Engineers, Legal Practitioners, Medical and Dental Practitioners, Midwives, Nurses, Pharmacists, Surveyors, Veterinary Surgeons.

Police Service Commission

46. In addition to the recommendations concerning the police contained in paragraph 43 Item 30 above, the Conference agreed to recommend that as the constitutional position and functions of the police set them apart from other public servants, provision should be made in the constitution for a Federal Police Service Commission with the following composition and functions:

- (a) The Police Service Commission should be appointed by the Governor-General acting in his discretion and should consist of:
 - (i) a Chairman (who could, if the Governor-General thought it desirable, be the Chairman of the Public Service Commission) and
 - (ii) either two or four members of whom half should be chosen after consultation with the Council of Ministers and half after consultation with the Chief Justice of the Federation.
- (b) A member of the Commission should be either
 - (i) a person who is not a member of a Legislative House or of the Public Service and if full-time holds no other office of profit under the Crown, or
 - (ii) a person who is a Judge of the Federal Supreme Court, or of the High Courts of Lagos and the Southern Cameroons, or of any Regional High Court, or who has been a Judge of any of these Courts or of any other Court in the Commonwealth of similar or higher status.

It should be open to members to be members also of a Judicial and/or Public Service Commission.
- (c) Members should normally be appointed for five years, re-appointment being permissible, and should be removable only by the Governor-General acting in his discretion after consultation, in the case of members other than the Chairman, with the Council of Ministers or the Chief Justice of the Federation, as the case might be. The salaries of full-time members should be fixed by the House of Representatives and should not be capable of being diminished during the member's term of office.
- (d) The Governor-General should be empowered to refer to the Commission for their advice any matter concerning the appointment, dismissal and disciplinary control of police officers of the rank of Sub-Inspector or above, other than matters concerning the Inspector-General and his Deputy, if any, and other than such matters relating to the dismissal or disciplinary control of officers below the rank of Assistant Superintendent as under the Police Ordinance are dealt with by the Inspector-General without reference to the Governor-General.
- (e) The Commission should also be given general powers to advise on other matters affecting the Nigeria Police, including conditions of service, which the Governor-General might refer to it, excepting matters concerning the exercise by the police of their statutory responsibilities and powers.
- (f) The Governor-General should be empowered in his discretion to make regulations concerning the organisation and functions of the Commission, and it should be made an offence to interfere or to attempt to interfere with the Commission, or for a member of the Commission to compound or be a party to such interference.

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(g) The Inspector-General of Police should have the right to state his views to the Commission on all matters referred to it by the Governor-General, and the Commission should be obliged to forward his views together with their own to the Governor-General. This would be without prejudice to the Governor-General's own right to consult the Inspector-General as he sees fit on any police matter.

47. It was agreed that if at a later date Regional police forces were set up there should be established Regional Police Service Commissions with composition and functions similar to those agreed on for the Federal Police Service Commission.

V. THE QUESTION OF INDEPENDENCE FOR THE FEDERATION OF NIGERIA

48. At the beginning of the Conference the three Regional Premiers and the Leader of Government Business in the Southern Cameroons submitted a memorandum containing joint proposals that the United Kingdom Government should undertake to grant independence to the Federation of Nigeria in 1959 and to prepare and take steps to secure the enactment of the necessary legislative measures to give effect to constitutional arrangements for independence, so that this legislation can be brought into force in 1959.

49. Commenting on this memorandum the Secretary of State recalled the resolution regarding Federal independence passed by the House of Representatives on the 26th March, 1957, which was in terms broadly similar to the memorandum, and noted with some disappointment that the memorandum contained only a request for Her Majesty's Government to draw a blank cheque in favour of independence for Nigeria in 1959. He said he did not feel that he could reasonably go to his colleagues, as he must on an issue of such importance, and ask them to agree to such a blank cheque. He must be able to give his colleagues some idea as to how the cheque would be filled in: in particular, he must know what the face of Nigeria in 1959 would be likely to be. He felt sure that his position in this would be appreciated by the Conference, since so many delegates had, during the proceedings to date, urged him to remember the responsibility of Her Majesty's Government for the welfare of Nigeria. But there was much unfinished business to be completed before he, or anyone else, could foretell what would be the shape of Nigeria in 1959. Two Regions were only just launching out on Regional self-government, while the third—and largest—did not wish to receive it for some time. Nigeria as a whole had therefore not yet begun to take the strain of Regional self-government; and Her Majesty's Government must have some idea as to how that strain would be taken before finally settling the issue of independence. Furthermore, the Conference had only just agreed, after prolonged discussion and serious differences, to establish a Commission of Enquiry into the position of minorities. This Commission might lead to the establishment of more States in Nigeria; but this was not yet certain, nor was it clear what form of government would be appropriate to the States in a Nigeria divided into more than three Regions. He also pointed out that the present Federal Government was based on a structure of three Regions, and its powers might well have to be varied if the number of Regions were to be extended. The Conference had, moreover, still to consider what changes, if any, should be made to the existing structure of the Federal Government in the immediate future when two of the Regions would be self-governing. It would be a delicate exercise, requiring much thought and statesmanship, to enable a suitable framework to be drawn up within which the Regions could operate freely while, at the same time, a basis was built up for independence for the whole Federation. Full self-government within the Commonwealth was the proclaimed objective.

Her Majesty's Government stood as firmly behind this as any one in Nigeria. He was sure that delegates would accept that he needed no convincing that this was a proper and desirable objective. Timing was, however, an aspect of the problem which was of equal concern both to Nigeria and to Her Majesty's Government.

50. The Secretary of State said that, as a responsible Minister, he could not be expected to express his views on a date for Federal self-government until the Conference had further explored these problems. He realised that the attainment of independence by Ghana had quite naturally encouraged Nigerian aspirations. The problems of Nigeria were, however, very different from those of Ghana. The Gold Coast was a comparatively small territory with a long history of association with the West, and moreover it was a unitary state. Nigeria, on the other hand, was a large Federation; it was a relatively recent creation of the United Kingdom, and British officers had often been referred to as the cement holding the structure together. He was anxious that when Nigeria attained full self-government it would do so in unity and with the best possible prospect of the continuance in goodwill of that unity. If this could be brought about Nigeria might become the greatest African state in Africa. But a true and enduring unity among peoples so diverse would not easily be achieved, and indeed in the recent past questions had been raised of the right of any of the Regions to secede from the Federation. He felt that the Conference's recent discussion about the creation of new States had led to expressions of fear that went beyond normal political differences. If Nigeria were a smaller and more homogeneous country the task of building the final structure would be easier. Equally, however, the opportunities for greatness would be so much the less, and there was no reason for discouragement if the unity and independence of Nigeria still took some time to achieve.

51. Following this statement by the Secretary of State, the Conference turned to the discussions recorded above of the constitution of the Federal Government and the division of functions between the Federal and Regional Governments. These discussions, and the agreements reached in the course of them, enabled the Secretary of State to give further consideration to the question of self-government for Nigeria and to give the Conference a clearer indication of the attitude of the United Kingdom Government towards this question. He recalled that in the course of his earlier comments he had asked for the help of the Conference in working out the interim constitution of the Federal Government to enable him to see more clearly the shape of things to come in Nigeria and the sort of Nigeria to which the British Government was being asked to give independence in 1959. Much help had been given and there had been constructive contributions made by delegates from all sides; but a good deal remained unsettled and only experience over the next two or three years could settle it. He repeated that the strain of Regional self-government was yet to be taken and it would be necessary, for the picture to become clearer, to await the reports of the Minorities Commission to see whether any more States would be created, and also of the Fiscal Commission, which no doubt the Conference would set up (see paragraph 57) and which had much contentious business to settle. He said that there had been general agreement on two somewhat contradictory things: on the one hand it had been agreed that the Governor-General's powers to dissolve the House of Representatives should not be disturbed, while on the other hand it had emerged (see paragraph 32 above) that the major political parties contemplated that the present House of Representatives should run its full course, which legally could be until the 12th January, 1960. He assumed, however, that, following normal practice, the House of Representatives might be dissolved before its extreme term was reached and that the next Federal elections might be held during the dry season of 1959/1960.

52. The Secretary of State said that if at that point all had gone well and the people of Nigeria remained broadly united, as the Conference assured him they were at present, about the next step to be taken, the United Kingdom Government would be able to feel with a good conscience that its trusteeship was drawing to a close. Meanwhile a great change would have taken place in the conduct of Federal affairs: Federal Ministers would have enjoyed the exercise of greater powers and a Federal Prime Minister with freedom to choose his own colleagues would have been at work and would have gained vital experience. He took it that Nigeria would then still want to be a fully self-governing member of the Commonwealth; that would also be the purpose of the United Kingdom Government. He suggested therefore that when the Federal elections of 1959/1960 were over, when the new House had met and it would be convenient to the Nigerian Governments, those Governments and the United Kingdom Government might confer together to determine the processes by which Nigeria might attain the common objective of full self-government within the Commonwealth. It was the hope of the United Kingdom Government to see Nigeria playing a big part in the British Commonwealth as a fully self-governing member, equal in every way to the other self-governing members, whether old or new. He explained that the United Kingdom Government could not itself ensure that Nigeria would be accepted as a full member of the Commonwealth, because this was a matter for all the members; but the United Kingdom Government could and did undertake that when the time came it would sponsor Nigeria's application for membership. The day that was granted and the Federal Prime Minister arrived in London with other Commonwealth Prime Ministers would be a proud day both for Nigeria and for Britain.

53. In discussion of this second statement by the Secretary of State there was general recognition that much work remained to be completed. But the Secretary of State was asked whether, since the main Nigerian delegations had proposed a date for independence, he could give some more specific undertaking and if possible suggest a time limit within which, nearer the time, an actual date might be fixed in consultation between the Federal Government and the United Kingdom Government. The Secretary of State subsequently made the following statement:

"I understand that it is proposed that some time about January, 1960, the new Nigerian Parliament will debate a resolution asking Her Majesty's Government to agree to full self-government within the Commonwealth by a date in 1960 which will have been mentioned in the resolution. In any case the constitutional machinery would take time and you would no doubt bear this very much in mind in coming to a conclusion as to what date you should ask for. It might therefore be (as many of you have urged) a good thing for there to be some informal consultation with us as to what sort of date was realistic. On receipt of your resolution Her Majesty's Government will consider it with sympathy and will then be prepared to fix a date when they would accede to the request. We could not at this stage give any undertaking that the date would be the same date as asked for in the resolution, though we would do our utmost to meet the resolution in a reasonable and practicable manner. Delegates I hope know Her Majesty's Government well enough to be sure that they would not invent reasons for artificially extending the date. Her Majesty's Government would of course be very much guided in their choice of a date by the way everything was going, by how the two Regions now about to enjoy Regional self-government had taken the strain of this great step forward, and by how the country as a whole had faced up to the problems of minorities, on which a Commission would already have reported."

54. There was a general discussion of this statement in the course of which a variety of views were expressed. On the following day the Sardauna of Sokoto made the following statement on behalf of himself, the other Regional Premiers and Dr. Endeley, the Leader of Government Business in the Southern Cameroons:

“We have given further consideration to the Secretary of State’s statement on the independence of the Federation of Nigeria. We feel bound to express our disappointment that it has not been possible for Her Majesty’s Government to give an undertaking to grant independence to Nigeria on a date to be named in 1960 by the new Nigerian Parliament.

“The year 1959 has been unanimously proposed by the people of Nigeria, and we have given consideration to a date in 1960 only because we appreciate that the solution to the various problems that must be disposed of before independence will take longer time than we had thought.

“Having gone thus far on the path of reason and realism, we had thought that the Secretary of State would accede to our united wishes.

“In the circumstances we can do no more than to take note of the Secretary of State’s statement, while reserving to ourselves the right to pursue the issue further with a view to impressing upon Her Majesty’s Government the necessity for granting independence to the Federation of Nigeria not later than 2nd April, 1960.”

The Secretary of State said in reply that he took careful note of this joint statement, as he had taken most careful note of the various views that had been expressed on the previous day on the acceptability of his statement.

VI. LAGOS

55. Conflicting proposals for the constitutional future of Lagos were advanced, but after discussion it was agreed in the interests of unity that these proposals should not be proceeded with and that progress might best be made by considering means, short of any major change in the constitutional position of Lagos, to remedy any anomalies that might have arisen as a result of the 1953 award. The Conference agreed that certain disabilities would be removed by decisions already taken by the Conference, which would give Lagos the same proportionate representation in the House of Representatives as the rest of Nigeria and would enable a member of the House of Representatives for a Lagos constituency to be appointed a Federal Minister. The Conference further agreed to recommend the representation of Lagos in the Senate recorded in paragraph 28 (b) above.

56. On other matters affecting Lagos it was agreed to recommend as follows:

- (a) The fiscal problems resulting from the position of Lagos as Federal territory should be considered by the Fiscal Commission (see paragraph 57 below) which should have available to it the conclusions of any investigation of sales tax problems in connection with Lagos that might be made.
- (b) The Governor-General in Council should consider what further functions, such as primary education, might be transferred from the Federal Government to the Lagos Town Council, and the result of this examination should be considered by a resumed Conference.
- (c) There should be a definite number of Federal scholarships allotted to the children of residents in Lagos. The Federal Government should decide whether this should be done by means of an annual quota, or by a payment from Federal funds to the Lagos Town Council, which should make the awards through its own Scholarship Board.

- (d) Lagos should be entitled to be represented in the same manner as a Region on all Statutory Boards, Corporations or Committees established by the Federal Government.
- (e) The Oba of Lagos should continue to be President *ex-officio* of the Lagos Town Council, and no other functionary or officer of the Council should take precedence over him in the Council.
- (f) The Governor-General in Council should give further study to the question of the representation of the traditional Chiefs of Lagos on the Lagos Town Council, and the result of this study should be considered by a resumed Conference.
- (g) The Federal Government and the Western Regional Government should consult together on the advisability of establishing a joint planning authority to plan the development of the area within and without the boundaries of the Lagos municipality; the outcome of these consultations should be considered at a resumed Conference.

VII. REVENUE ALLOCATION AND THE INCLUSION IN THE CONSTITUTION OF FINANCIAL PROVISIONS

Appointment and Terms of Reference of a Fiscal Commission

57. There was general agreement on the need for the appointment of a Fiscal Commission to carry out a financial review. The Conference agreed that the Commission should be appointed by the Secretary of State and should preferably consist of two or three members, including a member with experience of federal government finance, or failing that a sole Commissioner with two assistants. The following terms of reference for the Commission were agreed:

- (a) To examine the present division of powers to levy taxation in the Federation of Nigeria and the present system of allocation of the revenue thereby derived in the light of:
 - (i) experience of the system to date;
 - (ii) the allocation of functions between the Governments in the Federation as agreed at the present Conference;
 - (iii) the desirability of securing that the maximum possible proportion of the income of Regional Governments should be within the exclusive power of those Governments to levy and collect, taking into account considerations of national and inter-Regional policy;
 - (iv) in connection with (iii) above, the special problems in the field of indirect taxation as a result of the position of Lagos as Federal territory;
 - (v) insofar as the independent revenues that can be secured for the various Governments are insufficient to provide not only for their immediate needs but also for a reasonable degree of expansion, and bearing in mind the Federal Government's own further needs, the desirability of allocating further Federal revenue in accordance with such arrangements as will best serve the overall interests of the Federation as a whole.
- (b) To consider what fiscal arrangements would be most appropriate for the Southern Cameroons, including whether that territory should be treated as a Region for the purposes of revenue allocation; and to advise on the extent to which additional financial assistance might be required to meet the immediate needs of that territory and to provide for a reasonable degree of expansion; and to indicate the form which this assistance should take.

- (c) To consider the adequacy of present arrangements for co-ordination of loan policies, governmental borrowings and capital issues, having regard to the decision to set up a Nigerian Central Bank and a Nigerian currency at an early date.
- (d) To make recommendations on the above matters.
- (e) Pending the submission of their final report, to consider as a matter of urgency the extent (if any) to which, as an interim measure, the provisions of sections 155 to 163 of the 1954 Constitution Order should be varied to reflect more accurately the principles to which they were designed to give effect.
- (f) To be empowered, in making their interim report, to specify the date on which any proposed re-adjustments should come into effect.
- (g) To submit both interim and final reports to a resumed Conference.

It was also agreed that, although the Commission might not necessarily be appointed under the Commissions of Inquiry Ordinance, the Commission should give full opportunity for both written and oral evidence to be tendered to it and for all points of view to be expressed, examined and cross-examined.

58. The Conference recognised that if, as a result of the recommendations of the Minorities Commission, decisions were taken later to establish a new State or new States, further financial questions would arise and a further fiscal review might be necessary. It was, however, agreed that the Fiscal Commission could not take account of this possibility and that if necessary a new Fiscal Commission would have to be set up to consider financial problems connected with the establishment of new States.

The Inclusion of Financial Provisions in the Constitution

59. The Conference agreed that Colonial Regulations were not, in the present stage of constitutional development, an appropriate authority for the regulation of Nigeria's finances, and that certain basic financial principles, which would apply equally to all Nigerian Governments, should be set out in the constitution. It was accordingly agreed to recommend that the constitutional instruments should include financial provisions similar to those contained in sections 58-62 of the Ghana (Constitution) Order in Council, 1957, saving that there should be no provision, similar to that in section 59(5) of the Ghana Constitution Order, to prevent any Legislative House concerned from reducing the expenditure provided for in an Appropriation or Supplementary Appropriation Bill. Means to protect the position of the Director of Audit in a self-governing Region had already been dealt with in the discussion on Regional self-government (paragraph 17 above).

60. The Conference agreed to recommend that there should be constitutional provision on the lines of section 78(3) of the Federation of Rhodesia and Nyasaland (Constitution) Order, 1953. This would permit a Civil Contingencies Fund to be set up if that were thought desirable. It was noted that if such a Fund were created for the Federation or any Region it would be important that the Rules for the Fund should provide for the submission by the Treasury of an annual account of the fund, showing details of receipts and payments. This account should be reported on and certified by the Director of Audit, and the certified account and report should be laid before the Legislative House concerned and considered by the Public Accounts Committee.

VIII. THE ARMED FORCES OF NIGERIA

61. The Conference agree to recommend that the control at present exercised by the United Kingdom Army Council over the Nigerian Military Forces should be relinquished on the 1st April, 1958, as with the progress of Nigeria

towards self-government it was important that experience should be gained locally in the administration of the Armed Forces. This transfer of control to Nigeria would mean that from the date of transfer the primary financial responsibility for the Nigerian Forces would rest with the Federal Government and it would be within the terms of reference of the Fiscal Commission to take this additional commitment into account. The Conference took note that if a case were made out, perhaps during annual negotiations, the United Kingdom Government, after the transfer of control, would consider sympathetically the continuance of financial aid on a diminishing basis towards the cost of the Nigerian Military Forces. The Conference took note that the United Kingdom Government would be willing to discuss with the Federal Government the secondment of United Kingdom officers and N.C.Os. to the Nigerian Military Forces and the provision of training facilities in the United Kingdom.

62. The Conference agreed that the Governor-General, acting in his discretion, should set up a Defence Committee, and noted with approval the Governor-General's proposal that it should include, under his chairmanship, the Deputy Governor-General, the Federal Prime Minister, two other Federal Ministers, the General Officer Commanding the Nigerian Military Forces and the Regional Premiers or their representatives.

IX. THE CAMEROONS

The Future Position of the Territory when Nigeria becomes Independent

63. The Secretary of State held a series of separate discussions with the delegates from the Southern Cameroons. He made the following statement, of which the Conference later took note, about the future position of the Territory when Nigeria becomes independent:

“Her Majesty's Government fully recognise their obligations to the Cameroons under the Trusteeship Agreement.

“One of these obligations has been and is to administer the territory as an integral part of Nigeria. This has of course been on the assumption that Nigeria was a dependent territory. When Nigeria becomes an independent country, this arrangement will no longer be possible so the Trusteeship Agreement will in any case have to be reviewed at that stage.

“When Nigeria becomes independent one possibility would be that the Cameroons should remain part of it. This would involve the termination of the Trusteeship Agreement and would require consultation with the United Nations. I can state quite categorically that there can be no question of obliging the Cameroons to remain part of an independent Nigeria contrary to her own wishes.

“Before Nigeria becomes independent the people of the North and South sectors of the Cameroons would have to say freely what their wishes were as to their own future. Among the options open to them would be to continue under the Trust Administration of the United Kingdom. I must in fairness add the warning that you would not thereby be given the golden key to the Bank of England! But many of the best friends of the Cameroons do not foresee a destiny more likely to promote her happiness and prosperity than in continued association with Nigeria.

“Her Majesty's Government will of course pay the very greatest regard to their views, whatever form they make take”.

64. Recommendations for further constitutional advance in the Southern Cameroons were agreed and these, with some amendments, were endorsed by the Conference as follows:

- (a) The term "quasi-federal Territory" would be dropped and the Territory would be known as the Southern Cameroons;
- (b) In view of the Governor-General's position as the principal representative of Her Majesty in the Federation and his special responsibilities in relation to Her Majesty's Government's obligations under the Trusteeship Agreement the Governor-General would remain responsible for matters within the competence of the Southern Cameroons Government. In discharging those responsibilities he would be styled High Commissioner for the Southern Cameroons. The Commissioner of the Cameroons would remain responsible to the High Commissioner.
- (c) The Commissioner would continue to be Her Majesty's Government's Special Representative at the United Nations for the Trust Territory as a whole,
- (d) The elected membership of the House of Assembly would be increased from 13 to 26. The three *ex officio* members would remain and there would continue to be provision for two Special Members to represent interests or communities not otherwise adequately represented. There would be no Native Authority members. The Commissioner would be empowered, after consultation with the Premier, to appoint a Speaker, either from within or without the House, who would normally preside. The Commissioner would continue to preside until a Speaker was appointed.
- (e) There would be a House of Chiefs consisting of approximately twenty members but in any event of not less than three members from each Division. The Commissioner, after enquiry and consultation with those concerned, would determine the number of members and their method of selection and would establish the House as soon as practicable. The functions of the House would be to consider and, by resolution, to advise on any question referred to it by the Commissioner or any question or matter introduced by a member. The House would consider proposed legislation and other important matters of policy, and its resolutions would be laid on the Table of the House of Assembly when it would be open to the Government or any member of that House to take them up. Members of the Executive Council would be entitled to attend the House of Chiefs but not to vote. The life of the House of Chiefs would be coterminous with that of the House of Assembly and, at least, initially the Commissioner would preside.
- (f) The Executive Council would have an unofficial majority. It would consist of the Commissioner as President, three *ex-officio* members, and five unofficial members, of whom one would be styled Premier and the others Minister. The High Commissioner, in his discretion, could increase the number of Ministers following a recommendation from the Commissioner after consultation with his Executive Council. He would appoint the Ministers on the recommendation of the Premier.
- (g) The Executive Council would be the principal instrument of policy for the Southern Cameroons and the Commissioner would have reserved executive powers similar to those of Regional Governors

under the 1954 Constitution with the addition that he would be required to comply with any directions given him by the High Commissioner in the interests of the Federation or because of the United Kingdom Government's responsibilities under the Trusteeship Agreement.

- (h) Public officers in the Southern Cameroons would remain members of the Federal Public Service and provision would be made to enable a sub-committee of the Federal Public Service Commission to be set up in the Southern Cameroons to advise on certain appointments provided for in the Southern Cameroons estimates. (The Governor-General undertook to keep in mind the possibility of finding a suitably qualified Southern Cameroonian for appointment to the Federal Public Service Commission.)

65. The Conference agreed to the representation of the Southern Cameroons in the Senate recorded in paragraph 28(a) above, but agreed that the whole question of representation in the Senate would be subject to reconsideration if new States were created as a result of the report of the Minorities Commission. The question of appropriate fiscal arrangements for the Southern Cameroons was referred to the Fiscal Commission (paragraph 57(b) above).

The Northern Cameroons

66. The delegate from the Northern Cameroons stated that he wished to reaffirm the decision which the Northern Cameroons had taken in 1953 to remain part of the Northern Region.

X. FUNDAMENTAL RIGHTS

67. The question of the inclusion in the constitution of provisions to safeguard fundamental rights was discussed. It was agreed that such provision should be made, but that because of the complexity of this important subject the Secretary of State's legal advisers should first prepare, in the light of the memoranda submitted to the Conference and the discussion on them, draft clauses for insertion in the constitutional instruments. These clauses should be submitted to all Nigerian Governments and considered at a resumed Conference.

XI. MISCELLANEOUS

Tenure of Offices of Emolument under the Crown by Elected Members of Legislative Houses

68. The Conference took note that the 1954 Constitution Order provided for the disqualification for membership of a Legislative House of any person holding or acting in any "public office" and that "public office" was defined as "any office of emolument in the Public Service of the Federation or the Public Service of a Region . . .". This disqualification was more restricted than that contained in the 1951 Constitution Order which disqualified from membership of a Legislative House a person holding or acting in "any office of emolument under the Crown". The Conference agreed to recommend that the new constitutional instruments should restore the provisions of the 1951 Constitution Order, but that there should be a saving provision under which the present members of the various Legislative Houses would not, during the present life of those Houses, be disqualified by virtue of any appointments now subsisting.

The Central Marketing Board

69. The continuance of the Central Marketing Board was discussed and the Conference agreed that a committee composed of representatives of all the Nigerian Governments and of the United Kingdom Government should be set up, under the Chairmanship of the Governor-General, to enquire into the functions of the Central Marketing Board and to recommend what changes, if any, should be made in the present arrangements.

Future Amendment of the Constitution

70. The Conference agreed to defer until a resumed Conference the question of the procedure to be adopted in respect of the amendment of the constitution after independence.

The Revision of Regional Boundaries

71. The Conference agreed that, since the question of revision of boundaries would be covered by the Commission of Inquiry into minority problems, the matter should not be pursued at the present Conference.

Form of the Constitutional Instruments

72. The Conference took note that the question of the form that the new constitutional instruments might take had been removed from the agenda of the Conference and that it would be considered by the legal advisers to the Secretary of State.

XII. FUTURE PROCEDURE

73. The Conference noted that, as a result of its recommendations, a number of Commissions and similar bodies would be set up and that certain items of business had been left unfinished. It was accordingly agreed that it would be desirable for the Governor-General to convene an *ad hoc* meeting in Lagos to consider the reports of the committees set up to consider proposals for an electoral law for the Federation (see paragraph 34), and to enquire into the functions of the Central Marketing Board (see paragraph 69). The Conference also agreed in principle that a resumed Conference should take place to consider the reports of the Minorities Commission and the Fiscal Commission, and other matters then outstanding from the present Conference.

Signed on behalf of the Conference,

ALAN LENNOX-BOYD, *Chairman.*

I. P. BANCROFT,
Secretary-General.

Lancaster House,
London, S.W.1.

26th June, 1957.

ANNEX I

LIST OF THOSE TAKING PART IN THE CONFERENCE

DELEGATES

Action Group

The Hon. Chief Obafemi Awolowo, M.H.A.: Premier, Western Region
Chief S. L. Akintola, M.H.R.
Mr. L. J. Dosunmu, M.H.R.
Mr. E. O. Eyo, M.H.A.
Mr. S. O. Ighodaro
Mr. S. G. Ikoku, M.H.A.
Mr. A. O. Lawson
Mr. A. Rosiji, M.H.R.
The Hon. Chief F. R. A. Williams, M.H.A.

Kamerun National Congress

The Hon. Dr. E. M. L. Endeley, O.B.E., M.H.A.
Galega, Fon of Bali
Mr. J. T. Ndze

Kamerun National Democratic Party

Mr. J. N. Foncha, M.H.A.

Kamerun Peoples' Party

Mr. P. M. Kale

National Council of Nigeria and the Cameroons

The Hon. Dr. N. Azikiwe, M.H.A.: Premier, Eastern Region
Mr. A. Adelabu, M.H.A.
Mr. T. O. S. Benson, M.H.R.
The Hon. Dr. S. E. Imoke, M.H.A.
The Hon. Dr. K. O. Mbadiwe, M.H.R.
The Hon. R. A. Njoku, M.H.R.
The Hon. Dr. M. I. Okpara, M.H.A.
Mr. D. C. Osadebay, M.H.A.
Mr. B. Olowofoyeku
Dr. S. Onabamiró

Northern Elements Progressive Union and Allied Parties

Malam Ibrahim Imam, M.H.A.
Malam Aminu Kano

Northern Peoples' Congress

Alhaji The Hon. Ahmadu, C.B.E., M.H.A., Sardauna of Sokoto: Premier,
Northern Region
The Hon. Abubakar Tafawa Balewa, C.B.E., M.H.R.
Alhaji The Hon. Aliyu, O.B.E., M.H.A., Makama of Bida
Alhaji The Hon. Isa Kaita, O.B.E., M.H.A., Madawaki of Katsina
Alhaji The Hon. Muhammadu Ribadu, M.B.E., M.H.R.
Alhaji The Hon. Inuwa Wada, M.H.R.

Rivers

Mr. H. Biriye

United Middle Belt Congress

Mr. J. S. Tarka, M.H.R.

Chiefs

Northern Region

Alhaji The Hon. Muhammadu Sanusi, C.M.G., M.H.C.: Emir of Kano

Alhaji The Hon. Usman Nagogo, C.M.G., C.B.E., M.H.C.: Emir of Katsina

Western Region

Sir Adesoji Aderemi, K.B.E., C.M.G., M.H.C.: Oni of Ife

Oba Aladesanmi, M.H.C.: Ewi of Ado-Ekiti

Eastern Region

Chief Nyong Essien of Uyo

The Governments in Nigeria

Sir James Robertson, G.C.M.G., G.C.V.O., K.B.E.: Governor-General

Sir Bryan Sharwood-Smith, K.C.M.G., K.C.V.O., K.B.E., E.D.:

Governor, Northern Region

Sir John Rankine, K.C.M.G., K.C.V.O.: Governor, Western Region

Sir Robert Stapledon, K.C.M.G., C.B.E.: Governor, Eastern Region

Mr. J. O. Field: Commissioner of the Cameroons

United Kingdom

The Rt. Hon. Alan Lennox-Boyd, Secretary of State for the Colonies
M.P.:

The Rt. Hon. the Earl of Perth, P.C.: Minister of State for Colonial
Affairs

Sir John Macpherson, G.C.M.G.: .. Permanent Under-Secretary of
State, Colonial Office

Sir Hilton Poynton, K.C.M.G.: .. Deputy Under-Secretary of State,
Colonial Office

Sir John Martin, K.C.M.G., C.B., Deputy Under-Secretary of State,
C.V.O.: Colonial Office

Mr. C. G. Eastwood, C.M.G.: .. Assistant Under-Secretary of State,
Colonial Office

Mr. A. R. Thomas, C.M.G.: .. Assistant Under-Secretary of State,
Colonial Office

Mr. H. T. Bourdillon, C.M.G.: .. Assistant Under-Secretary of State,
Colonial Office

Mr. A. N. Galsworthy, C.M.G.: .. Assistant Under-Secretary of State,
Colonial Office

Mr. T. B. Williamson, C.M.G.: .. Assistant Secretary, Colonial Office

ADVISERS

Action Group

Chief S. J. Amachree, M.H.A.

Chief R. Edukugho, M.H.A.

Mr. A. J. U. Ekong, M.H.R.

Mr. R. A. Fani-Kayode, M.H.R.

Mr. J. Olawoyin

Kamerun National Congress

The Hon. V. E. Mukete, M.H.R.

Kamerun National Democratic Party

Mr. A. N. Jua

Kamerun Peoples Party

U. M. N. N. Mbile

National Council of Nigeria and the Cameroons

Mr. P. A. Afolabi

The Hon. Chief Kolawole Balogun, M.H.R.

Mrs. M. Ekpo

Dr. C. Obi

The Hon. Chief Festus Okotie-Eboh, M.H.R.

Mr. J. T. Ootobo, M.H.A.

Northern Peoples' Congress

Zana Bukar Dipcharima, M.H.R.

The Hon. Abba Habib, M.H.A.

Shettim Kashim, M.B.E.: Waziri of Bornu

Mr. G. U. Ohikere, M.H.A.

United Middle Belt Congress

Mr. P. Dokotri, M.H.R.

United National Independence Party

Mr. O. Arikpo, M.H.A.

Chiefs—Northern Region

Aliyu Obaje, M.H.C.: Atta of Igala

The Governments in Nigeria

Sir Ralph Grey, K.C.V.O., C.M.G., O.B.E.: Chief Secretary of the Federation

Mr. E. I. G. Unsworth, C.M.G., Q.C.: Attorney-General of the Federation

Mr. F. D. C. Williams, C.M.G.: Financial Secretary of the Federation

Mr. C. S. K. Bovell: Inspector-General of Police

Mr. P. H. G. Scott, C.M.G.: Financial Secretary, Northern Region

Mr. H. H. Marshall, Q.C.: Attorney-General, Northern Region

Lt.-Col. E. C. Alderton: Eastern Region

Mr. J. O. Udoji: Eastern Region

Mr. D. O. Ibekwe: Eastern Region

Mr. E. G. Stumpenuson-Payne: Eastern Region

Mr. S. O. Adebô: Western Region

Mr. M. G. de Winton, O.B.E., M.C.: Western Region

Mr. F. A. Williams: Western Region

Mr. J. Murray: Southern Cameroons

United Kingdom

Mr. J. E. Marnham, C.M.G.: Assistant Secretary, Colonial Office

Mr. J. W. Vernon: Assistant Secretary, Colonial Office

Mr. R. J. Vile: Assistant Secretary, Colonial Office

Mr. P. A. P. Robertson, C.M.G.: Assistant Secretary, Colonial Office

Mr. M. G. Smith: Principal, Colonial Office

Mr. R. W. Francis: Deputy Press Officer, Colonial Office

and other advisers

Legal Advisers

Sir Kenneth Roberts-Wray, K.C.M.G.

Mr. J. C. McPetrie, O.B.E.

Mr. A. R. Rushford

SECRETARIAT

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Mr. I. P. Bancroft: Cabinet Office
Miss M. Z. Terry: Colonial Office
Mr. P. H. G. Stallard, C.V.O., M.B.E.: Federal Government, Nigeria
Mr. D. S. Timms
Mr. K. O. H. Osborne: Colonial Office

LIBRARIAN

Miss J. M. Cock: Commonwealth Relations Office

ANNEX II

REPORT OF THE COMMITTEE ON THE PUBLIC SERVICES

I. Introductory

1. At their sixth plenary session on 30th May, 1957, the Conference appointed a Committee, composed of two representatives each from the five Nigerian Governments and the United Kingdom Government, to consider technical questions relating to the public services. The Committee have held eight meetings.

2. The Committee addressed themselves to three main questions in the context of the further constitutional advances in Nigeria:

- (i) Constitutional provision for lump sum compensation in accordance with the proposals previously communicated to the Nigerian Governments.
- (ii) The Special List of Officers of Her Majesty's Overseas Civil Service.
- (iii) Provisions in relation to the protection of the existing terms of service, pension rights and eligibility for transfer of overseas officers.

II. Representations by the Association of Senior Civil Servants of Nigeria

3. Before the Committee were established, there had already been circulated to the members of the Conference a memorandum by the Association of Senior Civil Servants of Nigeria (Western Region Branch) and a memorandum submitted by the Federal Council of the Association of Senior Civil Servants of Nigeria. The Committee were also aware of a request by the Western Region Branch that it should be permitted to send representatives to attend the Conference to explain their views on the subject of lump sum compensation. At their first meeting the Committee decided that this request should be acceded to and that the Federal, Northern and Eastern Branches of the Association should also be given the opportunity to send representatives. In the event, the Federal and Eastern Branches nominated the representatives of the Western Branch to represent them and a representative also of the Northern Branch attended a meeting of the Committee.

4. The views expressed in the memoranda circulated by the Secretary-General and the oral representations made on behalf of the Associations were fully taken into account by the Committee in making their recommendations below.

III. Lump Sum Compensation Schemes.

5. The Committee based their consideration of this question on the principles agreed at the resumed Conference on the Nigerian Constitution held in Lagos in 1954 and recorded in paragraphs 29 and 32 of the report of that Conference as follows:

"29. On the attainment of Regional self-government by any Region it would be necessary for the Government of that Region to introduce and

accept financial responsibility for a lump sum compensation scheme under which overseas pensionable officers in the Service of that Government at the time would immediately acquire a continuing option to leave with a lump sum payment in addition to accrued pension, as an alternative (at the option of the officer) to accrued pension plus additional allowance . . .”

“32. . . . any African officer who was selected for his appointment by the Secretary of State or holds his appointment by virtue of the approval of the Secretary of State, and who could show to the satisfaction of the Secretary of State that his future prospects in the Service had been prejudiced or that he had legitimate cause for anxiety about his future in the Service, would be permitted to retire on the same terms as those accorded to overseas officers. Other African officers would have the right to submit similar representations to the Governor-General and, in the event of their representations being considered to be well founded, would also be eligible to retire on the same terms.”

6. After taking into account the views expressed by the Secretary of State in despatches to the Nigerian Governments and those expressed by and on behalf of the Association of Senior Civil Servants, the Committee make the following recommendations:—

- (a) That lump sum compensation payable to any officer under schemes introduced in the near future should not exceed £9,000 and should be calculated with reference to an officer's age, length of service and pensionable emoluments in accordance with the tables at Appendix A to this report. The Committee recognise that this maximum and the tables will have to be reconsidered at the time when it becomes appropriate for the Federal Government and the Northern Region Government to introduce lump sum compensation schemes.
- (b) That lump sum compensation should be computed with reference to an officer's final pensionable emoluments, save that in respect of an officer who is promoted after the lump sum compensation scheme comes into force, compensation should be computed with reference to the officer's average pensionable emoluments over the last three years before he tendered notice to retire or the pensionable emoluments of the post he held immediately before he was promoted if that is more favourable.
- (c) That, as the compensation factors were computed on the assumption that lump sum compensation would not be liable to tax, the constitutional instruments should provide that any compensation or gratuity paid to an officer retiring under the schemes should be exempt from tax imposed by the Income Tax Ordinance or any other written law for the time being in force. The Committee noted that Her Majesty's Government had given an assurance that they had no intention of taxing compensation paid by Colonial Governments for the loss of offices the duties of which were carried out overseas.
- (d) That officers retired because of ill-health or injury should be entitled on their retirement to lump sum compensation in addition to such pension as is payable to them as a result of their ill-health or injury under the existing pension law.
- (e) That the personal representatives of deceased officers who were entitled to retire under the lump sum compensation scheme should be paid either the lump sum compensation to which the officers would have been entitled if they had retired on the day of their death or the normal death gratuity under the pension law whichever is the larger.

- (f) That officers retired on abolition of office should be entitled either to benefits under the lump sum compensation scheme or to benefits under the existing pension law whichever they preferred.
- (g) That since the lump sum compensation scheme would involve officers retiring at ages to which the present pension commutation factor of 12½ would not be appropriate, officers retiring under the scheme should be entitled to commute one quarter of their pensions in accordance with the table of factors varying with age which is attached at Appendix B to this report.
- (h) That any officer retiring under the lump sum compensation scheme whose pension is less than £250 per annum should be entitled to commute the whole of his pension in accordance with the factor appropriate to his age as shown in Appendix B.
- (j) That an entitled officer who transfers to other public service outside the Federation of Nigeria to a post carrying lower pensionable emoluments than that which he last held under a Nigerian Government should be paid a lump sum equal to five times the difference between the pensionable emoluments of his last Nigerian post and that of the post to which he transfers, or a lump sum equal to that which he would have been paid had he opted to retire if that is less.
- (k) That for the purpose of the Western and Eastern Regional Government Compensation Schemes the definition of "entitled officer" should include:
- (i) Overseas officers serving either on probation or on probationary agreement in pensionable offices on the 1st October, 1954, who are or have been subsequently confirmed in their appointments;
 - (ii) officers selected for pensionable appointment but not actually appointed before the 1st October, 1954;
- irrespective of whether their appointments to the pensionable establishment before the 1st October, 1954, were gazetted after that date or whether they were subsequently seconded to other Administrations. In addition the definition should include any substantive holder of an office declared to be pensionable under the provisions of the Pensions Ordinance, 1951, who was transferred to the public services of the Western or Eastern Region during the period of two years ending on the 30th September, 1956, and who has had continuous pensionable service in those public services up to the coming into force of the compensation scheme.
- (l)
- (i) that the device of freezing lump sum compensation at its most favourable point would help to retain overseas officers in the service of the Nigerian Government during a difficult transitional period and should therefore be adopted;
 - (ii) that the period of freezing should not be less than three years and that longer periods should be offered to officers whose services it was particularly desired to retain;
 - (iii) that it should be a condition of the grant of freezing privileges that the officer concerned should undertake to continue to serve for the freezing period and that if he retired earlier (except on grounds of injury or ill-health) his compensation would be calculated as if it had not been frozen provided that Governments should not unreasonably withhold their consent

to the reduction or extension of the agreed freezing period by not more than six months if the officer so requested to enable him to change the date of his retirement without loss of the benefits of freezing;

(iv) that applications to freeze should be considered by Public Service Commissions which would seek advice from the Director of Recruitment, a Nigerianisation Committee or other appropriate body as to the post or categories of posts which should warrant the grant of freezing privileges.

(m) That Governments might wish to consider the desirability of encouraging officers to continue in their service by making advances on lump sum compensation to officers who were permitted to freeze.

IV. Special List of Her Majesty's Overseas Civil Service

7. The Committee also considered a memorandum circulated by the United Kingdom Government and a draft Special List Agreement revised in the light of the Public Service Conference held in Lagos in October–November, 1956, and of subsequent correspondence. The members of the Committee recommend that their Governments should enter into Agreements as in the form attached at Appendices C and D to this report. While the conclusion of Special List Agreements is not a matter arising out of the Agenda of the Constitutional Conference, the Committee wish strongly to recommend that in order to allay the feelings of uncertainty referred to in the memorandum by the Federal Council of the Association of Senior Civil Servants of Nigeria, Special List Agreements should be signed on behalf of the United Kingdom Government and the Nigerian Governments before the Conference adjourns and should be made public at the conclusion of the Conference.

V. Safeguards for certain categories of public officers.

8. At the invitation of the United Kingdom delegation, the Committee also considered the inclusion in the constitutional instruments of safeguards for overseas officers and other officers appointed with the approval of the Secretary of State or through the Crown Agents, similar to those contained in the Ghana Public Officers Agreement,* a copy of which is attached at Appendix E to this report. While there was general agreement in the Committee that it would be equitable to provide the officers concerned with such safeguards, the representatives of the Nigerian Governments felt that it would be preferable not to include them in the constitutional instruments resulting from the current Conference but for Public Officers Agreements to be concluded with Nigerian Governments attaining self-government or independence.

9. The Committee agreed, therefore, to recommend that such Agreements should be concluded and that their terms should follow *mutatis mutandis* those of the Public Officers Agreement with the Government of Ghana, save that they should make clear in relation to the provisions of paragraph 5 of the Ghana Agreement for computation of pensions in sterling, that where any salaries revision was made following a revaluation of Nigerian currency, it should be open to the Government concerned to make an officer's entitlement to the new salary conditions dependent upon his waiving his right to draw his pension outside of Nigeria at the rate of exchange prevailing immediately before the operative date.

* Cmnd 158. Not reproduced in this Report.

10. The Committee also agreed that the Agreements should in each case contain provisions in respect of the reservation of certain posts for Nigerians, and the creation of special training opportunities for Nigerians, in similar terms to those contained in paragraph 2 (c) of the proposed Special List Agreements attached as Appendices C and D to this report.

VI. Public Service Matters in the Northern Region

11. The Committee took note of a memorandum by the Northern Peoples' Congress regarding public service matters in the Northern Region and in particular Northernisation of the Public Service but did not feel able to make any recommendations on the questions raised which in so far as they were administrative matters required consideration by the Northern Region Government and in so far as they were constitutional were already covered by decisions taken by the plenary conference.

12. The Committee wish to record their indebtedness to their Secretaries, Miss M. Z. Terry and Mr. K. O. H. Osborne, for the remarkable speed and efficiency with which they prepared minutes and other documents for their use.

APPENDIX A

Table I

NIGERIA—EXPATRIATE OFFICERS
Lump Sum Compensation per Unit of Salary

Age last birthday	Factor where length of service is							
	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years or more
25	.26							
26	.27	.35						
27	.30	.40	.50					
28	.34	.46	.58	.69				
29	.40	.54	.68	.81	.94			
30	.47	.62	.78	.94	1.09	1.25		
31	.54	.72	.90	1.08	1.26	1.44	1.62	
32	.63	.84	1.05	1.26	1.47	1.68	1.89	2.10
33	.74	.98	1.22	1.47	1.72	1.96	2.20	2.45
34	.85	1.14	1.42	1.70	1.99	2.27	2.56	2.84
35	.97	1.29	1.61	1.93	2.25	2.58	2.90	3.22
36	1.07	1.42	1.78	2.14	2.49	2.85	3.20	3.56
37	1.16	1.54	1.93	2.32	2.70	3.09	3.47	3.86
38	1.21	1.61	2.02	2.42	2.82	3.22	3.63	4.03
39	1.23	1.64	2.06	2.47	2.88	3.29	3.70	4.11
40	1.24	1.65	2.06	2.48	2.89	3.30	3.72	4.13
41	1.22	1.62	2.02	2.43	2.84	3.24	3.64	4.05
42	1.17	1.56	1.95	2.34	2.73	3.12	3.51	3.90
43	1.11	1.48	1.85	2.22	2.59	2.96	3.33	3.70
44	1.05	1.40	1.74	2.09	2.44	2.79	3.14	3.49
45	.98	1.30	1.62	1.95	2.28	2.60	2.92	3.25
46	.90	1.20	1.50	1.81	2.11	2.41	2.71	3.01
47	.83	1.11	1.38	1.66	1.94	2.22	2.49	2.77
48	.75	1.00	1.25	1.50	1.75	2.00	2.25	2.50
49	.66	.88	1.10	1.33	1.55	1.77	1.99	2.21
50	.57	.76	.95	1.14	1.33	1.52	1.71	1.90
51	.47	.63	.79	.95	1.11	1.26	1.42	1.58
52	.38	.50	.62	.75	.88	1.00	1.12	1.25
53	.22	.30	.38	.45	.52	.60	.68	.75
54	.08	.10	.12	.15	.18	.20	.22	.25

Table II

NIGERIA—EXPATRIATE OFFICERS: JUDGES

Lump Sum Compensation per Unit of Salary

<i>Age last birthday</i>	<i>Factor</i>
37	2·82
38	3·22
39	3·56
40	3·83
41	4·01
42	4·10
43	4·12
44	4·07
45	3·97
46	3·85
47	3·73
48	3·61
49	3·47
50	3·31
51	3·11
52	2·91
53	2·71
54	2·51
55	2·31
56	2·11
57	1·88
58	1·58
59	1·25
60	·75
61	·25

Note.—This table applies only where at least ten years' service has been rendered.

NIGERIA

Commutation of pension under compensation arrangements

*Table showing the lump sum to be paid for
the commutation of each £1 of pension*

<i>Age last birthday</i>	<i>£</i>
29 and under	16.50
30	16.44
31	16.31
32	16.18
33	16.05
34	15.91
35	15.77
36	15.62
37	15.47
38	15.32
39	15.16
40	14.99
41	14.82
42	14.64
43	14.46
44	14.26
45	14.07
46	13.86
47	13.65
48	13.43
49	13.20
50	12.96
51	12.72
52 and over	12.50

SPECIAL LIST

**AGREEMENTS RELATING TO THE FEDERATION AND THE
NORTHERN REGION OF NIGERIA**

A. Federation of Nigeria

HER MAJESTY'S OVERSEAS CIVIL SERVICE

Agreement between Her Majesty's Government in the United Kingdom and the Government of the Federation of Nigeria.

Provision for
transfer to
service of Her
Majesty's
Government

1. At any time during a period of five years from the date of this Agreement an overseas officer in the pensionable establishment of the Government of the Federation of Nigeria (hereinafter called The Government of the Federation) who has not at the time when he applies reached the age of 55, may apply for transfer to a Special List of officers of Her Majesty's Overseas Civil Service who will be in the service of Her Majesty's Government in the United Kingdom (hereinafter referred to as Her Majesty's Government). If he so applies and is accepted for transfer in accordance with paragraph 3(b) of this Agreement, the following conditions will have effect:

Liability
to service

- (a) Subject to health and the provisions of sub-paragraph (e) of this paragraph an officer on the Special List will be liable to serve Her Majesty's Government up to the age of 55 in any post to which he may be assigned by Her Majesty's Government including the post which he was occupying at the date of transfer, provided that he will not be required to accept assignment to any post which, in the opinion of Her Majesty's Government is of less value (due regard being had to climate and other conditions) than that which he then holds or last held, and provided further that he will not be required to accept assignment to a post carrying lower pensionable emoluments than that which he then holds or last held.

The employment to which an officer may be assigned under this sub-paragraph includes—

- (i) direct employment by Her Majesty's Government;
- (ii) service on secondment in the United Kingdom or overseas with a corporation established under United Kingdom law;
- (iii) service on secondment to an overseas Government or public authority, or to an international organisation;
- (iv) service on transfer to the pensionable establishment of any territory in which the Colonial Regulations are in force.

An officer may be permitted to continue in the service beyond the age of 55 if he so wishes and Her Majesty's Government is in a position to offer him employment.

Conditions of
secondment

(b) So long as he continues to serve in the Public Service of the Federation

(i) The officer will, from the date of his transfer to the Special List, be regarded as being on secondment from the service of Her Majesty's Government but he will continue to earn pension and to rank for death gratuity and widows and orphans pensions under the laws and regulations of the Federation applicable to him at the date of his transfer or any laws or regulations made thereafter which are not less favourable. The payment of pension and other benefits as they become due will be made by Her Majesty's Government and recovered from the Government of the Federation.

(ii) Disciplinary action against the officer will be subject to confirmation by the Secretary of State to whom the officer shall have full opportunity to make representations.

Termination of
secondment

(c) Should the officer's secondment to the Public Service of the Federation be terminated at the instance of the Government of the Federation before he reaches the age of 55, otherwise than on account of ill-health, inefficiency or misconduct, or should it be terminated at the officer's request on grounds, accepted by Her Majesty's Government as reasonable, of dissatisfaction with his conditions of employment:

(i) Her Majesty's Government will use its best endeavours to assign him to other suitable employment, and in the meantime will grant him, until other suitable employment is found for him, or until he reaches the age of 55, whichever is the sooner, periods of additional leave with full pensionable emoluments (and counting in full for pension) not exceeding in all a period of five years.

(ii) During such additional leave he may be required to carry out any temporary duties to which Her Majesty's Government may direct him or may be permitted to take temporary employment, in either case on such conditions as Her Majesty's Government and the Government of the Federation may approve.

Change of
Employment

(d) While serving on secondment, the officer may apply or be considered for appointment to any post for which the Secretary of State may be in a position to select or nominate candidates. Whether any such appointment should be on secondment or on transfer from the service of Her Majesty's Government to that of another Government will be a matter for arrangement according to the circumstances of the case. An officer who is transferred to a pensionable office in a territory where the Colonial Regulations are in force and no scheme for

retirement with compensation for loss of career has been introduced will unless Her Majesty's Government otherwise decides revert to the ordinary conditions of employment in Her Majesty's Overseas Civil Service and cease to be on the Special List.

Right of
Reversion to
Local Service

(e) (i) Any officer who transfers to the Special List from the public service of the Federation between the date of this Agreement and the expiry of a period of one year after the introduction by the Government of the Federation of a scheme for lump sum compensation for loss of career may at any time before the expiry of the period aforesaid revert to the public service of the Federation with all the rights which he would have had under the laws and regulations of the Federation to retire with lump sum compensation for loss of career if he had never transferred to the Special List;

Retirement
Provisions

(ii) an officer transferring to the Special List will retain his existing rights to retire at any time after the age of 45 on accrued pension but without additional allowance;

(iii) if in the opinion of the Secretary of State it is in the public interest to do so, he may permit an officer for whom Her Majesty's Government has been unable to arrange other suitable employment and who has enjoyed periods of additional leave amounting in the aggregate to at least twelve months additional leave to retire on accrued pension and, where applicable, additional allowance or lump sum compensation for loss of career;

(iv) if Her Majesty's Government has been unable to arrange other suitable employment for an officer who has enjoyed periods of additional leave amounting in the aggregate to five years, or who, during a period of additional leave, reaches the age of 55, he will be retired on accrued pension and where applicable additional allowance or lump sum compensation for loss of career;

(v) an officer retiring on grounds of ill-health or injury will be eligible to receive his accrued pension and where applicable additional pension on account of ill-health or injury and, also where applicable, additional allowance or lump sum compensation for loss of career;

(vi) if an officer dies while he is serving on the Special List his legal personal representative will be paid the death gratuity that may be granted under the pension law applicable to the officer or the amount of lump sum compensation for loss of career, whichever is the greater ;

provided that additional allowance or lump sum compensation, as the case may be, shall be payable under clause (v) or (vi) of this sub-paragraph in respect of an

officer only if that officer retires or dies while he is on secondment to the public service of the Federation or after his secondment to that service has been terminated in either of the circumstances described in sub-paragraph (c) of this paragraph.

For the purposes of this Agreement the amount of lump sum compensation for loss of career will be calculated (in accordance with a table to be agreed between Her Majesty's Government and the Government of the Federation) by reference to the officer's annual pensionable emoluments at the date when he retires or dies (as the case may be) and to his age on his last birthday before his retirement or death, and as if he had not transferred to the Special List but had retired from or died in the public service of the Federation.

Liability of
Government of
the Federation

2. The Government of the Federation agrees

- (a) to employ on secondment in accordance with the terms of this Agreement any overseas officer transferred from its pensionable establishment to the Special List and any other officers on the Special List whom Her Majesty's Government may with its consent assign to its employment;
- (b) to provide fair and reasonable conditions of employment for Special List officers and in particular to pay such salaries and allowances as may be agreed with Her Majesty's Government, after consultation with the appropriate Staff Association, or in the event of failure to reach such agreement, as may be determined by arbitration;
- (c) to treat such officers for posting and promotion in its service on equal terms with other candidates and on the basis of official qualifications, experience and merit:

Provided that nothing in this paragraph shall preclude:

- (i) the Government of the Federation, with the agreement of Her Majesty's Government from reserving a list of posts for Nigerians; or
 - (ii) the creation by the Government of the Federation in agreement with Her Majesty's Government of other opportunities for Nigerians to gain experience in exercising the responsibilities of senior posts without detriment to the promotion prospects as at the date of this Agreement of overseas officers.
- (d) to retain or place Special List officers on its pensionable establishment for the duration of their secondment and, if Her Majesty's Government so requests, to retain them on its pensionable establishment for the duration of any periods of additional leave or non-pensionable employment after the termination of such secondment;
 - (e) to reimburse to Her Majesty's Government:
 - (i) any payments made by Her Majesty's Government on account of pension, additional allowance, death gratuity or any other like benefits

- accruing in respect of any period during which such officer is on the pensionable establishment of the Government of the Federation;
- (ii) half of any pensionable emoluments paid by Her Majesty's Government during additional leave granted in accordance with paragraph 1 (c) (i); and
 - (iii) half of any payment made by Her Majesty's Government in respect of lump sum compensation for loss of career in any case arising under clause (iii), clause (iv), clause (v), or clause (vi) of sub-paragraph (e) of paragraph 1;
- (f) not to offer unreasonable objection to any proposal which Her Majesty's Government may wish to make for assigning any such officer to other public service on secondment or transfer;
 - (g) to give not less than one year's notice, inclusive of earned leave, to terminate the secondment of any such officer;
 - (h) to consult with Her Majesty's Government and the appropriate Staff Association before introducing any schemes of reorganisation which would involve terminating the secondment of a substantial number of such officers;
 - (i) to pay Her Majesty's Government a pension contribution at a rate to be agreed between Her Majesty's Government and the Government of the Federation in respect of any officer placed on a United Kingdom pensionable establishment during any periods of additional leave.

Liability of
Her Majesty's
Government

3. Her Majesty's Government agrees:

- (a) to use its best endeavours to second to the Government of the Federation such staff as that Government may from time to time require;
- (b) to accept for transfer to the Special List under this scheme any overseas officer on the pensionable establishment of the Government of the Federation who applies for such transfer, and whose application is recommended by the Governor-General and is approved by Her Majesty's Government;
- (c) to consider at the request of the Government of the Federation the admission to the Special List of an overseas officer not on the pensionable establishment of the Government of the Federation who has special qualifications or experience and whose services that Government wishes to obtain on secondment and whom that Government is willing to make eligible for the benefits of its scheme of compensation for loss of career;
- (d) to terminate the secondment of any officer at the request of the Government of the Federation on grounds, accepted by Her Majesty's Government as reasonable, that he is

unfitted to hold his post on account of ill-health, inefficiency or misconduct; provided any such officer shall have full opportunity to make representations to Her Majesty's Government that the grounds for the request are unreasonable;

- (e) not otherwise to terminate the secondment of any officer except after consultation with the Government of the Federation whose consent is not to be unreasonably withheld; provided that Her Majesty's Government reserves the right, after such consultation, to terminate the secondment of any officer whose conditions of employment are not, in the opinion of Her Majesty's Government, fair and reasonable: and provided further that before the secondment of any such officer is terminated, reasonable notice of the intended termination shall be given to the Government of the Federation;
- (f) not to raise objection to the re-transfer of a seconded officer to the public service of the Federation should this be desired by the Government of the Federation and the officer;
- (g) to pay pension, additional allowance, death gratuity and any other like benefits together with any increase therein which may be payable from time to time under the laws and regulations of the Federation;
- (h) to pay pensionable emoluments during periods of additional leave granted in accordance with paragraph 1(c) (i);
- (i) to pay lump sum compensation for loss of career in any case arising under clause (iii), clause (iv), clause (v), or clause (vi) of sub-paragraph (e) of paragraph 1;
- (j) to pay a pensions contribution at a rate to be agreed between Her Majesty's Government and the Government of the Federation in respect of any officer retained on the pensionable establishment of the latter during periods of additional leave or non-pensionable employment;
- (k) to consider officers on the Special List for appointment in overseas territories or elsewhere for which Her Majesty's Government may be in a position to select or nominate candidates;
- (l) in particular to make every effort to find suitable alternative employment in the overseas territories or elsewhere for any officer on the Special List whose secondment is terminated through no fault of his own.

4. This Agreement is subject to the enactment by Parliament of any legislation necessary to authorise its implementation by Her Majesty's Government.

B. Northern Region

The agreement relating to the Northern Region is similar to that relating to the Federation of Nigeria subject:

- (a) to the substitution of paragraph 2(c) of the Agreement with the Federation by the following:

“(c) to treat such officers for posting and promotion in its service on equal terms with other candidates and on the basis of official qualifications, experience and merit:

Provided that nothing in this paragraph shall preclude the Government of the Northern Region, with the agreement of Her Majesty’s Government, from reserving at any time a list of posts for Nigerians or from creating at any time opportunities for Nigerians to gain experience in exercising the responsibilities of senior posts; but the reservation of such posts or the creation of such opportunities for Nigerians shall be without detriment to the promotion prospects as at the date of this Agreement of overseas officers;” and

- (b) to the substitution of “Governor” for “Governor-General” in paragraph 3(b).

SPECIAL LIST

AGREEMENTS RELATING TO THE EASTERN AND WESTERN
REGIONS OF NIGERIA

A. Western Region

HER MAJESTY'S OVERSEAS CIVIL SERVICE

Agreement between Her Majesty's Government in the United Kingdom and the Government of the Western Region of Nigeria.

Provision for
transfer to
service of Her
Majesty's
Government

1. At any time during a period of five years from the date of this Agreement an overseas officer in the pensionable establishment of the Government of the Western Region of Nigeria (hereinafter called the Government of the Western Region) who has not at the time when he applies reached the age of 55, may apply for transfer to a Special List of officers of Her Majesty's Overseas Civil Service who will be in the service of Her Majesty's Government in the United Kingdom (hereinafter referred to as Her Majesty's Government). If he so applies and is accepted for transfer in accordance with paragraph 3 (b) of this Agreement, the following conditions will have effect:

Liability to
service

(a) Subject to health and the provisions of sub-paragraph (e) of this paragraph an officer on the Special List will be liable to serve Her Majesty's Government up to the age of 55 in any post to which he may be assigned by Her Majesty's Government including the post which he was occupying at the date of transfer, provided that he will not be required to accept assignment to any post which, in the opinion of Her Majesty's Government, is of less value (due regard being had to climate and other conditions) than that which he then holds or last held, and provided further that he will not be required to accept assignment to a post carrying lower pensionable emoluments than that which he then holds or last held. The employment to which an officer may be assigned under this sub-paragraph includes—

- (i) direct employment by Her Majesty's Government;
- (ii) service on secondment in the United Kingdom or overseas with a corporation established under United Kingdom law;
- (iii) service on secondment to an oversea Government or public authority, or to an international organisation;
- (iv) service on transfer to the pensionable establishment of any territory in which the Colonial Regulations are in force.

An officer may be permitted to continue in the service beyond the age of 55 if he so wishes and Her Majesty's Government is in a position to offer him employment.

Conditions of
secondment

(b) So long as he continues to serve in the Public Service of the Western Region

(i) the officer will, from the date of his transfer to the Special List, be regarded as being on secondment from the service of Her Majesty's Government but he will continue to earn pension and to rank for death gratuity and widows and orphans pensions under the laws and regulations of the Western Region applicable to him at the date of his transfer or any laws or regulations made thereafter which are not less favourable. The payment of pension and other benefits as they become due will be made by Her Majesty's Government and recovered from the Government of the Western Region.

(ii) disciplinary action against the officer will be subject to confirmation by the Secretary of State to whom the officer shall have full opportunity to make representations.

Termination of
secondment

(c) Should the officer's secondment to the Public Service of the Western Region be terminated at the instance of the Government of the Western Region before he reaches the age of 55, otherwise than on account of ill-health, inefficiency or misconduct, or should it be terminated at the officer's request on grounds, accepted by Her Majesty's Government as reasonable, of dissatisfaction with his conditions of employment:

(i) Her Majesty's Government will use its best endeavours to assign him to other suitable employment, and in the meantime will grant him, until other suitable employment is found for him, or until he reaches the age of 55, whichever is the sooner, periods of additional leave with full pensionable emoluments and counting in full for pension not exceeding in all a period of five years.

(ii) During such additional leave he may be required to carry out any temporary duties to which Her Majesty's Government may direct him or may be permitted to take temporary employment, in either case on such conditions as Her Majesty's Government and the Government of the Western Region may approve.

Change of
Employment

(d) While serving on secondment, the officer may apply or be considered for appointment to any post for which the Secretary of State may be in a position to select or nominate candidates. Whether any such appointment should be on secondment or on transfer from the service of Her Majesty's Government to that of another Government will be a matter for arrangement according to the circumstances of the case. An officer who is transferred to a pensionable office in a territory where the Colonial Regulations are in force and no scheme for retirement with compensation for loss of career has

been introduced will unless Her Majesty's Government otherwise decides revert to the ordinary conditions of employment in Her Majesty's Overseas Civil Service and cease to be on the Special List.

- (e) (i) An officer transferring to the Special List will retain his existing rights to retire at any time after the age of 45 on accrued pension but without additional allowance;
- (ii) if in the opinion of the Secretary of State it is in the public interest to do so, he may permit an officer for whom Her Majesty's Government has been unable to arrange other suitable employment and who has enjoyed periods of additional leave amounting in the aggregate to at least twelve months additional leave to retire on accrued pension and, where applicable, additional allowance or lump sum compensation for loss of career;
- (iii) if Her Majesty's Government has been unable to arrange other suitable employment for an officer who has enjoyed periods of additional leave amounting in the aggregate to five years, or who, during a period of additional leave, reaches the age of 55, he will be retired on accrued pension and where applicable additional allowance or lump sum compensation for loss of career;
- (iv) an officer retiring on grounds of ill-health or injury will be eligible to receive his accrued pension and where applicable additional pension on account of ill-health or injury and also, where applicable, additional allowance or lump sum compensation for loss of career;
- (v) if an officer dies while he is serving on the Special List his legal personal representative will be paid the death gratuity that may be granted under the pension law applicable to the officer or the amount of lump sum compensation for loss of career, whichever is the greater;

Provided that additional allowance or lump sum compensation, as the case may be, shall be payable under clause (iv) or (v) of this sub-paragraph in respect of an officer only if that officer retires or dies while he is on secondment to the public service of the Western Region or after his secondment to that service has been terminated in either of the circumstances described in sub-paragraph (c) of this paragraph.

For the purposes of this Agreement the amount of lump sum compensation for loss of career will be calculated (in accordance with a table to be agreed between Her Majesty's Government and the Government of the Western Region) by reference to the officer's annual pensionable emoluments at the date when he retires or dies (as the case may be) and to his age on his last birthday before his retirement or death, and as if he had not transferred to the Special List but had retired from or died in the public service of the Western Region.

2. The Government of the Western Region agrees: **629**
- (a) to employ on secondment in accordance with the terms of this Agreement any overseas officer transferred from its pensionable establishment to the Special List and any other officers on the Special List whom Her Majesty's Government may with its consent assign to its employment;
 - (b) to provide fair and reasonable conditions of employment for Special List officers and in particular to pay such salaries and allowances as may be agreed with Her Majesty's Government, after consultation with the appropriate Staff Association, or in the event of failure to reach such agreement, as may be determined by arbitration;
 - (c) to treat such officers for posting and promotion in its service on equal terms with other candidates and on the basis of official qualifications, experience and merit; provided that nothing in this sub-paragraph shall preclude—
 - (i) the reservation by the Government of the Western Region of the posts listed in the Schedule for Nigerians or
 - (ii) the creation by the Government of the Western Region in agreement with Her Majesty's Government of other opportunities for Nigerians to gain experience in exercising the responsibilities of senior posts without detriment to the promotion prospects as at the date of this Agreement of overseas officers;
 - (d) to retain or place Special List officers on its pensionable establishment for the duration of their secondment and, if Her Majesty's Government so requests to retain them on its pensionable establishment for the duration of any periods of additional leave or non-pensionable employment after the termination of such secondment;
 - (e) to reimburse to Her Majesty's Government:
 - (i) any payments made by Her Majesty's Government on account of pension, additional allowance, death gratuity or any other like benefits accruing in respect of any period during which such officer is on the pensionable establishment of the Government of the Western Region;
 - (ii) half of any pensionable emoluments paid by Her Majesty's Government during additional leave granted in accordance with paragraph 1 (c) (i); and
 - (iii) half of any payment made by Her Majesty's Government in respect of lump sum compensation for loss of career in any case arising under clause (ii), clause (iii), clause (iv), or clause (v) of Sub-paragraph (e) of paragraph 1;

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- (f) not to offer any unreasonable objection to any proposal which Her Majesty's Government may wish to make for assigning any such officer to other public service on secondment or transfer;
- (g) to give not less than one year's notice, inclusive of earned leave, to terminate the secondment of any such officer;
- (h) to consult with Her Majesty's Government and the appropriate Staff Association before introducing any schemes of re-organisation which would involve terminating the secondment of a substantial number of such officers;
- (i) to pay Her Majesty's Government a pension contribution at a rate to be agreed between Her Majesty's Government and the Government of the Western Region in respect of any officer placed on a United Kingdom pensionable establishment during any periods of additional leave.

Liability of
Her Majesty's
Government

3. Her Majesty's Government agrees:

- (a) to use its best endeavours to second to the Government of the Western Region such staff as that Government may from time to time require;
- (b) to accept for transfer to the Special List under this scheme any overseas officer on the pensionable establishment of the Government of the Western Region who applies for such transfer, and whose application is recommended by the Governor and the Public Service Commission and is approved by Her Majesty's Government;
- (c) to consider at the request of the Government of the Western Region the admission to the Special List of an overseas officer not on the pensionable establishment of the Government of the Western Region who has special qualifications or experience and whose services that Government wishes to obtain on secondment and whom that Government is willing to make eligible for the benefits of its scheme of compensation for loss of career;
- (d) to terminate the secondment of any officer at the request of the Government of the Western Region on grounds, accepted by Her Majesty's Government as reasonable, that he is unfitted to hold his post on account of ill-health, inefficiency or misconduct; provided any such officer shall have full opportunity to make representations to Her Majesty's Government that the grounds for the request are unreasonable;
- (e) not otherwise to terminate the secondment of any officer except after consultation with the Government of the Western Region whose consent is not to be unreasonably withheld; provided that Her Majesty's Government reserves the right, after such consultation, to terminate the secondment of any officer whose conditions of

employment are not, in the opinion of Her Majesty's Government, fair and reasonable: and provided further that before the secondment of any such officer is terminated reasonable notice of the intended termination shall be given to the Government of the Western Region;

- (f) not to raise objection to the re-transfer of a seconded officer to the public service of the Western Region should this be desired by the Government of the Western Region and the officer;
- (g) to pay pension, additional allowance, death gratuity and any other like benefits together with any increase therein which may be payable from time to time under the laws and regulations of the Western region;
- (h) to pay pensionable emoluments during periods of additional leave granted in accordance with paragraph 1 (c) (i);
- (i) to pay lump sum compensation for loss of career in any case arising under clause (ii), clause (iii), clause (iv), or clause (v) of sub-paragraph (e) of paragraph 1;
- (j) to pay a pensions contribution at a rate to be agreed between Her Majesty's Government and the Government of the Western Region in respect of any officer retained on the pensionable establishment of the latter during periods of additional leave or non-pensionable employment;
- (k) to consider officers on the Special List for appointment in overseas territories or elsewhere for which Her Majesty's Government may be in a position to select or nominate candidates;
- (l) in particular to make every effort to find suitable alternative employment in the overseas territories or elsewhere for any officer on the Special List whose secondment is terminated through no fault of his own.

4. This Agreement is subject to the enactment by Parliament of any legislation necessary to authorise its implementation by Her Majesty's Government.

Schedule

List of Posts in the Public Service of the Western Region of Nigeria reserved for Nigerians

- (a) All posts in the Recruitment Branch of the Public Service Commission.
- (b) All posts in the Office of the Commissioner for the Western Region in London.
- (c) All posts in the Regional Legislature.
- (d) Secretary to the Cabinet (but not Secretary to the Premier) and Staff of the Cabinet Office.
- (e) Crown Counsel.
- (f) Magistrates, Senior Magistrates and Chief Magistrates.
- (g) Chief Registrar.
- (h) Deputy Commissioner for Law Revision.
- (i) Senior Assistant Secretary, Students Division.
- (j) Training Officer, Ministry of Finance.
- (k) Assistant Director of Education—(Further Education).

B. Eastern Region

The agreement relating to the Eastern Region is similar to that relating to the Western Region, subject:

(a) to the substitution of paragraph 2 (c) (i) of the Agreement with the Government of the Western Region by the following:

“(i) the Government of the Eastern Region with the agreement of Her Majesty’s Government from reserving a list of posts for Nigerians; or” and

(b) to there being no Schedule to the Agreement with the Government of the Eastern Region.