

NIGERIA



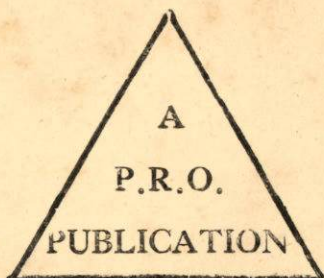
The Story of the New Constitution

HOW WAS THE NEW
CONSTITUTION PREPARED?

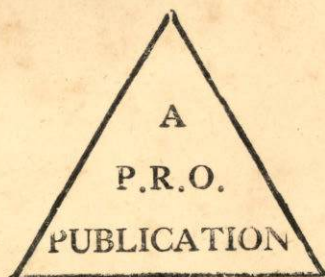
HOW WILL IT WORK?

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New Constitution



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His Excellency the Governor, Sir John Macpherson, G.C.M.G.

Modern Nigeria is a young country. As a single territory it has existed for less than fifty years. It includes within its boundaries many peoples of different history, traditions and outlook. But the natural diversities can and will be a source not of weakness but of strength. There is a growing realisation that there must be unity and common purpose.

For more than two years throughout the length and breadth of Nigeria there has been discussion on what should be the future system of government for this vast country. From this wide public debate, in which representatives of all parts of the territory have joined, a constructive constitutional plan has emerged. It is a plan for a great advance in building a federal system on the principles of representative, responsible government.

This is a short account of how the new Constitution was drawn up and what its main features will be.

I. How Was The New Constitution Prepared?

The Governor initiates the constitutional review

On the 17th of August, 1948, His Excellency the Governor, Sir John Macpherson, addressed the Legislative Council of Nigeria. Here are some of the things he said:—

“Since my arrival in the country I have had time to see something of the constitutional system in practice. . . .

“I have been greatly encouraged by the growing acceptance of the Constitution and by the growing appreciation of its true purpose.

“THE PROGRESS ALREADY MADE HAS BEEN, IN MY CONSIDERED VIEW, SO RAPID AND SO SOUND THAT . . . I PROPOSE THAT, IF IT IS THE WISH OF THE COUNCIL AND OF THE COUNTRY, CONSTITUTIONAL CHANGES SHOULD BE MADE NOT AT THE END OF NINE YEARS BUT IN THE SECOND THREE YEAR PERIOD WHICH WILL START AT THE BEGINNING OF 1950.

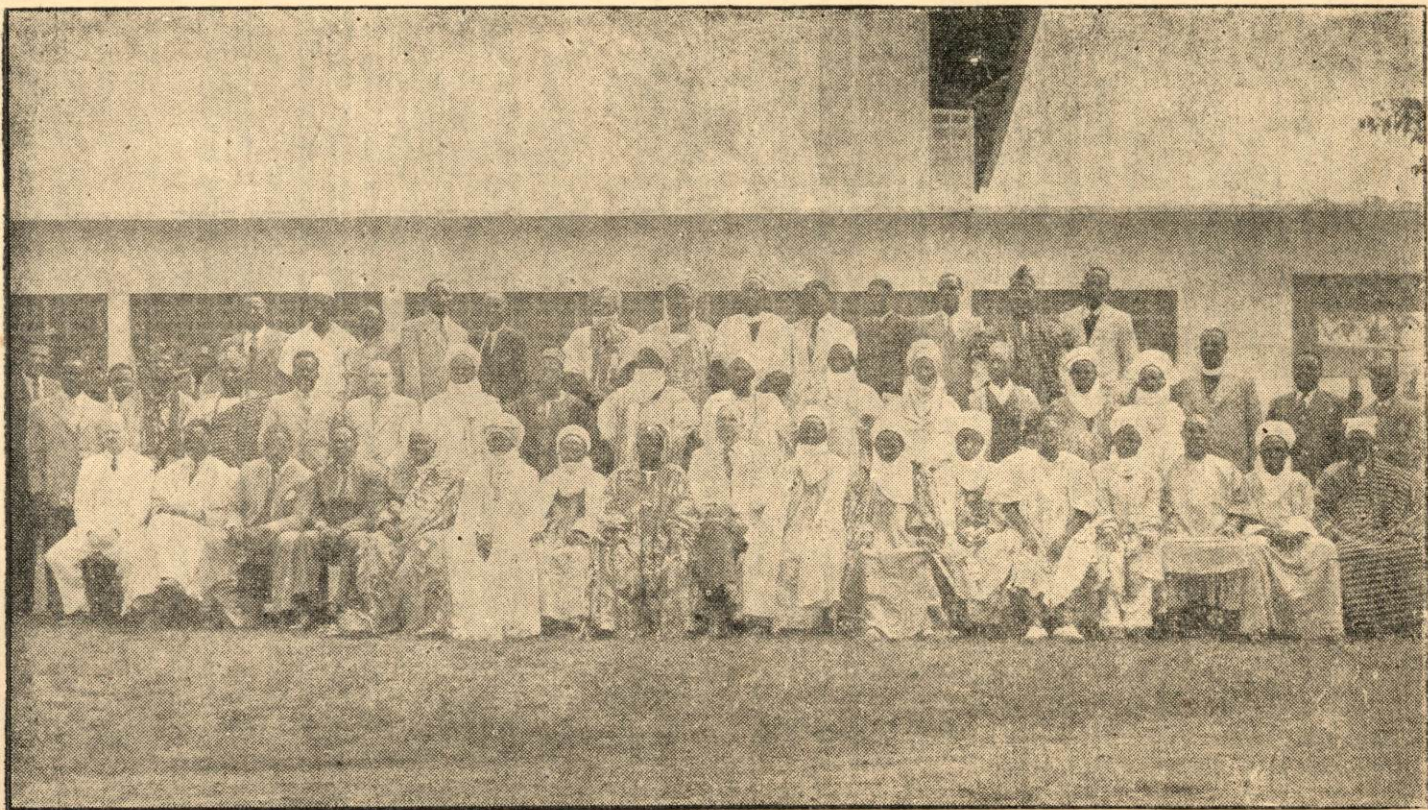
“Before any change is made it is of the utmost importance to allow adequate time for the expression of public opinion. . . .”

The decision on how the constitutional review should be carried out

When the Legislative Council met at Ibadan in March, 1949, the Chief Secretary proposed that a Select Committee should be set up to make recommendations “regarding the steps to be taken for a review of the present constitution of Nigeria, with special reference to the methods to be adopted for ascertaining the views of all sections of the population on the issues involved.”

In his speech to the Council the Chief Secretary said:—

“ We must certainly try to form the best body or bodies for this purpose which can be devised but it would be wrong, in my view, to imagine that everything will depend on the composition of whatever body is established. We must not put our faith in one body alone to the exclusion of other opinion. The solution to be found will and should depend not solely on some specially formed body but on the views and opinions of the people, expressed in many different ways. There is some inclination to believe that all that is necessary is to send a committee like Moses into the mount'n and 'hat all the people need to do is to watch and pray—pray that the committee will in due course return from the clouds with the perfect constitution to last for ever, written on tablets of stone. No one can hand over his responsibility in this matter to others. Every N'gerian has a stake in his own country and it is for him by means of village meetings



Members of the General Constitutional Conference, Ibadan, January, 1950

and Divisional meetings and Provincial meetings throughout the country and through the organizations of which he is a member to make his views known. Your Excellency has insisted that there should be the fullest opportunity for public consultation at every level. The Regional Houses in separate resolutions have already made it clear that they are of the same opinion. It is not only the Government and Government officials and members of the Legislative Council and the Regional Houses and the Native Authorities and leaders of public opinion who have a responsibility in this matter. Everyone in Nigeria has a responsibility. It is for us, on our part to see that the people are consulted and it is for the people to see that their views are made known.

“... When Your Excellency made the announcement about constitutional advance last August that was the first step in a new era. We are to take the second step now. I claim, like Your Excellency, to be an optimist. I wonder if it is unduly optimistic to hope, as I do, that all of us concerned will enter on this new era with a new spirit?”

On the side of the Government we have had ample evidence of Your Excellency's readiness, indeed determination, to take the people into Your Excellency's confidence and give them great new opportunities and responsibilities. On the part of the people I hope that there can also be a new spirit of readiness to work one with another and to forget past antagonisms in the great task of building a sound constitution which can win and retain the widest possible public support.”

The Select Committee, which included all the Nigerian members of the Council, made unanimous recommendation on how the constitution should be reviewed and the full Council unanimously approved those recommendations.

How the constitutional review was conducted

The recommendations of the Legislative Council proposed a system by which public opinion would be thoroughly canvassed at every level. For the remainder of that year the process of sounding public opinion continued—first at village and District meetings, then at Provincial and Divisional Conferences and then at Regional Conferences and at Conferences in the Colony. The recommendations which came up from the Regions and from the Colony, which were published in October, 1949, were then reviewed by a Drafting Committee which completed its work in November, 1949. On the 9th of January, 1950, the General Conference met at Ibadan. It was charged with the great task of making recommendations to the Governor and the Secretary of State on the future system of government for Nigeria.

The General Conference

The General Conference sat from the 9th of January until the 28th of January. It was composed of fifty-three members and sat under the Chairmanship of the Attorney-General (who had no vote). Twenty-five of the

members of the Conference were drawn from the earlier conferences and the remainder were unofficial members of the Legislative Council. All except three were Nigerians.

The report of the Conference was signed by all the members, and there were four minority reports on particular points, two of these signed by two members, one by eleven members and one by twelve members.

The recommendations of the Conference were debated in Regional Houses and in the Legislative Council and the Legislative Council made proposals for resolving the few major questions on which full agreement had not been reached by the General Conference—the chief of which were the position of the Colony under the new constitution and the representation of each Region in the Central Legislature.

Approval by the Secretary of State

The final recommendations have now been generally approved by the Secretary of State for the Colonies who has announced in the House of Commons that he hopes that the new constitution based on these recommendations will be introduced this year.

In his despatch commenting on the proposals of the Ibadan Conference the Secretary of State said:—

“ In the view of His Majesty's Government the recommendations which have emerged are of the utmost value. I have been particularly impressed by the wide measure of agreement reached. All who have taken part in the constitutional review are to be congratulated on their contributions and Nigeria is to be congratulated on the results; these have amply justified the initiative which you took in 1948 in proposing that such a review should be undertaken and the decision of the Legislative Council to accept your proposal.”

A great achievement

That, briefly told, is the story of how the new constitution for Nigeria was drawn up. Not only has there been ample time for expression of the views of the public but Nigerians themselves have taken the leading part in framing the new system of government. It is a record of constructive statesmanship of which Nigeria may be justly proud.

II. How Will The New Constitution Work?

The new constitution is based on three vital aims:—

- (a) Greatly increased regional autonomy should be granted within a united Nigeria.
- (b) Larger and more representative Legislatures with wider powers should be created both in the Regions and at the Centre.
- (c) Nigerians should be given a full share in the shaping of Government policy and direction of executive Government action.

How are these aims achieved in the new Constitution?

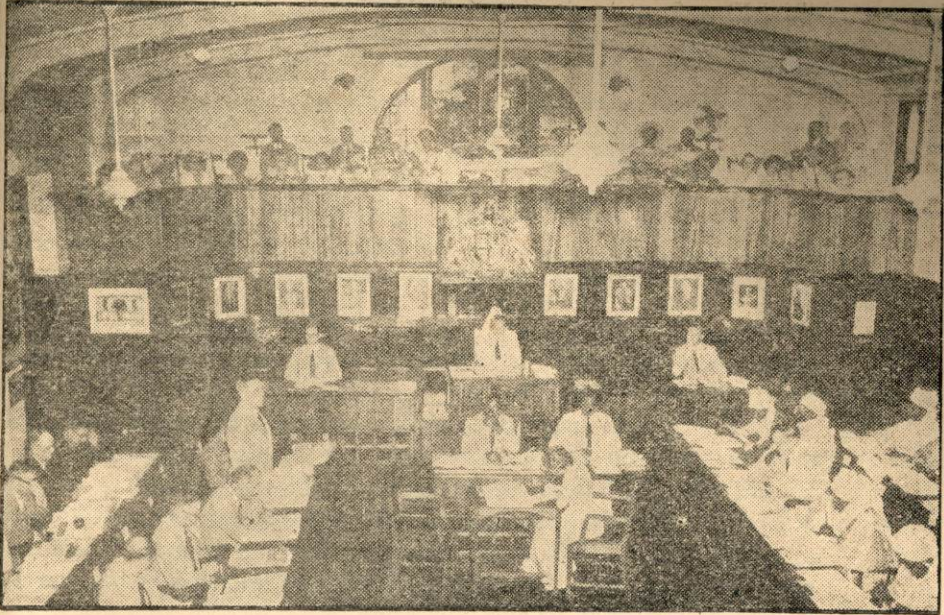
Regional Autonomy

This is what the Drafting Committee had to say about this:—

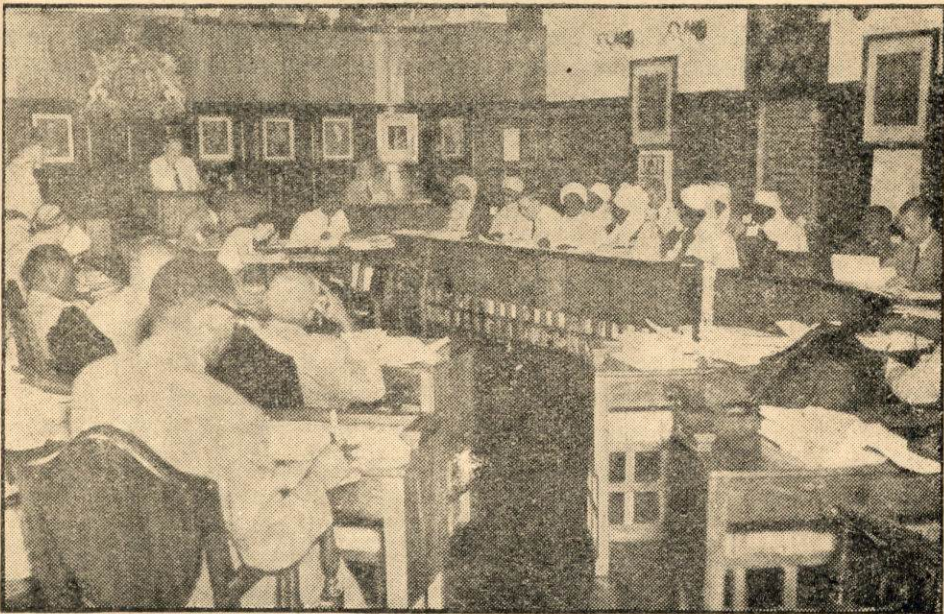
"It is unnecessary for us to state the case for increased Regional autonomy since the principle has been so whole-heartedly welcomed by the Regional Conferences. Already under the present constitution, in accordance with which the legislative functions of Regional Legislatures are purely advisory, the need for greater Regional autonomy has become increasingly apparent, and the striking fact is that in the realms of legislation, finance and initiation of policy members of Regional Houses have in practice, shown themselves anxious and able to assume and exercise responsibilities beyond the limits of the functions with which the present constitution invests them.

"We have no doubt at all that the process already given constitutional sanction, and fully justified by experience, of devolution of authority from the centre to the Regions should be carried much further so that a federal system of government can be developed.

"While recognising this fundamental need we have been impressed by the difficulty of evolving a federal system by devolution of authority from the centre. Indeed the problem which confronts us is unique. The federal governments of the United States of America, Canada and Australia, for instance, have been built on the basis of separate states surrendering to a federal government some of their powers for the benefit of all. The reverse process on which we are engaged—that of the creation of a



Legislative Council in Session at Lagos, August, 1950.



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federal government by devolution — is a political experiment for which, as far as we know, there is no precedent which can guide us and we are very conscious of the dangers inherent in such an experiment.

“We are all most anxious that in our determination to grant real autonomy to the Regions we should do nothing to endanger the unity of Nigeria or to render the government of Nigeria as a whole weak or ineffective

“It will be seen that we have not attempted to define too closely the functions of Regional Legislatures and Executives in relation to the functions of the Central Legislature and Executive since close definition of the respective powers of the Centre and the Regions would, we believe, lead to differences and disputes, and in the process of decentralisation in which we are engaged there is much which must inevitably be left to adjustment in the light of practical experience.

“The Central Legislature and Executive must retain both residual and overall powers, but since the Central Legislature and Executive will themselves be made up of representatives of the Regional Legislatures and since the policy of greater Regional autonomy is so widely accepted we do not fear that there will be any desire at the Centre unnecessarily to interfere with purely Regional legislation or administration.

“It is for that reason that the proposals which we have made, while giving to Regional Legislatures and Regional Executives a far greater measure of responsibility and field of authority than has been allotted to the Regions in the past, provide adequate safeguards to preserve central authority in questions where the overall interests of the country must be predominant.”

The General Conference has proposed, and the Governor and Secretary of State have agreed, that in a wide range of subjects Regional Legislatures should have the power to legislate. Those subjects are:—

- LOCAL GOVERNMENT ;
- TOWN AND COUNTRY PLANNING ;
- AGRICULTURE AND FISHERIES ;
- EDUCATION ;
- PUBLIC HEALTH ;
- FORESTRY ;
- VETERINARY SERVICES ;
- LAND ;
- WELFARE ;
- LOCAL INDUSTRIES ;
- REGIONAL PUBLIC WORKS ;
- NATIVE COURTS (subject to Central legislation regarding appeals);
- DIRECT TAXATION (other than Income Tax and Company Tax).

It has, in fact, been recognised that in this vast country, with its widely differing conditions and needs, over-centralisation would be a grave error and the policy which has received enthusiastic support throughout the country is the policy of achieving unity at the Centre through strength in the Regions. It is confidently expected that when the Regions feel that they have wide powers to run their own Regional affairs they will, as a result, be all the more ready to co-operate with the other Regions, through their representatives in the Council of Ministers and the House of Representatives, in serving the interests of Nigeria as a whole.

This is what the Secretary of State said in his despatch of the 15th July, 1950, on this issue:—

“I have made it clear how much importance I attach to the principle of greater regional autonomy. One of the great advantages of encouraging the Regions to develop each along its own characteristic lines will be that by that very process the unity of Nigeria will be strengthened. I wish to make it clear beyond all doubt that His Majesty’s Government attaches the very greatest importance to building up a unified Nigeria on the basis of the three component Regions.”

Representative Legislatures

Both in the Regional Legislatures and the Central Legislatures there are Nigerian majorities under the present constitution. The number of Nigerian members will be greatly increased under the new Constitution. It is proposed that there should be 136 Nigerian elected members in the new House of Representatives out of a total number of 148 and in each of the Regional Houses of Assembly there will be about eighty Nigerian elected members.

At present Regional Legislatures have only advisory powers. In future they will have wide powers over legislation and finance within their own Regions.

The Central Council of Ministers and Regional Executive Councils

Under the present system Nigerian members of the Legislative Council have powers over legislation and finance. They can, if they wish, refuse to pass legislation or to vote money. They have, however, no representation in any executive body and consequently no power to formulate Government policy or to direct executive action. These powers are at present concentrated in the Governor’s Executive Council. There are four Nigerian members of the Executive Council but these are nominated and they are not necessarily drawn from the Legislature.

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The most vital change of all in the new Constitution is the provision that all questions of policy shall be decided and all executive action shall be directed by Executive Councils in the Regions and the Council of Ministers in the Centre, and that in each of these Councils there will be a Nigerian majority.

It will be the duty of these Councils to decide what legislation is to be proposed to the Legislatures and what form the annual budget shall take, and also to direct executive action in pursuance of the policy which it has approved. *The Executive Councils in the Regions and the Council of Ministers at the Centre are the corner-stones of the constitution.*

How will these Councils be constituted? —

In the Council of Ministers, which will sit under the Chairmanship of the Governor, there will be six officials and twelve Nigerians drawn from the House of Representatives (four from each Region).

In the Regional Executive Councils, which will sit under the Chairmanship of the Lieutenant-Governors, there will be not more than five officials and not more than nine Nigerian members drawn from the Regional Houses.

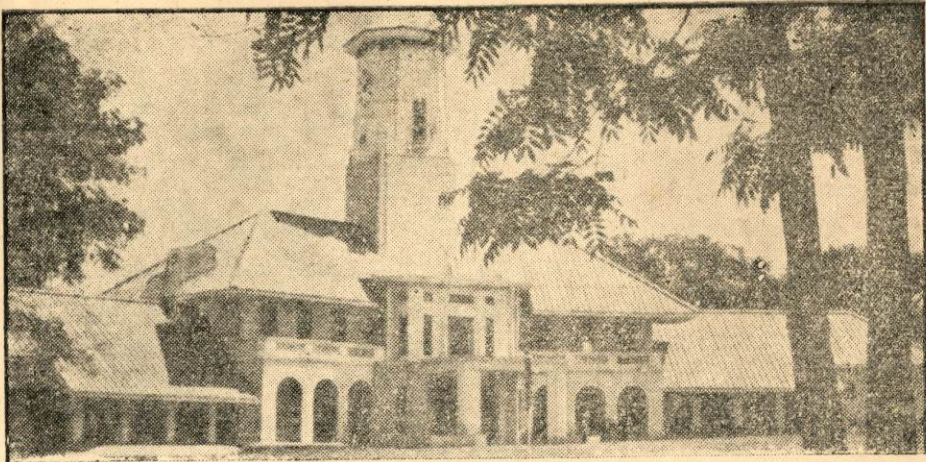
It is these bodies that will in future carry the heavy responsibility of formulating policy and directing executive action.

The Ministerial System

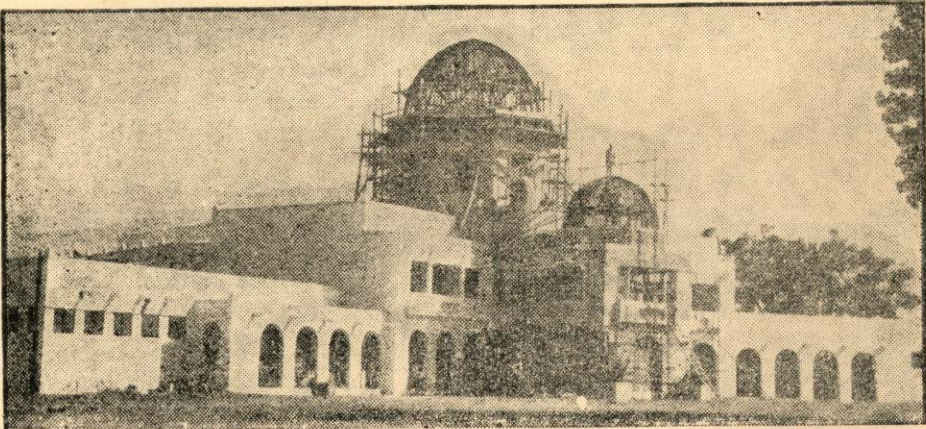
Under the new Constitution there are to be Ministers in the Regions and at the Centre each concerned with a subject or group of subjects. The duties of these Ministers were defined by the General Conference as follows: —

- (a) initiation of discussion of policy in the Council.
- (b) introducing into the Legislature and answering therein for all business affecting their subject or subjects,
- (c) ensuring, in co-operation with the Head of the Department or Departments concerned, that the decisions of the Council, as they affect his subject or subjects, are carried out.

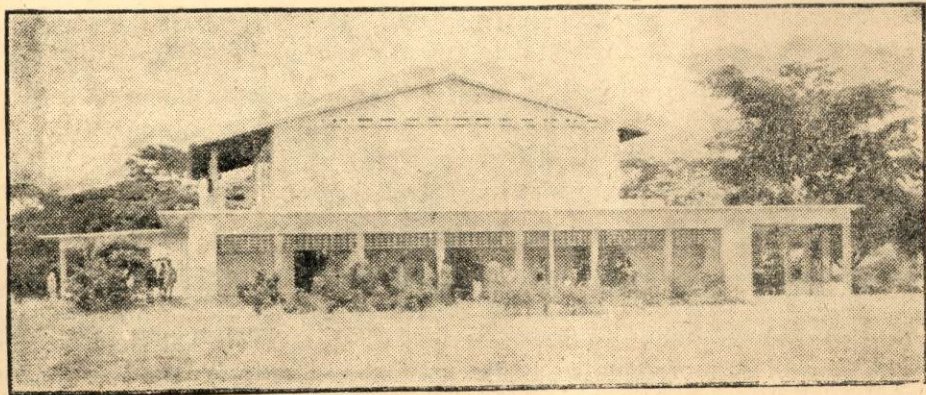
It is important to realise that, while the individual Ministers will not take policy decisions, they will all take an equal share in the Council of Ministers or Regional Executive Councils in discussing all questions which those Councils have to decide. It is the Councils which will take the decisions on policy. When those decisions have been taken the Ministers will explain and answer for them in the House of Representatives or in the Regional Houses and they will also ensure in consultation with the officials concerned that the policy decided upon in the Councils is duly carried out.



House of Assembly, Enugu.



House of Assembly, Kaduna.



House of Assembly, Ibadan.

Finance

One of the most difficult problems to be solved under any federal system of Government is the problem of allocation of revenue between the States or Regions. Experience in other countries where a federal system of governments exists has proved that there is no easy solution or simple formula which can be rigidly applied. The General Conference wisely decided that expert and impartial assistance should be sought on this difficult problem and in accordance with its recommendations an Enquiry, which was led by a financial and economic expert of the highest reputation, has already been carried out.

The report of the Revenue Allocation Commission is expected shortly and will be referred to a Committee representative of all Regions under the chairmanship of the Financial Secretary.

The Government Service

The Government Service is the instrument for carrying out the policy to be decided in the Council of Ministers and Regional Executive Councils, and reorganisation of the Government Service is already being carried out to meet the needs of the new system. In particular it is essential to decentralise Departmental powers as part of the policy of increased Regional autonomy.

The Service will faithfully carry out the policy of the Government. It must at the same time be kept completely free from political interference and the rights of members of the Service will be fully preserved by the Governor as Head of the Service who will be advised on Service matters by a Public Service Commission.

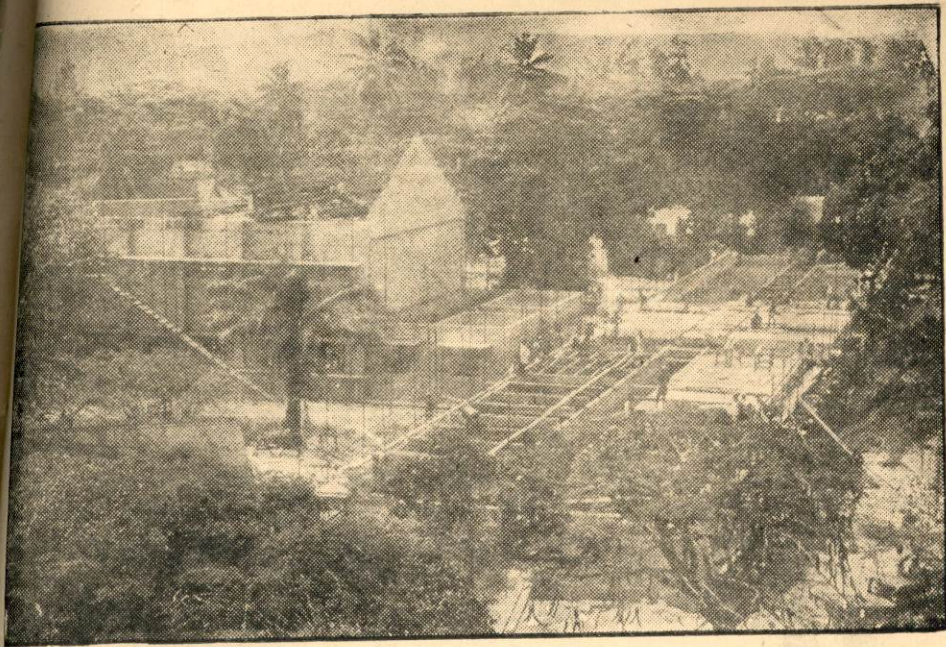
Electoral System

The new system of government under which policy will be decided and executive action directed by the Councils and laws passed and money voted by the Legislatures has been briefly described. The system is sound and workable and represents a great democratic advance.

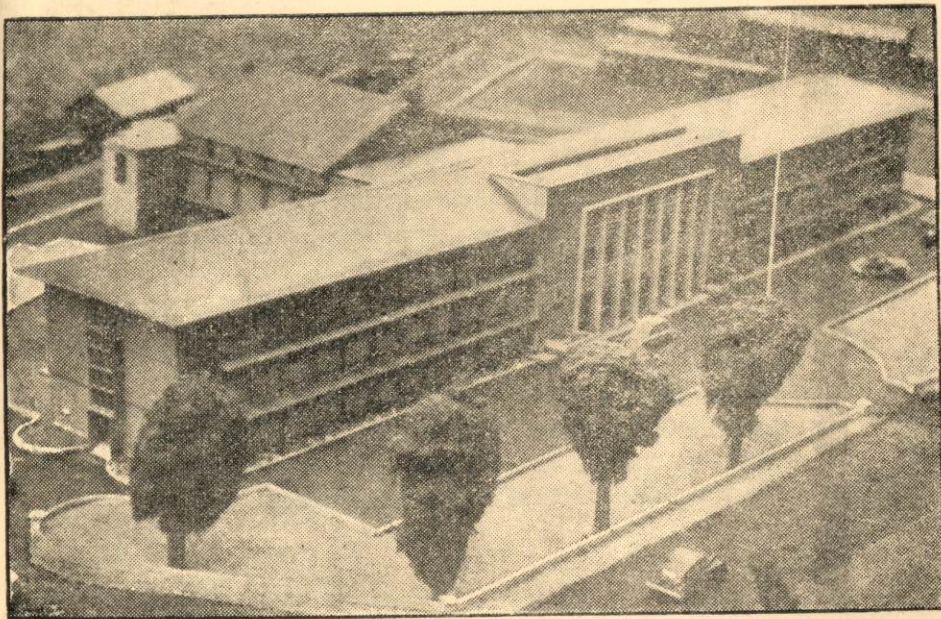
But success will be achieved not so much by the machine but by the men who work it and everything will depend on whether the best men are elected and whether they well represent the best interests of those who have elected them.

How is this all-important aim to be achieved ?

The intention is that members of Regional Houses of Assembly should be elected by Electoral Colleges (in the North an Electoral College will be elected in each Province and in the West and East in each Division). These Colleges will be representative bodies specially elected with the sole function of electing the men who are to serve in the Regional Houses. The method of



The new House of Representatives in course of construction.



Model of new House of Representatives.

forming the Electoral Colleges will vary to meet local needs and circumstances but the purpose is that each Electoral College should be as representative of the Province or Division as can possibly be achieved, and detailed regulations will soon be made prescribing how the elections are to be conducted. It is of vital importance to the success of the whole constitutional experiment that everyone should closely study these regulations and understand how he is to play his part in making the Electoral Colleges truly representative. With this object in view every possible step will be taken to explain the electoral procedure throughout Nigeria.

The Time-Table

There is still much detailed work to be done in preparing the legal documents to give effect to the new Constitution and there is a great deal of administrative work to be completed in reorganisation of Government machinery to serve the new system which is to be introduced. This work is proceeding apace, but it is not possible to foresee exactly when each stage in the programme will be reached.

The Secretary of State has said that he hopes to see the new Constitution introduced this year and everyone concerned is determined that there shall be no avoidable delay.

We hope that the elections can be held well before the end of the year in accordance with regulations to be made under an Order in Council and that the new Regional Houses and the new House of Representatives can meet for the first time before the end of this year or early in 1952.

A Challenge to Nigeria

There are many thinking Nigerians who do not agree with some of the provisions of the new constitution. It would be surprising if it were not so. But the main constitutional structure worked out over the past two years in a process of full public consultation by a series of representative conferences commands wide support and represents the greatest single step forward ever taken in Nigerian political advance.

Nigeria has the largest population of any state in Africa. It is the largest territory in the British Colonial Empire. The Commonwealth and the world will watch how Nigerians use the new opportunities which lie before them. It is surely the duty of everyone who has Nigerian interests at heart to make this great experiment in practical democracy succeed.