

# **Chapter 10: Constitutional Development in Nigeria II: The Macpherson and Lyttleton Constitutions**

## **10.1 THE MACPHERSON CONSTITUTION OF 1951**

### **Background**

The weakness of the Richards Constitution and the four obnoxious ordinances aroused great resentment from the nationalists. The four obnoxious ordinances were:

1. The Mineral Ordinance
2. The Public Land Acquisition Ordinance
3. The Crown Land (Amendment) Ordinance
4. The Appointment and Deposition of Chiefs Ordinance

These Ordinances gave to the Crown absolute right of title to Nigerian minerals and lands, and of the power to appoint and depose chiefs. Prominent in the opposition of the Richards Constitution and the Ordinances was the NCNC. The NCNC organized a nationwide protest campaign against the Richards Constitution. The nationwide tour was conducted to educate Nigerians on the implications of the Constitution and to raise funds to send a delegation to London in order to protest to Her Majesty's Government against the Constitution and the four Ordinances.

So, in April 1946, a 6-man team of the NCNC including Herbert Macaulay (as leader), Dr Azikiwe and the well-known veteran labour leader, Michael Imoudu, embarked on a tour of the country. The tour lasted for eight months. It was a successful tour in as much as a lot of money (£1300) was collected for the U.K. tour. But the U.K. tour itself was a disaster. The Secretary of State for the Colonies was not impressed by the grievances of the NCNC. The delegation was advised to go home to give the Constitution a trial. What was more; the delegation suffered an internal rift over the finance of the trip. In spite of this apparent set-back, Nigerian nationalists continued to clamour and press for more far-reaching constitutional changes.

An interesting point on the NCNC and its attitude to the Richards Constitution is that while it was bitterly, and rightly, against the Constitution's inherent defects, three of its leaders - Azikiwe, Olorun Nimbe and Adedoyin - contested and won the 3 seats reserved for Lagos in the Legislative Council. To further demonstrate their rejection of the Richards Constitution, these three NCNC elected members of the Legislative Council resolved to boycott the Council. This boycott lasted till 1948. As a result of intensified activities of the nationalists, particularly the NCNC and its militant wing, the Zikist Movement, the unpopular Governor Richards was retired and Sir John Macpherson was sent to replace him.

When Sir John Macpherson arrived in Nigeria, he announced that the Richards Constitution would be revised earlier than had been planned. He promised Nigerians that the revision would be based on the wishes of the people. He further promised that there would be acceleration of the Africanizing of the service. Governor Macpherson assured the Nigerian elites of the rapid and substantial democratization of the native authority system. Finally, he promised the extension of facilities for higher education. Governor Macpherson therefore set a machinery for full consultation of the people towards the formulation of a new constitution. It involved a series of conferences which started *at village level*, then *divisional, provincial* and the *regional* levels. The views of the Regional Conference were then considered by a Drafting Committee which then presented its recommendations to the Ibadan General Conference of 1950. The outcome of the Ibadan Conference was then submitted to the Legislative Council for approval before it was ultimately submitted to the Secretary of State for the Colonies for final approval. The Constitution then came into force on June 30, 1951.

### **The Main Features of the Constitution**

- (i) **House of Representatives:** A very significant provision of the 1951 Constitution was a House of Representatives which replaced the Legislative Council. The House of Representatives consisted of the Governor who was the president of the House, 6 ex-officio members, 136 representative members elected from the Regional Assemblies, and 6 special members appointed by the Governor to represent interests and communities which were not adequately

represented in the House. The 136 elected members were allocated to the Regions as follows: Northern Region -68, Western Region-34, Eastern Region-34. These members were elected by the Regional legislatures. In the North, the 68 members were elected by the joint Council of the Houses of Chiefs and Assembly. In the West, while 31 were elected by the House of Assembly, the remaining 3 were elected by the House of Chiefs. In all these cases, the members of the Regional Legislatures elected their quota from the members of their respective Houses.

The Central Legislature - House of Representatives had unlimited powers to make laws for the whole country. Although governmental powers were shared between the centre and the regions, yet the central legislature can legislate on subjects within the legislative jurisdiction of the regional legislature. Moreover, the law of the central government can override that of the regional government on any subject. Thus, the regional legislatures were at the mercy of the central legislature since the central legislatures possessed the power to invade into the legislative territory of the regional assemblies. The ameliorating effect, however, was that the membership of the central legislature was contingent upon membership of regional legislature.

- (ii) **Regional Legislatures:** The Macpherson Constitution retained the regionalism of the Richards Constitution but with increased powers. The Constitution provided for bicameral legislatures in the Northern and Western Regions - Houses of Chiefs and Assembly; and for unicameral legislature - House of Assembly in the Eastern Region. The Northern House of Chiefs consisted of the Lt. Governor as President, 3 official members, all first-class chiefs, 37 other chiefs and an adviser on Moslem laws. The Northern House of Assembly consisted of the Lt. Governor as President, four official members, 90 elected members and not more than 10 special members representing the interests and communities that were not adequately represented.

The Western House of Chiefs was composed of the Lt. Governor as President, three officials and not more than 50 chiefs. The Western House of Assembly consisted of the Lt. Governor as the President, 4 officials, 80 elected members and three special members. The Eastern House of Assembly consisted of the Lt. Governor as President, 5 officials, 80 elected members and 3 special members. The Constitution gave the regional legislatures the power to make laws on limited matters clearly specified by the Constitution. The executive powers of the regions extended to all their legislative powers. These included matters like education, public health, local government, roads and bridges and agriculture. This was a great improvement on the Richards Constitution. Nevertheless, the system was still unitary and not federal. This is so because the legislative matters given to the regional governments were not exclusive. This House of Representatives could legislate on any of the matters allocated to the regional governments. Moreover, the central legislature possessed the powers to set aside any law passed by Regional Assemblies. Furthermore, bills passed by the Regional Assemblies must receive the Central Executive's approval before they could be sent to the Lt. Governor for his assent.

- (iii) **Central Executive - The Council of Ministers:** The Central Executive Council was known, under this Constitution, as the Council of Ministers. It consisted of the Governor as President; 6 ex-officio members comprising the chief secretary, the three Regional Lt. Governors, the Attorney-General and the financial secretary; and 12 Nigerian ministers comprising 4 ministers each from the Regions chosen from among the members of the House of Representatives. The Council of Ministers was the principal policy-making organ of the central government. It was also responsible for the execution of the policies of government. It had the powers to approve regional bills before they could become laws. Thus, it could reject a bill passed by the regional legislature. Ministers were not given the power of being the executive heads of their departments. The minister was the spokesman of his Ministry in the House of Representatives and in the Council of Ministers. He ensured that the decisions taken in the legislature and Council of Ministers affecting his ministry were implemented. The ministers were collectively responsible for all policy decisions but were not given executive powers to formulate and implement policy decisions.

- (iv) **Regional Executive:** The Constitution established a Regional Executive for each region which comprised the Lt. Governor as President, 5 officials which included the Secretary, the Legal Secretary, the Financial Secretary and two others, and 9 elected members of the Regional legislature, known as Ministers. The ministers were not executive heads of their ministries. However, the ministers were the spokesmen of their respective ministries in the Regional Legislature and the Executive Council. The Executive Council was responsible for policy formulation and execution on matters allotted to the regional government.
- (v) **Electoral System:** The electoral system introduced by the Constitution was based on Electoral College. For this purpose, each region was divided into three-tier electoral areas namely: *primary, intermediate and final* Electoral College areas. A number of primary electoral areas constituted an intermediate electoral area while a group of intermediate electoral areas constituted a final electoral area. The primary electoral colleges elected the members of the intermediate Electoral College. The intermediate electorate college elected the members of the final Electoral College. The members of the final Electoral College elected the members of the Regional Assembly. The Regional Assembly which then was the fourth tier in the Electoral College system, elected the members of the House of Representatives. Each tier of the Electoral College elected from among its members. Thus, for one to be a member of the House of Representatives, he should start the race as a local nominee, divisional nominee, provincial nominee and finally regional nominee. This was a very complicated and cumbersome system. However, it is important to note that the 5 members allocated to Lagos in the Western House, and two members allocated to Calabar in the Eastern House were directly elected into the Eastern House.

The franchise differed from region to region. In both East and West, the voter must be an adult male tax-payer with one year residential qualification. In the North, the voter must be an adult male tax -payer with three years residential qualification.

### **Merits of the Constitution**

- (i) The greatest merit of the Macpherson Constitution was the unprecedented manner in which the Constitution came into effect. The Constitution making adopted a grassroot and nationwide consultation. Most Nigerians were consulted on what form of government they desired in six protracted levels of discussion which were village, divisional, provincial, regional drafting committees and the Ibadan General Conference. This was unique in the constitutional development of Nigeria. This democratic process attempted to make up for the cavalier manner in which Arthur Richards established his constitution in 1946.
- (ii) For the first time in the Nigerian colonial history, Nigerians were appointed ministers at both the centre and the regions. However the ministers had no ministerial responsibility, though they were governed by collective responsibility. The ministers were the spokesmen for their ministries in the Council of Ministers and House of Representatives. They were involved in the process of government. Thus, Nigerians were involved in the management of their own affairs. It was a big stride towards the evolution of a responsible government.
- (iii) The Legislative Council was abolished and replaced by the House of Representatives. This emphasized the representativeness of the House.
- (iv) In spite of the dominance of the central government over the regional governments on legislative and executive matters, the Constitution ensured the financial autonomy of the regions, through provision of a system of revenue allocation.
- (v) The provision of regional subordination to the centre on matters of legislation and execution ensured unity of all the regions.

### **Defects of the Constitution**

- (i) **Consultations not Democratic enough:** While the general discussions that led to the 1951 Constitution were more democratic than the preceding one, they were not democratic enough. Nigerian nationalists openly complained of authoritarianism and highhanded orders of the Secretary of State for the colonies, Mr. H.M. Foot, during the discussions. Moreover, the discussion the colonial authorities had with the colonial people were only with their leaders. It was therefore elitist. The mass of the people were excluded from the discussions and

consultations. On the other hand, the British favoured conservative elements and views and suppressed progressive ideas, opinions and demands.

- (ii) **Collective Responsibility without Ministerial Responsibility:** While the Constitution provided for the principle of collective responsibility, the ministers were not made to be responsible for their ministries. Ministers were not the executive heads of their ministries. The Constitution did not give the ministers the powers to make and execute policies relating to their respective ministries. They were only empowered to ensure in association with the appropriate white officials that the policy decisions of the Governor and the Council of Ministers were implemented.
- (iii) **No Effective Political Leadership:** The central and regional governments did not have any effective political leadership. There were no effective leaders at both levels. This was because there were no positions of prime minister at the centre to head central government and premiers at the regions to head the regional governments. British officials controlled the central and regional governments. Furthermore at the ministerial level, ministers were not executive heads of their ministries. Thus, neither the central nor the regional government was given effective political leadership.
- (iv) **Inevitability of Regionalism:** The autonomy given the regions, even if limited in some respects, made regionalism attractive. It also made regional politics inevitable. The beginning of regional politics can be dated to 1951. Regionalism did not promote national unity. The three main parties - the NCNC, the NPC and the Action Group were regionally based. Consequently, each of these parties controlled the government of the region where it was based. Most leaders of these parties did not really work to have a national outlook. A good proof of this point was seen in the tendency of the leaders of the parties to shun Lagos, the national capital. They preferred to stay and lead in their respective regions. On the other hand, most central ministers felt responsible to their regions of origin that nominated them. Thus, regional loyalty and interests superseded and undermined national interests.
- (v) **Wide Powers for the Centre:** The autonomy in legislative and executive matters given to the regional legislative and executive councils was limited by the wide legislative powers conferred on the central legislature by the Constitution. In fact, the central legislative house could legislate on any matter within the regional legislative jurisdiction. Moreover, as we have noted, the central executive council could veto regional bills.
- (vi) **Dependence of the Central Legislature on Regional Legislature:** Under the Constitution, the members of the House of Representatives were elected by the members of the regional legislatures from among themselves. Consequently, the members of the central legislature were responsible and more loyal to the regions that elected them than to the centre. Also, the central legislature was dependent on regional legislature. The members of the central legislature perceived their positions and their political careers as more dependent on the regions rather than the nation. Thus, the members of the central legislatures saw themselves as representatives of the regions and not representatives of the country.
- (vii) **The Provision of Electoral College:** The Electoral College which was provided by the Constitution was protracted and cumbersome. Furthermore, the Electoral College system was considered undemocratic. Moreover, the Constitution provided for a limited suffrage. Only taxable adult males were allowed to vote. Women and non-taxable adults were not given the franchise.

### **Factors Leading to the Breakdown of the Constitution**

Several factors were responsible for the collapse of the Macpherson Constitution. The three main factors are discussed below:

(i) **Eastern Regional Crisis of 1953 - Lack of Party Discipline:**

The political parties had their various internal problems. Perhaps the party whose problems were best known was the NCNC. First, the party members from Lagos failed to elect their party leader, Dr Nnamdi Azikiwe into the House of Representatives. Two of its leading members who were later elected into the legislature, Olorun Nimbe and Adedoyin refused to step down for

the party leader, Azikiwe. Thus, the party was the only one whose national leader was not the parliamentary leader. Problems and conflicts were thereby created. Secondly, in January 1953, the NCNC took a decision not to continue to support the Macpherson Constitution. The NCNC federal ministers were instructed accordingly and directed by the party to withdraw from the central executive. The ministers refused to obey the party's directive and consequently sat tight in the federal executive. The party considered this action as party indiscipline and expelled these NCNC central ministers from the party. However, six of the regional ministers did not support the expulsion of these central ministers and thus supported the expelled ministers. The party leaders then became angry with the regional ministers who backed the expelled central ministers. The six regional ministers were then asked by their party to resign their ministerial positions.

The six ministers refused to resign even when a vote of no confidence was passed on them by an overwhelming majority in the Eastern legislature. Those ministers who were themselves acting illegally insisted that the legislature could only vote by secret ballots as stipulated by the Constitution. The legislators had voted by mere show of hands. The majority purely and simply refused the dictation of the minority. There was a stalemate. All bills brought up for debate were defeated by the majority. The Lt. Governor had to use his reserved powers to pass the all-important Appropriation Bill. This Eastern regional crisis which started from January 30 to May 6, 1953 was the result of the serious struggle for power, influence and position in the hierarchy of the NCNC. The delay in solving this crisis was mainly due to a constitutional defect on how the legislatures or House of Assembly could be dissolved. This crisis produced five significant results. First, on February 23, 1953, the National Independence Party (NIP) was formed in the Eastern Region by the expelled NCNC central and regional ministers and their supporters with Professor Eyo Ita as the leader. Secondly, when it became impossible to continue the business of the Regional Assembly, the House was dissolved on May 6, 1953 and a new election was conducted. The NCNC was overwhelmingly returned to power while the NIP was in opposition. Thirdly, the Southern Cameroon representatives in the Eastern House started to intensify their efforts for autonomy of Southern Cameroon from the Region. Fourthly, there was a general loss of confidence in the Western democracy. Fifthly, the crisis tremendously weakened the NCNC.

- (ii) **The Crisis over the Motion for Self - Government in 1956:** The call for autonomy and self-determination was stronger in the East and West than in the North. The North was not against self-government in principle. Only that it did not want it too early. So when on April 1, 1953, Chief Anthony Enahoro, a member of the AG tabled the historic motion on self-government in 1956' in the House of Representatives, the North proposed an amendment to the motion to read: 'self-government as soon as practicable'.

The Council of Ministers decided not to discuss the motion. Four members of the AG in the Council chose to show their solidarity with the party. They therefore honourably resigned from the Council of Ministers to enable them join in discussing the motion. The debate on the amendment of the motion was very bitter and violent. It ended with the AG and NCNC members of the House staging a walkout of the House. The House was ultimately adjourned. After the adjournment, the Northern members of the House were insulted, abused and ridiculed by the Lagos crowd who were hostile to them. The NPC and the North were seen by the public as collaborators with the British colonisers and were called 'imperialist stooges'. The reaction of the Northern leaders to their experiences in Lagos during the crisis of the self-government motions was swift and dramatic. Within a few weeks, the legislative Houses of the North jointly passed the famous Eight-point Programme in May 1953. The 'Eight -point Programme' was a blueprint for virtual dismemberment of the country. Three of the specific demands of the North in the programme deserve to be mentioned here.

First, that the regions be given total legislative and executive autonomy on all matters except defense, external affairs, customs and West African research institutions. Secondly, the North wanted the abolition of central legislative and executive bodies in the country. Thirdly, in place of central legislative and executive bodies, the North wanted the creation of a central agency for the regions in a neutral place. This agency would be responsible for the subjects

aforementioned and other matters delegated to it by the regions. Fourthly, the North demanded the creation of a separate public service in each region. This was a very important demand since the civil service is the life-wire or backbone of the government.

- (iii) The Kano Riot of 1953: The crisis over the motion for self-government in 1956 resulted in the formation of a temporary alliance between the NCNC and Action Group for a period of about six months. The Eight-point Programme of the Northerners further provoked the NCNC and Action Group leaders who took a decision to send a number of delegations to Northern cities to educate the Northerners on the need for self-government in 1956. One of these delegations which was led by Chief S.L. Akintola of the Action Group travelled to Kano. At Kano, Chief S.L. Akintola's team scheduled a meeting at the time when the North-South tensions was at its greatest height. This triggered off the chain of events which ultimately ended up in four days of rioting in Kano Sabongari lasting from May 15 to 18, 1953. The rioting recorded 277 casualties which included 36 deaths. Among the 36 deaths, 15 were Northerners while 21 were Southerners Two days after this event, the Secretary of State for the Colonies, Sir Oliver Lyttleton, alarmed over these successive events, announced the summoning of the famous 1953 London Constitutional Conference to modify Macpherson Constitution.

## 10.2 THE LYTTLETON CONSTITUTION OF 1954 Background - The 1953 London Constitutional Conference

For some time during the crises and riot discussed above, the colonial authorities appeared undecided on what line of action to take. But two days after the Kano Riot, the Secretary of State for the Colonies, Sir Oliver Lyttleton, realizing that the Macpherson Constitution had proved unworkable quickly summoned the famous London Constitutional Conference on May 21, 1953. The objective of the Conference was to rework the 1951 Constitution so as to provide for greater regional autonomy. The Conference was also designed to remove the power of intervention by the centre. At least, that was part of the announcement of the Secretary of State for the Colonies in May 1953. When the invitation to party and regional leaders were made public, it was discovered that the leaders of the National Independence Party (NIP), a break-away faction of the NCNC, were also invited. This fact further demonstrated the consistency of the British in the art of divide and rule. The 1953 London Constitutional Conference took place between July 30 and August 22, 1953. Specifically, it had three major aims. One, identification of the defects of Macpherson Constitution. Two, working out of measures and means of correcting the defects. Three, resolving perhaps once and for all, the thorny issue of self-government in 1956.

The decisions of the Conference were far-reaching and may be considered as laying the foundation for a future federal arrangement for Nigeria. We summarize the major decisions of the London Conference as follows:

- (i) A federal system of government in which governmental functions and powers were shared between the central and regional governments in such a way that the Exclusive List was for the Central Government, the Concurrent List was for both the centre and the Regions while the Residual Powers were *exclusively* for the regional governments. There was a proviso that where there was a conflict between the centre and the regions in legislation and execution over the subjects in the concurrent list, the central laws and actions were to prevail over those of the region. With this agreement, the Northern leaders decided to abandon the Eight-point Programme.
  - (ii) The titles of Lt. Governor for the regions and Governor for the centre were changed to Governors for the regions and Governor-General for the central government.
  - (iii) Self-government status would be accorded to regions that so desired in 1956.
  - (iv) Lagos was to be excised from the Western Region. It would become a federal territory or, as it was then said, a 'no-man's land'.
- The decision on Lagos was severely contested by the Western Region and its Premier, Chief Obafemi Awolowo. They threatened to secede from the country if colonial authorities carried out

the decision. The West dropped the issue only when the British threatened to meet force with force on the Issue.

The fact that the British monopolized colonial army and policy helped them to give constitutional backing to the decisions in London. But there was yet another Conference in Lagos in January 1954 to complete the unfinished work of the London Conference. This was also chairman by Sir Oliver Lyttleton. The Conference considered the recommendations of the fiscal commission headed by Sir Louis Chick which designed the fiscal and revenue relations between the central and regional governments. The Conference accepted Chick's recommendations. Three important decisions were also reached: regionalization of the judiciary, regionalization of the public service, and granting of a quasi-regional status to Southern Cameroon. These decisions of the 1953 London Conference and those of the resumed 1954 Lagos Conference were incorporated into the 1954 Constitution. It was named after the then Secretary of State for the Colonies, Oliver Lyttleton.

## Main Features of the Constitution

- (i) **A Federal Constitution:** This is one in which the legislative and executive competence of both federal and regional governments were clearly spelt out by the constitution. As in all federal constitutions, the powers and areas of competence of both levels of government were clearly defined. There were Exclusive, Concurrent and Residual powers. The first, the exclusive legislative powers were reserved only for the central or federal government. This area contained a list of items touching key sectors of the State. These items included defiance, foreign affairs, monetary affairs, internal security, etc. The second area was known as concurrent legislative list which consisted of matters over which both the central and regional governments had competence. There was the provision as in all federal constitutions that whenever the laws of the centre and the regions in only the matters contained in the concurrent list conflicted, the laws of the federal government prevailed over those of the regions. The third area is known as residual powers which were unlisted matters that were exclusively allotted to the regional governments. These powers refer to those matters which were neither in the exclusive nor concurrent legislative lists. They were matters like local governments primary education, public health, etc.
- (ii) **Increase in the Power of the Regions:** The 1954 Constitution increased the power of the regions. We will recall that in the Macpherson Constitution, the regional Houses of Assembly were subordinated to the central legislature. Also, under the Macpherson Constitution, without the assent of the central government, regional legislatures could not pass their bills into laws. These two provisions were removed from the 1954 Constitution.
- (iii) **The House of Representatives:** The Constitution provided for a unicameral legislature for the centre - House of Representatives. The House consisted of a Speaker, 3 ex-officio members and 184 elected representatives. The 184 elected representatives were directly elected from single - member constituencies of 170,000 people each. The seats for 184 representatives were allocated as follows: Northern Region - 92, Western Region - 42, Eastern Region - 42, Southern Cameroon -6, and Federal Capital Territory of Lagos - 2. Since the members of the House of Representatives were directly elected by the people, the House of Representatives was independent of the regional legislatures which were equally directly elected. This ensured the stability of these legislative houses, as the central or regional legislatures could be dissolved without resulting to the dissolution of the other as was the case under the 1951 Constitution. The House of Representatives was presided over by the Speaker, a popularly elected Nigerian. The house had exclusive legislative jurisdiction over matters within the exclusive list of governmental powers and concurrent legislative jurisdiction with regional legislatures over matters within the concurrent list.
- (iv) **Regional Legislatures:** The Constitution established bicameral Houses of Chiefs and Assembly for the North and West, and unicameral legislature for the East - House of Assembly. The Southern Cameroon which was given a quasi- regional status had also a unicameral legislature - House of

Assembly. The regional legislature made laws jointly with the central legislatures on matters within concurrent list but had exclusive legislative jurisdiction on matters within the residual powers.

- (v) **Central Council of Ministers:** The executive arm of the federal government was the Council of Ministers. The Council comprised the Governor-General as the president, three officials, and ten ministers. The ten ministers who were chosen from elected members of the House of Representatives were appointed on the advice of their regional executives. They were allocated as follows: three ministers each from the East, West and North, and one from Southern Cameroon. The Council of Ministers was empowered to make policies for the federal government, coordinate the work of the ministries and control the administration. The Governor-General had the power to overrule or set aside the decision of the Council
- (vi) **Regional Executives and Provision for Regional Premiers:** The Constitution provided, for the first time, the post of the premier for each of the regions. The Premier was the head of the regional government and was appointed by the regional governor. Each regional government had a council of ministers. The members of the council of ministers were appointed by the Governor on the recommendations of the Premier. The Premier was the chairman of the regional council of ministers. The Premier and his ministers must be selected from the regional legislature, the Premier generally being the leader of the political party that commanded majority support in the legislature. The ministers were then made the executive heads of their respective ministries. The council was governed by the principle of collective responsibility which was responsible for policy making and implementation in the region.
- (vii) **Regionalization of the Civil Service and Judiciary:** The civil service and the judiciary were, for the first time, regionalized. In other words, each region had its own independent civil service, civil service commission and judiciary. This was in agreement with the principles of division of governmental powers and coordinate powers of federalism.
- (viii) **Extension of the Elective Principle:** The elective principle was further extended in 1954. In 1951, the House of Representatives from which central ministers were recruited were elected only indirectly through the regional legislatures. However, the 1954 Constitution provided for direct election into each of the central and regional legislatures from where members of the council of ministers were appointed.  
In addition to extending the elective principle, the degree of legitimacy (or popular acceptance) of the ministers was increased. The ministers could now boast of being genuine representatives of the people. A notable example was in the East where virtually all the 84 members of the Regional Assembly were elected. The other two regions did not follow suit immediately. While in 1958, the provision for three so-called 'special members' of the Western Regional Assembly was annulled, it was continued in the Federal House of Representatives till 1959 and in the North till October 1, 1960.
- (ix) **Supremacy of Colonial Officials Guaranteed:** The Constitution expressly protected the benefits and the privileges of British Colonial officials. It made it mandatory for legislative houses to obtain clearance from the Governor or Governor-General, as the case may be, before laws and motions prejudicial to past or serving public officers were passed.

Moreover, the colonial authorities continued to have the final say on what constituted 'proper' or 'good' legislation. In the same vein, the Governor or Governor-General could either refuse to assent a bill duly passed by the legislature or simply use Her Majesty's name to stop proceedings on any piece of legislation. At the same time, the Constitution empowered the Governor and the Governor-General to legislate by certification.

## Merits of the Constitution

- (i) **Provision for Diversity in Unity:** The Constitution catered for the peculiarities of each region by establishing federalism for the first time in which the regions gained regional autonomy while at the same time the unity of the country was maintained. Each region governed itself in the way best

suites to it. For instance, each regional government was empowered to work out its own electoral regulations best suited to it. However, the results were not always impressive. For instance, while the West and the East had direct elections, the North opted for indirect elections.

- (ii) **Responsible Government:** The Constitution, for the first time, created the positions of Regional Premiers. This implies that Nigerians were for the first time made heads of regional governments. Moreover, ministers were made executive heads of their respective ministries. The creation of the position of premiers, and the introduction of ministerial responsibility of ministers ensured the practice of responsible government in Nigeria.
- (iii) **Regionalization of the Civil Service and Judiciary:** The regionalization of the civil service and judiciary ensured regional autonomy. This also promoted rapid development.
- (iv) **More Autonomy for Southern Cameroon:** The Constitution granted regional status to southern Cameroon. This gave it more autonomy in the Nigerian federal arrangement.
- (v) **Direct Election into the Federal Legislature:** The Constitution provided for separate and direct elections into the regional and federal legislatures. This enhanced the practice of democracy in Nigeria.
- (vi) **Constitutional Clarity on Functions of Government:** For the first time, the Constitution was explicit on which functions the two different levels of government were responsible for. This clarity made for the avoidance of conflict, friction and duplication. It also allowed the people to better understand the workings of government.
- (vii) **More Responsive Government:** By increasing the powers of the Regions and by making them more competent in law making, the regions were in a position to bring government nearer to the people. In other words, the government became more responsive. With the federal system, regional governments were able to pursue reforms in different spheres education, economy, administration and social.

### **Demerits of the Constitution**

- (i) **Vast Discretionary Powers to Governors and Governor-General:** The Constitution virtually gave the two principal colonial officials discretionary powers over almost everything. They had the power to decide what was 'good and proper'. They had the power to determine whether an issue was prejudicial or not. This power concerned salaries, allowances and the general conditions of service of colonial officials.
- (ii) **Too Wide Legislative Powers:** The governor and governor-general could literally hold up legislation or veto bills. They had veto powers over the Executive Council. The Constitution did not make it mandatory for them to seek the advice of Nigerian ministers before exercising these powers. They could cause bills or motions to be introduced or moved in their regional assemblies and at specific dates.
- (iii) **No Provision for a Prime Minister:** The Constitution did not provide for the post of prime minister. The colonial authorities thus continued to refuse to appoint a Nigerian as head of government. Perhaps, it was politically naive to have expected the British to go that far. Events did not warrant such an action by them .. Nigerians still needed more time to get adequately prepared for Parliamentary democracy.

### **KEY POINTS**

#### **The Macpherson Constitution Background**

The weakness of the Richards Constitution resulted in violent criticisms by the nationalists led by the NCNC whose leaders embarked on a nationwide protest tour to London. When Governor Macpherson replaced Governor Richards in 1948, he embarked on a full consultation of the people for the purpose of a new constitution. The nationwide consultation finally ended with the Ibadan General Conference of 1950. The outcome of this conference gave effect to the Macpherson Constitution.

## Main Features

- (i) The House of Representatives was created to replace the Legislative Council.
- (ii) Legislative competence accorded regional assemblies.
- (iii) Limited legislative powers for the regions.
- (iv) Extensive powers given to the central legislature.
- (v) Supremacy of the central government recognized.
- (vi) Financial independence of regions guaranteed.
- (vii) The Elective Principle was consolidated.
- (viii) House of Chiefs established for Western Region.

## Merits

- (i) The Constitution making adopted nationwide grassroots consultation.
- (ii) Provision on the financial autonomy of regions.
- (iii) The subordination of the regions to the centre ensured unity.
- (iv) Nigerians were for the first time appointed ministers.
- (v) The creation of the House of Representatives ensured representative government.

## Demerit

- (i) Consultations were not democratic enough.
- (ii) Absence of doctrine of collective responsibility.
- (iii) No effective political leadership at the centre and in the regions,
- (iv) The Constitution made regionalism attractive and regional politics inevitable.
- (v) Conservatism was glorified.
- (vi) Powers of the centre were extremely wide.
- (vii) Relations between the centre and the regions were not precise and clear.
- (viii) The central legislature was dependent on the regional legislatures;
- (ix) The Electoral College was both cumbersome and undemocratic.

## Factors Leading to the Breakdown of the Constitution

- (i) The 1953 Eastern Regional Crisis -lack of party discipline, and hence crisis in the NCNC.
- (ii) The crisis over the motion for 'Self-government in 1956'.
- (iii) The Eight-point Programme of 1953 by the Northern leaders.
- (iv) The Kano riot of 1953.

## The Lyttleton Constitution

### Background - The 1953 London Constitutional Conference

The conference took place in London between July 30 and August 22, 1953 under the chairmanship of Sir Oliver Lyttleton, the Secretary of State for the Colonies. The conference was to rework the 1951 Constitution so as to correct its defects, provide for greater regional autonomy and resolve the thorny issue of self-government in 1956.

## Main Features

- (i) It was a federal Constitution.
- (ii) There was a clear delimitation of powers between federal and regional governments.
- (iii) Powers of the regions were increased.
- (iv) Ministers were made executive heads of their ministries.

- (v) Provision was made for regional premiers who were heads of regional governments.
- (vi) The Elective principle was extended.
- (vii) The governor and governor-general were given legislative discretions.
- (viii) The supremacy of colonial officials was guaranteed.

#### Merits

- (i) The Constitution provided for unity in diversity.
- (ii) The Constitution was clear on which level of government was to perform which function.
- (iii) Government was made more responsive.
- (iv) Nigerians were made to be involved in the management of their own affairs.
- (v) There was more autonomy for Southern Cameroons.
- (vi) There was regionalization of the civil service and the judiciary.

#### Demerits

- (i) Too vast discretionary powers were given to the governor and governor-general. The governor still had reserved legislative powers.
- (ii) Too much financial power given to the colonial officials.
- (iii) No provision made for a Nigerian as head of government or prime minister.
- (iv) Absence of a second legislative chamber at the centre in spite of the fact that it was a federal system.

### SAMPLE EXAMINATION QUESTIONS

#### Essay Questions

1. Examine the importance of the Macpherson Constitution in the constitutional development of Nigeria.
2. Discuss the main features of the Macpherson Constitution.
3. 'On balance, the demerits of the Macpherson Constitution outweighed its merits'. Discuss.
4. What were the main characteristics of the Lyttleton Constitution?
5. What would you consider as the major innovations of the 1954 Constitution?

#### Objective Questions

1. The Constitution of Nigeria that for the first time ever established the post of Speaker of the House of Representatives was the
  - A. Macpherson Constitution.
  - B. Richards Constitution.
  - C. Lyttleton Constitution.
  - D. Clifford Constitution.
  - E. Independence Constitution.
2. Which ONE of the following factors did NOT lead to the collapse of the Macpherson Constitution?
  - A. The Crisis of the Eastern Regional Assembly
  - B. The Crisis of the Motion for self government in 1956
  - C. The Kano Riot
  - D. The Eight-point programme of the Northerners
  - E. The nationwide tour of the NCNC led by Herbert Macaulay and Dr Nnamdi Azikiwe
3. The Lyttleton Constitution emerged from the agreements of the Constitutional Conference held in
  - A. London in 1957.

B. London in 1953.

C. Ibadan in 1950.

D. Lagos in 1960.

E. Kaduna in 1946.

4. Nigeria was declared a federation for the first time by

A. Independence Constitution

B. Republican Constitution.

C. Richards Constitution.

D. Macpherson Constitution.

E. Lyttleton Constitution.

5. One of the major criticisms of the 1951 Constitution was that

A. there was a doctrine of collective responsibility.

B. there were not enough consultations with the nationalists.

C. there was no Nigerian political leadership at the two levels of government.

D. the powers of the centre were extremely limited.

E. Nigerians were not appointed ministers in the government.

#### Answers

1. A

2. E

3. B

4. E

5. C