

CONSTITUTIONAL POSITION OF THE SOUTHERN CAMEROONS IN THE EVENT OF IT ELECTING TO BECOME A PART OF THE FEDERATION OF NIGERIA

I

Undertaking of the Nigerian Governments

In paragraph 70 of the Report by the Resumed Nigeria Constitutional Conference held in London in 1958 it was stated:

“The Conference confirmed that, if this proved to be the wish of the people of the Territory, Nigeria would welcome the Southern Cameroons as part of the Federation with the status of a full-self-governing Region equal in all aspects with the other Regions in an independent Nigeria.”

This was confirmed at the Constitutional discussions between Nigerian Ministers and Ministers of the United Kingdom, which were held in London in May 1960. In the final communiqué issued after these discussions it was stated’

There was an exchange of views on the Cameroons under British Trusteeship, which in accordance with the resolution of the United Nations would be separated from Nigeria when Nigeria became independent. It was noted the questions in the plebiscites to be held earlier in 1961 posed a choice between joining Nigeria or joining the Republic of Cameroun. It was agreed that if Southern Cameroons joined Nigeria it would, as stated in paragraph 70 of the 1958 Conference report, be with the status of a full self-governing Region equal in all respects with the other regions. It was hoped to ascertain from the government of the Republic of Cameroun the terms on which the Northern and/or Southern Cameroons would enter the Republic.

II

The Federation of Nigeria would consist of the Regions of Northern Nigeria (including the Northern Cameroons if it decided to join the Federation), Western Nigeria, the Federal Territory of Lagos and the Region of the Southern Cameroons.

The Federation and each of its components Regions is a parliamentary democracy with Ministerial councils responsible to the legislatures and with a Governor-General (in the case of the Federation) or a Governor (in the case of a Region) as Her Majesty’s Representatives.

III

The Federal Parliament consists of a Senate and a House of Representatives. The Senate consists of twelve senators from each Region, four from the Federal Territory of Lagos and four nominated by the Governor-General on the advice of the Federal Prime Minister. The Southern Cameroons would thus have twelve senators. The House of Representatives would consist of 320 directly elected members (including the Northern

Cameroons if it decided to join the Federation) the number of members from each Region being based on the total population of the Federation. On this basis the Southern Cameroons would have eight members in the Federal House of Representatives.

The Governor-General appoints as Prime Minister of the Federation a member of the House of Representatives who appears likely to command the support of a majority of the members of that House. The other Ministers are appointed from among the members of the Senate and House of Representatives.

The principal matters in which only the Federal Parliament can legislate (i.e., reserved exclusively to it) include:

- Railways**
- Copyright**
- Trunk roads**
- Nuclear energy**
- External trade**
- Patents and trademarks**
- Shipping and Navigation**
- Aviation and Meteorology**
- Immigration and emigration**
- Naval, military and air forces**
- Company taxes and sales taxes**
- Post, telegraphs and telephones**
- Wireless broadcasting and television**
- Certain Higher Educational Institutions**
- Incorporation and regulation of companies**
- Insurance (other than purely intra-regional)**
- Customs and excise, including export duties**
- Mines and Minerals, including oil and natural gas**
- Defense and Police (other than local government Police)**
- External borrowing, currency and coinage, exchange control**

In certain matters the Federal and Regional legislatures have concurrent authority, i.e., they have equal right to initiate legislation, but if a Regional law is inconsistent with a Federal law, the Regional law is void to the extent of the inconsistency. **The Principal concurrent subjects** include:

- Census**
- Prisons**
- Tourism**
- Antiquities**
- Bankruptcy**
- Water power**
- Surveys and statistics**
- Arms and ammunition**

Industrial development
Professional Qualifications
Labor, industrial relations
Public safety and public order
Traffic on Federal trunk roads
National monuments and parks
Scientific and industrial research
Commercial and industrial monopolies, combines and trusts
Higher Education (other than the institution in the Exclusive list)

All residual matters, i.e., those which are not specified as exclusive or concurrent, would come within the sole authority of the Southern Cameroons Government.

The Federal Supreme Court is the court of appeal from the High Courts of the Regions and Lagos. It has no original jurisdiction except in disputes between the Federation and Region or between Regions, and in questions as to the interpretation of the Federal and Regional Constitution.

IV

Regional Structure

If the Southern Cameroons elected to join the Federation of Nigeria it would become a full self-governing region with the Federation in all aspects equal to and having the same powers as other regions. In particular, it would have:

- (a) A governor, who, as Her Majesty's Representative would be bound to act in accordance with the advice of his ministers except in respect to a limited number of topics, e.g. dissolution of parliament, appointment of the Premier.
- (b) A legislature consisting of a House of Assembly elected by universal adult suffrage and a House of Chiefs containing not less than eighteen chiefs selected in accordance with special regulations. The power of the legislature to make laws would be exercised by bills passed by both Houses. A bill (other than a money bill, i.e., one involving financial measures) may originate in either House, but a money bill may originate only in the House of Assembly. The House of Chiefs would have a delaying power only.

The legislature would be empowered to legislate on all concurrent matters and on all matters not specified as concurrent or exclusive. These residual subjects would include primary and secondary education, agriculture, forestry, veterinary services, co-operatives, local government, land, medical services, administration of justice and roads (other than Federal trunk roads). The legislature would be empowered to pass its own budget and to raise revenue for all matters within its competence.

- (c) An Executive Council consisting of a Premier appointed by the Governor and other Ministers appointed on the recommendation of the Premier. The Premier would be the person who appeared most likely to command a majority among the members of the House of Assembly. The Premier and other Ministers would be members of the House of Assembly but at least two of the Ministers would be members of the House of Chiefs. The Executive Council would be responsible for the Executive government of the Southern Cameroons.
- (d) A High Court of the Southern Cameroons with full jurisdiction in Civil and Criminal matters. The Southern Cameroons would also have its own system of Magistrates Courts and Customary Courts.
- (e) A Southern Cameroons Public Service, distinct and separate from the other public services in the Federation. The Public Service would be controlled by a Southern Cameroons Public Service Commission responsible to the Southern Cameroons Government and pensions of retired officers of this Public Service would be a charge on Southern Cameroons funds.

The Southern Cameroons Government would advance to the status of a full self-governing Region in a sovereign Federation equal in all respects with the Regions and its Government would consequently be supreme in all matters within its competence. The Federal Government would have no overriding powers in such matters, except that if the Federal Government and the Southern Cameroons Government were both to legislate on a subject in the Concurrent list, the Federal Law would, in the event of inconsistency, prevail.

V

The following are the provisions for the amendment of the Constitution:

- (a) Federal Constitution—
 - (i) Entrenched provisions: amendment requires a two-third majority of all the members of each House of the Federal Parliament and the concurrence, by simple majority, each House of the Legislatures of at least two Regions.

(The entrenched provisions include such matters as human rights, the operation of Regional constitutions, the Federal Parliament and its exercise of legislative Power, the Executive's powers, judicial and **the Exclusive and Concurrent Legislative lists**).

- (ii) Ordinary Provisions: amendment requires a two-thirds majority of all members of each House of the Federal Parliament.

- (b) Southern Cameroons (Regional) Constitution—Amendments would require a two-thirds majority of each House and, in the case of entrenched provisions, would also require the concurrence of the Federal Parliament.

VI

Miscellaneous Provisions

Arrangements in respect of the following subjects would be broadly on the same lines as those obtaining before October 1st 1960:

Defense National Defense is assured by the Federal Armed Forces recruited from all parts of the Federation, which would include the Southern Cameroons.

Police The Federation is policed by a Federal police force recruited from all parts of the Federation, which would include the Southern Cameroons.

Local Government would continue as at present.

The Legal System would continue as at present. There would be magistrates' and customary courts and a High Court presided over by a Chief Justice. Appeals from the High Court would be heard by the Federal Supreme Court, which would hold sessions as necessary in the Southern Cameroons. Appeals from the Federal Supreme Court would go to the Judicial Committee of the Privy Council.

Currency The present currency would continue to be used.

Education The following higher educational institutions are a Federal responsibility:

- The University College at Ibadan
- The University College Teaching Hospital
- The Nigerian College of Arts, Science and Technology
- The West African Institute of Social and Economic Research
- The Pharmacy School at Yaba
- The Forestry School at Ibadan
- The Veterinary School at Vom

Other Higher Education is a concurrent responsibility and the Southern Cameroons would consequently be able to found institutions for Higher Education itself; the remainder of educational matters is an entirely Regional responsibility.

Official Language The language of legislature, the Courts and administration would be English language.

Position of Native Rulers Chiefs recognized by Native law and custom as the traditional rulers would be recognized by the Federal and Regional Governments as provided by existing legislation and their representation secured in the House of Chiefs.

Federal Public Service The Federal Public Service is open to citizens of all Regions, which would include the Southern Cameroons. There are at the present time thirty-eight Departments and services staffed by members of the Federal Public Service, opportunities for advancement in which are equal for all members whatever their Region of origin. The pensions of Federal officers are a charge on Federal Funds.

Internal Tariffs There would be no internal tariffs (i.e., duties on the internal movement of goods) and internal trade would be free.

Revenue Federal revenue is raised principally from the proceeds of Customs and Excise, import and export duties, and sales taxes on certain commodities. Part of this revenue goes into a pool of funds, which is shared out, on an agreed basis amongst all the Regions, which would include the Southern Cameroons.

Regional taxes are collected in such manner as the legislature may provide, e.g., Income Tax, direct taxation.

Membership of the British Commonwealth The Federation is a sovereign independent member of the commonwealth and by joining the Federation the Southern Cameroons would enjoy all the benefits of membership of the commonwealth; being entitled amongst other things to the preferential treatment for its exports as at present enjoyed and to other sources of aid available to Commonwealth members.

Roads. Trunk roads and the expansion of trunk roads (but not the traffic on them) would be an exclusively Federal responsibility to be paid for out of Federal funds. Other roads would be constructed and maintained from regional funds.

Human Rights. Fundamental human rights (such as protection against deprivation of life and liberty, freedom from discrimination, freedom of conscience, expression and movement, the right of recourse to the courts and of a fair hearing or trial) are written into the Federal Constitution and laws, which contravene them, will not be enforced by the courts. All these constitutional provisions covering fundamental rights are entrenched.

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