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THE GAMBIA
Independence Conference
1964

*Presented to Parliament by the Secretary of State for the Colonies
by Command of Her Majesty
August 1964*

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THE GAMBIA INDEPENDENCE CONFERENCE 1964

REPORT

1. The Gambia Independence Conference opened in London on 22nd July, 1964, under the chairmanship of the Right Honourable Duncan Sandys, Secretary of State for the Colonies. A list of those attending is at Annex A. The purpose of the Conference was to settle the form of the Constitution of The Gambia on independence and the date at which independence should be attained.

2. The Conference held 10 plenary meetings between the 22nd July and 30th July. The opening and closing meetings were under the chairmanship of the Secretary of State and the other meetings were held under the chairmanship of the Marquess of Lansdowne, Minister of State for the Colonies.

3. The Conference agreed that the Independence Constitution should be based on the present Constitution, which is contained in The Gambia (Constitution) Orders in Council 1962 to 1964. The Conference discussed a number of specific aspects of the Constitution and the agreements reached are recorded at Annex B. The Opposition Delegation were unable to give their full concurrence on a few matters and their reservations are also recorded. Among the provisions which it was agreed the Constitution should contain were provisions relating to citizenship and provisions prescribing the procedure for amendment of the Constitution after independence. Another provision which it was agreed should be included in the Constitution covers the appointment of a Constituency Boundaries Commission to undertake the revision of constituency boundaries. It was agreed that the first such revision should be undertaken before the next general election.

4. The Conference discussed certain aspects of the future relations between The Gambia and Senegal and took note of the two draft agreements (on co-operation in Foreign Policy and Defence) which had been endorsed by the Legislature of The Gambia. The British Government welcomed the progress already made and the intention of the Government of The Gambia to examine further the problems of closer association.

5. The British Government recognised that the Gambia would have a continuing need after independence for financial assistance. They undertook to provide development aid to enable the Gambia Government Development Programme, 1964-67, to go forward at levels settled after discussion between the two Governments. They also indicated that they would be prepared to consider the requests for assistance towards the recurrent budget which the Gambia Government had already made in respect of the period to 30th June, 1967, or might make from time to time thereafter.

6. The Gambia Government representatives, with the support of the Opposition delegation at the Conference, expressed the wish that, on attaining independence, The Gambia should become a member of the Commonwealth; this had been approved by a Resolution of the House of Representatives. Mr. Sandys stated that the British Government would be pleased to convey this request to the Governments of other Commonwealth countries.

7. The Gambia Government, with the support of the Opposition delegation, stated that it was their desire that Queen Elizabeth the Second should become Queen of The Gambia on independence ; this request had already been approved by a Resolution in The Gambia House of Representatives. Mr. Sandys undertook to convey this request to Her Majesty.

8. The Gambia Government sought the agreement of the British Government that Independence should be attained on the 18th February 1965. The Opposition delegation claimed that there should be fresh elections before Independence and proposed that the date of Independence should be postponed to enable these to be held. The Secretary of State informed the Conference that, in the view of the British Government, there was no reason why The Gambia should not become independent without further elections and that they would therefore make the necessary arrangements for Independence on the date proposed by the Gambia Government.

9. The delegates placed on record their appreciation of the valuable services rendered by the Secretariat and all the Conference Staff.

LONDON S.W.1

30th July

ANNEX A

List of those attending the Conference

| | | |
|--|---|-------------------------------|
| The Rt. Hon. Duncan Sandys, M.P., Secretary of State for the Colonies. | | |
| The Most Hon. The Marquess of Lansdowne, P.C., Minister of State for the Colonies. | | |
| Sir John Martin, K.C.M.G., C.B., C.V.O. | } | Colonial Office |
| Mr. C. G. Eastwood, C.M.G. | | |
| Mr. J. M. Kisch | | |
| Mr. D. J. Kirkness | | |
| Mr. H. Steel | | |
| Mr. R. G. Pettitt | } | Foreign Office |
| Mr. G. E. Millard, C.M.G., C.V.O. | | |
| Mr. P. R. A. Mansfield | | |
| Mr. J. Mellon | } | Commonwealth Relations Office |
| Sir Charles Dixon, K.C.M.G., K.C.V.O., O.B.E. | | |
| Mr. G. W. St. J. Chadwick, C.M.G. | | |
| Mr. P. C. Duff | | |
| Mr. W. F. G. Le Bailly | } | Home Office |
| Mr. J. M. Ross | | |
| Mr. P. R. Coster | | Governor of The Gambia |
| Sir John Paul, K.C.M.G., O.B.E., M.C. | } | The Gambia Government |
| Mr. D. K. Jawara, Prime Minister | | |
| Mr. S. S. Sisay, Minister of Finance | | |
| Mr. S. M. Dibba, Minister for Local Government, Labour and Lands | | |
| Mr. A. B. N'Jie, M.B.E., J.P., Minister of Works and Communications | | |
| Mr. A. Kanyi, Minister of Agriculture | | |
| Seyfu O. M'Baki, Chief and Minister without Portfolio | | |
| Mr. K. Singateh | | |
| Mr. F. W. Touray | | |
| Mr. P. L. Baldeh | | |
| Mr. H. Madi | | |
| Mr. P. R. Bridges | | |
| Mr. F. D. C. Williams, C.M.G. | | |
| Mr. K. J. W. Lane, M.V.O., O.B.E. | } | Officials |
| The Rev. J. C. Faye, M.B.E. | | |
| Mr. P. S. N'Jie | } | The Gambia Opposition |
| Mr. M. C. Cham | | |
| Mr. I. A. S. Birang-Jonn | | |
| Mr. K. W. Foon | | |
| Mr. I. M. Garba Jahumpa, J.P. | } | Secretariat |
| Mr. R. L. W. Mansfield | | |
| Mr. J. H. G. Tegan | | |
| Mr. D. A. Bayliss | | |
| Mr. M. Madden | | |

ANNEX B

AMENDMENT OF THE CONSTITUTION

1. All provisions of the Constitution will be amendable by an Act of The Gambia Parliament but the Constitution will distinguish between ordinary provisions and specially entrenched provisions. A bill to amend an ordinary provision will require the support of at least two-thirds of the elected members of the House of Representatives. A bill to amend a specially entrenched provision will in addition need to have been submitted to a referendum and to have received the support in that referendum of either at least one-half of the persons entitled to vote or at least two-thirds of the votes validly cast.

2. The following will be the specially entrenched provisions :—

- (a) the provisions relating to Fundamental Human Rights ;
- (b) the provision establishing Parliament ; the provision that there should be at least one session a year ; the provision fixing the duration of Parliament and the extension of its life, subject to certain safeguards, for up to five years in time of war and up to one year in a declared state of emergency ; the provision concerning the dissolution of Parliament ; the provision requiring a general election to be held within 90 days of each dissolution ; and the provisions relating to the delimitation of constituencies ;
- (c) the provisions establishing the Consolidated Revenue Fund and dealing with related matters ;
- (d) the provisions relating to the public service ;
- (e) the provisions relating to the judicial system, including appeals to the Judicial Committee ;
- (f) the provisions relating to the duties of the Attorney-General (or the Director of Public Prosecutions, if the post of Attorney-General becomes a political post) ;
- (g) the provisions prescribing the procedure for the amendment of the Constitution.

Appointment of Ambassadors

3. The power to appoint a person to be the Ambassador, High Commissioner or other principal representative of The Gambia in another country and the power to remove such a person from office will be vested in the Governor-General acting on the advice of the Prime Minister. Before the Prime Minister tenders advice in relation to a person who holds some other public office he will first consult the Public Service Commission.

Attorney-General

4. The Constitution will establish the office of Attorney-General. The Attorney-General will be the principal legal adviser to the Government of The Gambia and will have sole control over the initiation, conduct and discontinuance of criminal prosecutions. The office of Attorney-General will be a public office. The Constitution will, however, provide that the office of Attorney-General may become a Ministerial office, in which case a new public office of Director of Public Prosecutions will come into

existence. The functions of the Attorney-General in relation to criminal prosecutions will then be transferred to the Director of Public Prosecutions.

5. So long as the office of Attorney-General remains a public office, appointments to it will be made by the Governor-General on the advice of the Prime Minister. If the office of Director of Public Prosecutions comes into existence, appointments to it will be made by the Governor-General on the advice of the Public Service Commission.

Chiefs' Representatives in the House of Representatives

6. Any of the four members of the House of Representatives who are elected by the Chiefs from among their own number will be required to vacate his seat in the House if he ceases to be a Chief.

The Chieftaincy

7. The institution of the Chieftaincy will be protected by the Constitution to the extent that a law to abolish it will require the support of at least two-thirds of all the elected members of the House of Representatives.

8. The Opposition Delegation wished to record its reservations on this point. They would prefer that the institution of the Chieftaincy should be the subject of a specially entrenched provision of the Constitution.

Citizenship

9. The Constitution will contain provisions relating to citizenship of The Gambia on the following lines :—

A. The following persons will acquire Gambian citizenship automatically at independence :—

(i) every citizen of the United Kingdom and Colonies (or British protected person) who was born in The Gambia and one of whose parents or grandparents was also born in The Gambia. A person whose claim is excluded because he has neither a parent nor a grandparent born in The Gambia will be entitled to register as a Gambian citizen within two years after independence (or such extended period as Parliament may permit) ;

(ii) every citizen of the United Kingdom and Colonies (or British protected person) who was born outside The Gambia but whose father becomes a citizen under paragraph (i) above or would, but for his death, become a citizen under that paragraph ; and

(iii) every citizen of the United Kingdom and Colonies who became such a citizen under the British Nationality Act 1948 by virtue of his having been naturalised or registered in The Gambia under that Act.

B. The following persons will acquire Gambian citizenship automatically at birth :—

(i) every person born in The Gambia on or after independence day (other than the children of foreign diplomats accredited to The Gambia) ; and

- (ii) every person born outside The Gambia on or after independence day whose father is a Gambian citizen by birth, registration or naturalisation.
- C. The following women will be entitled to be registered as Gambian citizens :—
 - (i) any woman who is or has been married to a Gambian citizen ;
 - (ii) any woman who has been married to a person who becomes a Gambian citizen automatically at independence or who, but for his death, would then become a Gambian citizen but whose marriage has been terminated before independence : in this case application must be made within two years of independence or such extended period as Parliament may permit ; and
 - (iii) any woman who has been married to a person who is himself entitled to be registered as a Gambian citizen or would, but for his death, become so entitled at independence and whose marriage has been terminated before the husband has exercised that entitlement : in this case the application must be made within two years (or such extended period as Parliament may permit) from independence or the date when the marriage was terminated (whichever is the later).
- D. Citizens of The Gambia, together with citizens of all other Commonwealth countries, will enjoy in the law of The Gambia the status of Commonwealth citizens.
- E. The Government of The Gambia may deprive a person of his Gambian citizenship if it is satisfied that he has at any time after independence acquired the citizenship of some other country by registration, naturalisation or other voluntary act (other than marriage) or if it is satisfied that he has at any time after independence, voluntarily claimed and exercised in some other country any right available to him under the law of that country, being a right accorded exclusively to its citizens. The procedure to be followed in such a case will be that described in paragraph F below.
- F. The Parliament of The Gambia will be empowered to make provision for the conferment of Gambian citizenship on persons who do not qualify for citizenship under the other provisions of the Constitution and for depriving a Gambian citizen (otherwise than by birth or descent) of his citizenship. Before a person may be deprived of his citizenship he must be notified of the ground upon which this action is proposed to be taken and of his right to have the case referred to a committee of inquiry presided over by a person possessing judicial experience. The committee of inquiry will report to the Government, which must have regard to the report in making its decision though it will not be bound by the report.

10. The Parliament of The Gambia will enact a supplementary citizenship law to deal with other aspects of citizenship.

Constituencies

11. For the purpose of returning the elected members of the House of Representatives other than the four members elected by the Chiefs, The Gambia will be divided into thirty-two constituencies. The function of delimiting the constituencies will be entrusted to a Constituency Boundaries Commission which will consist of a Chairman and two other members, all of whom will be appointed by the Governor-General on the advice of the Judicial Service Commission. A person will not be eligible to be a member of the Constituency Boundaries Commission if he is, or has been within the preceding five years, actively engaged in politics or if he is a public officer. A person will be deemed to be actively engaged in politics, or to have been so engaged during the relevant period, if—

- (a) he is, or was during that period, an elected member of the House of Representatives or of any Legislative Council established for The Gambia before independence ;
- (b) he is, or has during that period been, nominated as a candidate for election to the House or to any such Legislative Council ; or
- (c) he is, or has during that period been, the holder of an office in any political organisation that sponsors or otherwise supports, or has at any time sponsored or otherwise supported, a candidate for election as a member of the House or of any such Legislative Council or of any local government authority.

12. In delimiting the boundaries of the constituencies, it will be the duty of the Commission to ensure that, so far as is reasonably practicable, each constituency contains an equal number of inhabitants but the Commission may depart from strict numerical equality in so far as this is necessary to take account of—

- (a) the density of population, and in particular the need to ensure the adequate representation of sparsely populated rural areas ;
- (b) means of communication ;
- (c) geographical features ; and
- (d) the boundaries of existing administrative areas.

13. The Commission will be appointed to review the constituency boundaries and, if it thinks necessary, to re-delimit them in the following circumstances:—

- (a) whenever a census has been held ;
- (b) whenever Parliament has enacted legislation altering the number of constituencies ; and
- (c) not more than eight years after the boundaries were last reviewed : in this case it will be the duty of the Commission to carry out a review within a period of two years after its appointment, so that a review will always be carried out not more than ten years after the previous review.

14. Any alteration of the boundaries of a constituency that is decided upon by the Commission will not take effect until the next dissolution of Parliament.

Director of Audit

15. The Director of Audit will be appointed by the Governor-General on the advice of the Public Service Commission but before tendering advice for this purpose the Commission will consult the Prime Minister.

Emergency Powers Order in Council

16. The Emergency Powers Order in Council 1939, as from time to time amended, will expire at the end of eighteen months after independence unless Parliament provides for its earlier repeal.

Franchise

17. The Constitution will provide that the franchise shall be based on universal adult suffrage.

Governor-General

18. The Governor-General will be appointed by Her Majesty on the advice of the Prime Minister. Whenever the post of Governor-General is vacant or the Governor-General is absent from The Gambia or is for any reason unable to perform the functions of his office, they will be performed by such other person as Her Majesty may appoint on the advice of the Prime Minister, or, if no such appointment has been made, by the Chief Justice. In the performance of his functions the Governor-General will act on Ministerial advice except where the Constitution specifically requires him to act on the advice of some other person or authority (for example, in relation to the appointment of certain public officers where he will act on the advice of the Public Service Commission) or where it specifically authorises him to act in his discretion (for example, in relation to the appointment of the Prime Minister: see paragraph 28 below).

Judicature

19. The Constitution will establish the Supreme Court and the Court of Appeal and will also make provision covering the establishment of subordinate courts. The Chief Justice and the President of the Court of Appeal will be appointed by the Governor-General on the advice of the Prime Minister. The puisne judges of the Supreme Court and the other judges of the Court of Appeal will be appointed by the Governor-General on the advice of the Judicial Service Commission. The Judicial Service Commission will also have jurisdiction over the subordinate judiciary and certain other officers connected with the courts. The Constitution will protect the tenure of office and terms of service of the judiciary.

Judicial Committee of the Privy Council

20. The Constitution will confer a right of appeal to the Judicial Committee of the Privy Council from decisions given by the Court of Appeal in the following cases:—

- (a) final decisions in cases arising from the Chapter on Fundamental Human Rights ;

- (b) final decisions in cases involving questions as to the interpretation of the Constitution ;
- (c) final decisions in cases where the matter in dispute is of the value of £500 or more ;
- (d) final decisions in proceedings for dissolution or nullity of marriage ; and
- (e) such other cases as may be prescribed by Parliament.

21. The Constitution will also authorise the Court of Appeal to grant leave to appeal to the Judicial Committee in any case where they consider that the question at issue is one of great general or public importance and in such other cases as may be prescribed by Parliament. The Constitution will also recognise the power of the Judicial Committee to grant special leave to appeal in any civil or criminal case.

Judicial Service Commission

22. The Constitution will establish a Judicial Service Commission, which will consist of the Chief Justice as Chairman, the Chairman of the Public Service Commission and one other member appointed by the Governor-General on the advice of the Chief Justice. A person will not be eligible to be appointed as the third member of the Commission if he is, or has been at any time within the preceding five years, actively engaged in politics or if he is a public officer. The definition of active participation in politics will be the same as in the case of the Constituency Boundaries Commission (see paragraph 11 above).

Nominated Members of the House of Representatives

23. The nominated members of the House of Representatives will be appointed by the Governor-General on the advice of the Prime Minister. A person who is nominated as a candidate for election to the House of Representatives will not be eligible to be appointed as a nominated member of the House until after the next ensuing general election.

Oaths of Office

24. Any person appointed to hold or act in the office of member of the Public Service Commission, member of the Judicial Service Commission, member of the Constituency Boundaries Commission or Supervisor of Elections will be required to take an oath for the due execution of his office so as to emphasise the impartiality to be required of him.

Parliament

25. The Parliament of The Gambia will consist of Her Majesty and a House of Representatives, which will contain 32 members elected to represent constituencies, 4 members elected by the Chiefs from among their own number and, until Parliament otherwise provides, 2 nominated members and the Attorney-General as an *ex officio* member. The nominated members and the Attorney-General will not have the right to vote.

Police appointments and discipline

26. In general, the power to appoint persons to offices in the Police Force, to remove persons so appointed from office and to exercise disciplinary control over members of the Police Force will be vested in the Public

Service Commission. However, the Constitution will provide that the power to appoint a person to be Commissioner of Police will be vested in the Governor-General acting on the advice of the Prime Minister, though the Prime Minister will first be required to consult the Public Service Commission. It will also provide that, as regards members of the Police Force of the rank of Chief Inspector and below, the relevant powers will be vested in the Commissioner of Police himself but this will be subject, first to his being able to delegate those powers to other police officers and, secondly, to the power of Parliament to provide for a right of appeal to the Public Service Commission in disciplinary cases.

Prerogative of Mercy

27. The Prerogative of Mercy will be exercised on Her Majesty's behalf by the Governor-General acting on the advice of the Prime Minister. The Prime Minister will be assisted by a committee, to be known as the Advisory Committee on the Prerogative of Mercy. The Prime Minister will preside over this committee and the other members will be the Attorney-General and not less than two nor more than four other persons of whom at least one must be a Cabinet Minister and at least one a medical practitioner.

Prime Minister

28. The Prime Minister will be appointed by the Governor-General and will be an elected member of the House of Representatives who appears to the Governor-General likely to command the support of the majority of the elected members of the House.

29. The Opposition Delegation proposed that the Constitution should include formal provision for the appointment of a Leader of the Opposition. The Conference did not accept that it was necessary for the Constitution to make formal provision to this effect.

Public Service Commission

30. The Public Service Commission will consist of a Chairman, a deputy Chairman and not less than two nor more than four other members all of whom will be appointed by the Governor-General on the advice of the Prime Minister. A person will not be eligible to be appointed as a member of the Commission if he is, or has been within the preceding five years, actively engaged in politics or if he is a public officer. The definition of active participation in politics will be the same as in the case of the Constituency Boundaries Commission (see paragraph 11 above).

Secretaries to Ministries

31. The power to appoint a person to the office of the senior civil servant in charge of each Ministry and to remove such a person from office will vest in the Governor-General acting on the advice of the Prime Minister, who will first consult the Public Service Commission. This procedure will apply also in relation to the Secretary to the Cabinet.

Speaker of the House of Representatives

32. The Speaker of the House of Representatives will be chosen by the elected members of the House either from among the members of the House or from among other persons who are qualified to be elected as

such. In either case the person elected as Speaker should thenceforth no longer take part in party politics. The Speaker will have neither an original nor a casting vote. (The Deputy Speaker or other member of the House presiding at a meeting of the House will have a casting vote though not an original vote.)

State of Emergency

33. For the purposes of the Chapter on Fundamental Human Rights the Constitution will define a state of emergency as any period during which—

- (a) the Gambia is at war ; or
- (b) a state of emergency has been declared in accordance with a prescribed procedure.

34. Under the prescribed procedure the Governor-General, acting on Ministerial advice, can proclaim a state of emergency at any time but the proclamation will lapse if not ratified by the House of Representatives within a specified period. This period will be seven days from the date of proclamation if Parliament is sitting at the time of the proclamation and twenty-one days from that date if Parliament is not then sitting. There will also be provision for the summoning of Parliament within twenty-one days from the date of the proclamation if Parliament then stands dissolved. A resolution of the House of Representatives for the purpose of ratifying the proclamation of a state of emergency will require the support of at least two-thirds of all the elected members of the House and will remain in force for twelve months or such shorter period as may be specified therein, though it may be extended from time to time for a similar period by another such resolution. It can be revoked at any time by a resolution supported by the votes of a majority of all the elected members of the House.

Supervisor of Elections

35. The Constitution will establish the office of Supervisor of Elections. The functions of this office will be performed by the person holding or acting in such public office as may for the time being be designated by the Public Service Commission after consultation with the Prime Minister, or by such other person as may for the time being be so designated. Where the person so designated is not a public officer, the Constitution will ensure that any remuneration to which he may be entitled will be charged on the Consolidated Revenue Fund and will not be diminished during his tenure of office.

36. The functions of the Supervisor of Elections will be as follows :—

- (a) to exercise general supervision over the registration of voters ;
- (b) to exercise general supervision over the conduct of elections ; and
- (c) for the purpose of his functions under paragraphs (a) and (b) above, to give such directions as he may consider necessary to all registering officers, returning officers and presiding officers in the performance of their duties under any law regulating the registration of voters and conduct of elections ; all such officers will be obliged to comply with any directions given to them by the Supervisor of Elections.

37. The Supervisor of Elections will report to Parliament, whenever he considers it necessary, on the matters which he is required to supervise.

38. In exercising his constitutional functions the Supervisor of Elections will not be subject to the direction or control of any other person or authority.

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