

THE REPUBLIC OF AMBAZONIA

*(Former United Nations Trust Territory of the Southern Cameroons Under
United Kingdom Administration)*

Presents

“THE TWO ALTERNATIVES”

SOUTHERN CAMERONS PLEBISCITE OF FEBRUARY 11, 1961

THE TWO ALTERNATIVES

CONSTITUTIONAL ARRANGEMENTS FOR THE IMPLEMENTATION OF THE DECISION AT THE PLEBISCITE

Southern Cameroons Plebiscite Order in Council, 1960 (SCLN 53 of 1960)

INTRODUCTION

The United Nations General Assembly, after hearing the statement made by the representative of the Administering Authority, by the Premier of the Southern Cameroons and by the leader of the opposition in the Southern Cameroons House of Assembly, by Resolution 1352 (VIV) of 16th October, 1959, decided that arrangements should be made for a plebiscite to be held in the Southern Cameroons and that the two questions to be put at the plebiscite should be:

- a) **Do you wish to achieve independence by joining the independent Federation of Nigeria?**
- b) **Do you wish to achieve independence by joining the independent Republic of Cameroun?**

On 31st May, 1961, the United Nations Trusteeship Council, by Resolution 2013 (XXVI), requested the Administering Authority to take urgent steps, in consultation with the Authorities concerned, to ensure that the people of the territory are fully informed, before the plebiscite, of the constitutional arrangements which would have to be made, at the appropriate time, for the implementation of the decision at the plebiscite.

This booklet is being produced in pursuance of the Trusteeship Council Resolution referred to above and will be used to explain to the public of the Southern Cameroons the constitutional implications of the two choices.

The implication of joining the Federation of Nigeria have been made clear in undertakings given by Nigerian Ministers. Trusteeship would be terminated at an early

date and the Southern Cameroons would join the Federation with a status of a fully self-governing Region equal in all respects with the other regions in an independent Nigeria. The Federation of Nigeria already has a Constitution which provides for regional governments and it is therefore, possible to set out in detail the constitutional arrangements that would be made if the plebiscite decision is in favor of the first alternative: these arrangements will be found ...below.

In so far as the implications of joining the independent Republic of the Cameroun are concern, Mr. Foncha, in his capacity as leader of the political party advocating joining the independent Republic of Cameroun, has consulted directly with the President of the Republic of Cameroun on the terms upon which the Southern Cameroons might be united with the Republic if the results of the plebiscite should be in favor of such a course. Her Majesty's Government, as Administering Authority, has on several occasions enjoined upon those concerned the need for clarification of these terms. A number of meetings have taken place in Yaounde, Douala and Buea at which Mr. Foncha and his colleagues have discussed the question with President Ahidjo and members of his government. These meetings have resulted in two point communiqués which are reproduced in full...and which the Government of the Republic of Cameroun, in response to a formal request by Her Majesty's Government has authorized for publication.

In November 1960, the Secretary of State for the Colonies (Mr. Iain Macleod) received, at the request of Mr. Foncha, a delegation representing the Government and other parties in the Southern Cameroons. The main matter discussed at the talk was the implication of the second choice in the plebiscite. The Secretary of State said that in the view of Her Majesty's Government, the United Nations in adopting the two alternatives of joining Nigeria or the Cameroun Republic clearly ruled out a period of continuing Trusteeship or separate independence for the Southern Cameroons. In her Majesty's Government view, therefore, if the plebiscite goes in favor of the Cameroun Republic, arrangements would have to be made for the early termination of Trusteeship. The Secretary of State had noted that the Premier of the Southern Cameroons had ascertained from the President of the Cameroun Republic that the Federal form of constitution would be accepted. The following interpretation was proposed as being consistent with the second question, it being understood that the association of the United Nations with the post-plebiscite conference mentioned in the text below would subject to its arrangement:

A vote for attaining independence by joining the Republic of Cameroun would mean that, by an early date to be decided by the United Nations after consultation with the Government of the Southern Cameroons, the Cameroun Republic and the United Kingdom as Administering Authority. The Southern Cameroons and the Cameroun Republic would unite in a Federal United Cameroun Republic. The arrangements would be worked out after the plebiscite by a conference consisting of representative delegations of equal status from the Republic and the Southern Cameroons. The United Nations and the United Kingdom would also be associated with this conference. During the short period while the arrangements for transfer were being made the United Kingdom would of

course be ready to continue to fulfill their responsibilities under Trusteeship.

The President of the Republic of Cameroun and Mr. Foncha have endorsed the interpretation of the second plebiscite question set out above in the terms of the communiqué quoted on page 15 (of the plebiscite two alternatives pamphlet).

The Republic of Cameroun at the present time has a unitary form of constitution. A federal form of constitution for the Federal United Republic of Cameroun would be drawn up after the plebiscite and when it is known what states will form the Federation. The communiqués quoted in page 13 to 15 (of the pamphlet) set out in outline the terms and conditions, as agreed by Mr. Foncha and President Ahidjo and endorsed by the Government of the Republic of Cameroun, upon which the Southern Cameroons would join the Republic in the event of the vote in the plebiscite being in favor of such a course.

It will be observed from a study of the statements on page 7 to 15 (of the pamphlet) that there are a number of matters, arrangement for which would fall to be made after the plebiscite.

In the arrangements, which have been made for the plebiscite, GREEN is the color, which has been allocated to the first alternative on which a vote can be cast, namely, for achieving independence by joining the independent Federation of Nigeria; and WHITE is the color which has been allocated to the second alternative on which a vote can be cast, namely, for achieving independence by joining the independent Republic of Cameroun. The ballot boxes to be used in the plebiscite will be painted GREEN and WHITE respectively.

The day fixed for the plebiscite is Saturday 11th February 1961.

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 of 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**).

[[Note: See these lists of Exclusive and Concurrent Jurisdiction as they should have applied to both joining either Nigeria or joining Cameroun!]

--Justice M. Mbuh Nov. 20, 2003]

- (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.

AND

CONSTITUTIONAL POSITION OF THE SOUTHERN CAMEROONS
IN THE EVENT OF ITS ELECTING TO BECOME
A PART OF THE REPUBLIC OF CAMEROUN

COMMUNIQUE

CONSIDERING that in the application of the Republic at the 14th Session of the United Nations a plebiscite is to be organized in February 1961 to allow the people of the Southern Cameroons under British Trusteeship and the peoples of the Northern Cameroons under British Trusteeship to declare whether they wish to join the Federation of Nigeria or to be united with the Cameroun Republic,

CONSIDERING that in the event of the result of this plebiscite being in favor of Reunification the application of this reunification on a federal basis allowing for particular conditions of each group, could not be automatic but gradual,

CONSIDERING that the representatives of the Cameroun Republic and of the Government Party of the Southern Cameroons vigorously reaffirm the desire of their peoples to be reunited in one nation,

CONSIDERING that the political heads have already met twice to examine the broad outlines of the Constitution of the Two Federated States, they have, at the conclusion of their third meeting of the 10, 11, 12 and 13th October 1960, decided to adopt the broad outlines of the Constitution which they will adopt in the event of the plebiscite vote being favourable to them.

JOINT DECLARATION

The representatives of the Republic of Cameroun and the Government Party of the Southern Cameroons under British Trusteeship met for the third time to continue their discussions on the projected Constitution, which would govern the reunified Cameroun.

At the conclusion of these talks, the Hon. J. N. Foncha, Prime Minister of the Southern Cameroons, His Excellency M. Ahmadou Ahidjo, President of the Cameroun republic, and M. Charles Assale, Prime Minister and Head of the Cameroun Government,

STATE:

1. That they wish to use every available means to bring to a successful conclusion the task of national reunification which they have set themselves;
2. **That in no case will the United Cameroun be a part of either of the French Community or the British Commonwealth;**
3. That they wish to create a Federal State whose institutions could be broadly outlined as follows:

The Federal United Cameroun Republic will be a democratic state. It will have its motto, its anthem and its flag. **The nationals of the federated states will enjoy Camerounian nationality.** The Federated States in the first stage will have power to deal with matters listed below as a minimum:

Public freedoms
Nationality
National defense
Foreign affairs
Higher education
Immigration and emigration
Federal budget
Post and telecommunications

A list of powers which would fall within the competence of the Federal Government in the second stage will be set out in the Constitution.

The Federal Authorities will be composed of:

A Federal Executive headed by the President of the Republic, Chief of the Federal State, Federal legislature consisting of a Federal Legislative Assembly and a Federal Senate.

Certain Federal laws will only be enacted in such a way that **no measures contrary to the interest of one state will be imposed upon it by the majority** (system of second reading with a qualified majority).

In the event of a conflict of laws between the Federal State and the Federated States, the Federal law will prevail. In non-federal matters, the authorities of each of the Federated States will have exclusive competence.

Each of the Federated States will be ruled by a Government and will have a Legislative Assembly.

A federal Court of Justice will have as its purpose to unify judicial systems and to act as the Highest Court of Appeal of the Federated States.

Federal services will be established to carry out federal Administration.

Legislature (or systems of legislature in force) will remain valid until the enactment of federal legislation.

4. The Federation will be created by the Cameroun Republic and the Southern Cameroons under British Trusteeship. The two parties hope that the Northern Cameroons under British Trusteeship will also enter into this federation, either as a separate State, or as a part of the Cameroons at present under British Trusteeship.

5. In the event of the Southern and Northern Cameroons voting in favor of reunification, those entrusted with the responsibility of the affairs of the United Cameroun would, through mutual agreement, specify the manner in which the populations of the Cameroons would be asked to express their opinion on the Federal Constitution.

JOINT COMMUNIQUE

The representatives of the Government party of the Southern Cameroons under British Trusteeship, led by the Hon. J. N. FONCHA, Prime Minister, on their return from London where they had talks with the United Kingdom Ministers for the Colonies on the future of their territory, had on the 1st and 2nd December a fourth meeting with the delegation of the Cameroun Republic, led by the President of the Republic, Ahmadou AHIDJO.

The two parties were in full agreement:

1. That the United Nations General Assembly has stated with clarity the two questions which will be put at the time of the plebiscite on the 11th February, 1961, i.e.,
 - (a) **Do you wish to attain independence by Unification with the Independent Federation of Nigeria; or**
 - (b) **Do you wish to attain independence by Unification with the Independent Cameroun Republic.**
2. That the two delegations whilst in agreement with the interpretation of the second question which was accepted in London, regret that the representatives of the Northern Cameroons were not present at this Conference and asked:
 - (a) That immediately after the plebiscite and in the event of the people voting in favor of unification with the Cameroun Republic, a Conference should be held attended by representatives of the Cameroun Republic and the Southern Cameroons and Northern Cameroons.
 - (b) **That this Conference, at which representatives of the Trusteeship Authority and possibly those of the United Nations would be present, would have as its aim the fixing of time limits and conditions for the transfer of sovereign powers to an organization representing the future Federation.**

Signed: **FONCHA**
for
Southern Cameroons

Signed: **AHIDJO**
for
Cameroun Republic