Historical Papers
Communications historiques

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Volume 16, numéro 1, 1981

Halifax 1981

URI : https://id.erudit.org/iderudit/030871ar
DOI : https://doi.org/10.7202/030871ar

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Éditeur(s)

The Canadian Historical Association/La Société historique du Canada

ISSN

0068-8878 (imprimé)
1712-9109 (numérique)

Découvrir la revue

Citer cet article

Flint, J. E. (1981). Governor versus Colonial Office: An Anatomy of the Richards Constitution for Nigeria, 1939 to 1945. *Historical Papers / Communications historiques*, *16*(1), 124–143. https://doi.org/10.7202/030871ar

Résumé de l'article

La constitution Richards a posé la base de tout le processus de décolonisation du Nigeria, voire même, de toute l'Afrique britannique. Pour la première fois, le pays entier était soumis à une même constitution et des assemblées régionales étaient établies. Le pays s'acheminait vers un statut fédéral et tout indiquait clairement que la décolonisation était amorcée. Toutefois, la façon dont elle fut imposée fit en sorte que les politiciens nationalistes refusèrent de s'y rallier.

L'auteur examine ici les modes d'implantation différents que préconisèrent, à l'époque, le « Colonial Office » à Londres, d'une part, et le gouverneur Sir Arthur Richards, d'autre part. Il soutient, de fait, que la philosophie réactionnaire de Richards fut en opposition constante avec les idées mises de l'avant par le « Colonial Office ». Il démontre, de plus, que la résistance offerte par Richards a effectivement détruit les chances qu'avait la Grande Bretagne d'organiser et de diriger le mouvement nationaliste, voire même, que ce faisant, il a suscité l'apparition des partis nationalistes au Nigeria.

Governor versus *Colonial Office: An Anatomy of the Richards Constitution for Nigeria, 1939 to 1945*

J.E. FLINT

The Richards constitution was evidently a seminal development in the history of decolonisation in Nigeria, and in British Africa. For the first time, a constitution for the whole of Nigeria was proclaimed; regional assemblies were established, which in effect determined Nigeria's future as a federal state, avoiding possible alternatives both of unitary development and of separate northern sovereignty; while the restructuring of government and legislatures carrried with it a clear message that the process of evolutionary decolonisation, limited though it was, had in fact begun. At the same time, the reaction of Nigerians to the changes, or rather to the arbitrary manner of their implementation, was likewise a turning point in the relationship between imperial authority and Nigerian nationalism, which had hitherto worked in close harmony and cooperation. It may be no exaggeration to say that Sir Arthur Richards threw away in Nigeria the chance for Britain to manage and lead the nationalist movement, and laid the foundation for the development of the modern mass nationalist parties. The details of how the Richards constitution took shape and came to be imposed upon the country well merit dissection.[1]

There is, of course, a certain artificiality in a study of this kind, because events in Nigeria were not isolated and the policy which determined them was made by a Colonial Office increasingly confident of its ability to control events and aware of the influence and effects which decisions taken for one territory might have on other parts of the African empire. There is neither space nor time to elaborate

1. Of course the Richards constitution has received extensive attention in secondary literature, including James S. Coleman, *Nigeria: Background to Nationalism* (Berkeley and Los Angeles, 1958); and Kalu Ezera, *Constitutional Developments in Nigeria* (C.U.P., 1960). Both writers pay considerable attention to the constitutional and political implications and effects of the changes, but lacking access to the Colonial Office files neither was able to consider the political motivation and policies which lay behind the changes. The best and most detailed discussion of the making of the Richards constitution, which uses the Colonial Office material extensively, is in Curtis R. Nordman, "Prelude to Decolonization in West Africa: the Development of British Colonial Policy, 1938-1947", (D. Phil., Oxford, 1976). Many of the documents cited in the footnotes below in this paper have been used or quoted by Nordman, though not in the same form. It is a pity that this thesis was not published, for what it lacks in interpretative perspectives is more than adequately compensated by the exposition of complicated documentary material.

here how it came about that the colonial secretaries and the Colonial Office bureaucracy developed the view, with increasing elaboration from 1938 to 1943, that the time had come to plan the decolonisation of British Africa. The central problem of this policy, however, must be considered, for nowhere was it more apparent than in Nigeria. The policy of indirect rule through "native administrations" and the practice of legislating through legislative councils with partly elective membership were fundamentally in conflict. The resolution of this conflict was the central task of political and constitutional planning. Discussion of this question, which was essentially that of "to whom shall we decolonise?", exposed the divisions of opinion between the officials of the Colonial Office, who had become increasingly critical of indirect rule and chiefly institutions, and more and more inclined to regard the western-educated "intelligentsia" as the heirs of imperial authority, and the colonial service, who argued that central national institutions must be built upwards on the foundations of chiefly authority and the native administrations.

Neither of these opposed approaches was monolithic, particularly the latter. Some local officials, especially in Northern Nigeria, argued for the development of native administrations into protected states which would eventually become sovereign. Others would not go so far, but fiercely opposed the "Westminster model" and democracy, and wished to transform the legislative councils into federations of native administrations. Others argued that to pass over power to the intelligentsia was undemocratic, and that the task was first to democratise the native administrations so that power could indeed pass to "the people," and not to a central oligarchy of professional politicians. The Colonial Office at first seriously underestimated the strength of this "indirect rule" lobby, and by 1941 regarded itself and war-torn London as the only dynamic centre of progressive thinking about colonial policy.

In Nigeria (as in other colonies), important elements of the colonial service naturally formed centres of resistance to these new ideas emanating from London. Their motives are not hard to fathom: at the lowest level, planned decolonisation threatened the security of their jobs; more altruistically, the Lugardian tradition had built up, especially in the north, a cadre of men dedicated to a policy which rested upon the principle of collaboration with the traditional aristocracy. But governors of Nigeria were caught somewhat in the middle. They were closer to "London thinking" and more under Colonial Office control, especially as the war machinery developed after 1941. They were also more sensitive to newer African pressures, such as those of the trade unions, "tribal unions," youth movements, the press, and "the intelligentsia." They also wanted to "make their mark" and "move things forward." These initiatives, however, did not necessarily fit in with Colonial Office planning.

This situation is well illustrated by the events leading up to the first significant constitutional change of the wartime period, the admission of Africans to the executive councils of the Gold Coast and Nigeria. Such a move was nowhere in the Colonial Office plan, and Lord Hailey was adamantly opposed to the idea, which he felt was "to repeat the mistake made in India." The idea came from

Governors Burns and Bourdillon, both of whom had experience with such a system, Burns in St. Kitts and Bourdillon in Ceylon. The colonial secretary, then Lord Cranborne, rejected the proposals and tried to close the issue in June 1942, but both Burns and Bourdillon refused to accept the dictat. Burns argued that the "rising tide of Negro resentment of the British Government" was caused by this kind of failure to respond, and Africans could well be justified if they concluded that only violence would move the government. Bourdillon supported him:

> With the very rapid growth in political consciousness which has taken place in Nigeria in the last two years, and with the equally rapid development of the trade union movement

the need for some African participation in government was greater than when he had first pressed it in 1939. He declared himself "seriously hampered" by the lack of African advice on the executive council, and insisted that it was his right, as governor, to seek the advice which he needed to govern effectively. On 1 September 1942, Cranborne gave way, despite the unhappiness of his officials. Shortly afterwards A.A. Alakija and S.B. Rhodes, with G.H. Avezathe the local manager of Elder Dempster shipping lines, joined the executive council.[2]

Bourdillon continued to agitate for constitutional reform, bringing his efforts to a climax upon his return to England where he was to hand over power to Sir Arthur Richards. This transition was to prove a disastrous one for British policy, and in the long run can now be seen as an important turning point in the long series of developments which, I will argue on a later occasion, amount to the failure of the British policy of planned decolonisation. Bourdillon's "agitation" therefore deserves some detailed consideration.

During his term of office, Bourdillon had steadily adopted positions consistent with the concept that the imperial task in Nigeria was one of "nation-building," and that the mistake of alienating the educated classes, which he regarded as characteristic of British policies in India, must be avoided. He did not believe that nationalism existed in Nigeria yet, but insisted that its appearance was inevitable, that it must be encouraged and, above all, anticipated. British policy should, therefore, be always one step ahead of coming nationalist demands. Nationalism would thus be led forward by the British and, therefore, become controlled, moderate, and evolutionary. Bourdillon's attitude towards, and support of, the Nigerian Youth Movement, would be worth a separate study; suffice it to say here that he welcomed the movement as one which would bring Nigerian youth together and "make them think nationally rather than parochially," he established close social and personal relationships with the leaders, and he spotted Nnamde Azikiwe as a man of the future. The respect was obviously mutual; when Bourdillon left to go on leave in 1938, Lagos was treated to the entertaining spectacle of a mass nationalist meeting where the Youth Movement leaders presented "this sportsman and gentleman" with a copy of the Movement's Charter, followed by

2. Curtis R. Nordman, "The Decision to Admit Unofficials to the Executive Councils of British West Africa", *Journal of Imperial and Commonwealth History* (Great Britain), 4 (1976), pp. 194-205.

a jubilant torchlight procession of farewell to Government House.[3] Not surprisingly, the NYM won three of the four town council seats in the Lagos elections shortly afterwards in June 1938.

As early as 1939, Bourdillon had begun pressing for constitutional advance, and he kept up a flow of papers on the subject which, though confidential, obviously circulated among influential Africans.[4] In his "farewell address" on leaving office, Bourdillon infuriated the resident minister, Lord Swinton, by publicly announcing that he intended to submit proposals for constitutional reform. Swinton asked Stanley whether he had authorised such a speech:

> His statement has caused a good deal of embarrassment here, where the local press has assumed Nigeria is to have a new constitution like Jamaica, and is asking what the Governor of the Gold Coast is going to do here. Unless Bourdillon has your authority "il a manqué une belle occasion de se taire."[5]

Stanley replied that none such had been given, and described it somewhat obscenely as a "flatulent farewell." Constitutional reform, he said, would have to wait until after the war.[6]

Having returned to England in June 1943, and now in effect out of office, Bourdillon made a last ditch effort to carry through a constitutional advance. At first his approach was deliberately lacking in detail; he stressed that the aim should be to reform the legislature so that it could represent "the great mass of the population" and form a basis for the development of "greater political responsibility." At the same time "How to bring the Native administrations into the legislative machinery" and "How to satisfy the political aspirations of the educated Africans, thus preventing the development of a conflict between them and the native administrations" were problems which would have to be solved in a constitutional advance. But the key element in Bourdillon's approach was a procedural demand, which ruled out hard-and-fast proposals at this stage. He proposed that he would compose an open despatch, which would be published, in which he as governor would request constitutional change and suggest its general lines, which would include the establishment of regional assemblies indirectly elected through the native administrations. But the despatch would also ask for the appointment of a royal commission to tour Nigeria and hold public hearings on the proposals. This, Bourdillon insisted, was essential:

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3. CO 583/214/30386, Bourdillon to C.O. Conf., 7 November 1938, is a lengthy analysis of the N.Y.M. and its election successes.
4. CO 583/244/30453, Bourdillon to Sir Cosmo Parkinson, 23 November 1939; *Memorandum on the future political development of Nigeria* (Lagos, 1939); *Apportionment of Revenue and Duties between the Central Government and Native Authorities* (Lagos, 1939); *Comments ... on Lord Hailey's Report* (Lagos, 1942); *Further Memorandum on the Future Political Development of Nigeria* (Lagos, October 1942); *Comments on Lord Hailey's Report on Nigeria*, typed memorandum, (Lagos, 1943).
5. "...he has missed a good occasion for keeping his mouth shut." CO 583/261/30453, Swinton to Stanley, 2 June 1943.
6. CO 583/261/30453, Stanley to Swinton, 11 June 1943.

> the people should be given a full chance of expressing their opinions on any proposals put forward. He also believed that the scheme would be more acceptable if it had previously been the subject of a public inquiry.[7]

Had this suggestion been adopted, it is evident, with hindsight, that the history of the Richards constitution, its reception in Nigeria, and indeed the development of the National Council of Nigeria and the Cameroons (NCNC) would have been very different. Bourdillon was in effect proposing the technique used much later in the Gold Coast crisis with the appointment of the Watson Commission.

But Bourdillon's position as an outgoing governor was extremely weak. Even before his return to England, it had been decided that although his proposals would be given a hearing, it would be for the new governor, Sir Arthur Richards, after being given time to familiarise himself with Nigeria, to draft proposals.[8] When Bourdillon proposed the idea of an open despatch calling for a royal commission, it met with immediate resistance. By 1943 the Colonial Office was filled with a new confidence that it had restored a good deal of decision-making power into the hands of London and that it could preside over the planning of colonial development and political evolution. Bourdillon's proposal clearly threatened that control in a fundamental manner. Bourdillon came away from his first meeting with the colonial secretary, Oliver Stanley, on July 2 disturbed by his reception. On the following day he appealed by letter to Stanley, asking not to be misunderstood:

> I came away from our discussion on the treatment of the constitutional problem yesterday with the rather unhappy feeling that you thought I was suffering from a "maladie de grandeur" and trying to encroach upon the prerogatives of HMG.

He begged to be allowed to state his case. "I regard it as of the first importance that opinion in Nigeria, both left and right, should be fully consulted before any constitutional change is decided upon." The final constitution ought to be drafted by an impartial body which could not be accused of prejudice. It need not have a completely free hand, but could work from definite proposals, prepared by Bourdillon as governor, "upon which to ascertain public opinion." If the proposals were to be, as Stanley had insisted, those of Her Majesty's Government, then opinion in Nigeria would conclude that the imperial government had already made up its mind and any consultation would be "eyewash." "May I beg to be allowed to prepare a draft despatch?"[9]

But the reply was a clear rebuff. Reassured that Stanley did not imagine any delusions of grandeur, Bourdillon was nevertheless sharply reminded that a governor on leave "has not the *locus standi* to write a despatch to the Secretary of State" apart from the fact that such a despatch "would not be desirable." It would be for Richards, after spending time in Nigeria, to draft and put through constitu-

7. CO 583/261/30560, Note of discussion with Bourdillon, 2 July 1943.
8. CO 583/261/30453, secret, Minute on F1 by A.B. Cohen, 7 June 1943.
9. CO 583/261/3053 F3, Bourdillon to Stanley, 3 July 1943.

tional changes. However, Stanley would welcome a confidential memorandum from Bourdillon, in which he could set out his ideas in detail.[10]

This Bourdillon did on 5 September 1943, but in no way did he modify his view on the importance of a royal commission, which he elaborated now as the foundation of the whole scheme. "It would, in my opinion," he began, "be a blunder of the first magnitude to produce a complete scheme and simply ask the people of Nigeria either to accept or reject it." Bourdillon claimed that he had the "almost" unanimous support of the executive council and "a very large number of officials" for such a procedure. He then declared:

> I am putting these proposals forward not as final suggestions, but for examination, and *I have given an undertaking that no proposals which I may make will be adopted without the people of Nigeria being given a full opportunity of expressing their opinions.* [emphasis added]

Bourdillon's proposals for change were in themselves far from radical. He had, he avowed, four objectives: to widen legislative council representation so that there would be a way of representing "peasant producers," to begin direct representation of Northern Nigeria, to associate the native administrations with the central government, and to abolish the distinction between officials and unofficials.

In line with Hailey's report of 1941, Bourdillon proposed the creation of regional councils for each of Northern, Eastern, and Western Nigeria, but felt that the possibility of the creation of additional regions ought to be considered. The regional councils would, in effect, be given "unofficial majorities" in the sense that nominated unofficials, those "elected" by the native authorities, and the elected members from Lagos and Calabar would be able to outvote the officials. It is clear that Bourdillon was opposed to the use of these bodies as dummy assemblies of government nominees, whilst at the same time he was opposed to the extension of ballot-box elections. Consideration ought to be given to representation by elected members chosen by special interest groups, such as "transport owners, produce traders, the professions, special types of labour, tin miners and so on." As to the representatives for native administration, "some form of free selection by the people" must be devised, but this he left deliberately vague as a matter for the royal commission. The regional councils would have limited delegated powers, but would see all major legislation before it, or the budget, was submitted to the legislative council.

The legislative council would now be broadened out upon this base to include on the official side not only members of the executive council (including the unofficials), but also the presidents of the regional councils and not more than six senior residents. The bulk of the members, however, would be elected by secret ballot by the regional councils. In addition there could be the usual British members representing shipping and commerce (though he proposed to drop the member for banking) to whom would now be added one member elected by the executives of the trade unions and one member each elected by the professional associations

10. CO 583/261/30560, Stanley to Bourdillon, 10 July 1943.

in law and medicine. The official majority would thus disappear, but the governor would have the power to certify legislation, return bills, or refuse assent.[11]

Reaction to the scheme in the Colonial Office was interested, but cool. Bourdillon was unfairly criticised for vagueness in dealing with the specifics of representation and selection of council members (tasks which he regarded as work for the royal commission), yet the officials also regarded his proposals as far too conservative and lacking in depth of analysis. D.J. Parkinson welcomed the proposals for regional councils and felt that the extension of the legislative council's membership to include northern representation was vital. He feared that Northern Nigerian administrators were bent on steering events towards the concept of Nigeria as a federation of native administrations, and felt that Bourdillon's proposals took the stand that native administrations were merely local governments and that popular representation was the ultimate goal. But the proposals were unlikely to find an enthusiastic response in Nigeria, for they widened representation by giving it to the native administrations who had not even asked for it while offering nothing more to the educated elements who had. The proposals "will not carry the ship very far forward towards self-government; they are more in the nature of a trimming of the sails and a slight alteration of course which will eventually shorten the journey ... there are few features of the proposals which could not have been introduced ... twenty years ago."[12]

Another Colonial Office advisor, Andrew Cohen, was even more critical, feeling that Bourdillon's proposals represented a local colonial service view of the proper line of development. Up to now, Cohen argued, Nigeria had been governed by "a benevolent autocracy of officials," at best a kind of "squirearchy," but those days were passing and educated Africans must be brought into the administrative machine. Cohen insisted that native administrations could not be allowed to become the sole channels for representation of the people, and that it must be made clear that they were merely local government bodies and agencies of the central government. Making this evident would "no doubt give rise to difficulty with the Emirs," but it would have to be done publicly. Bourdillon's scheme did "little to satisfy the educated Africans" and had "no relation to the ideas for political advancement put forward in Azikiwe's recent memorandum, which no doubt represents the general aspirations of the more advanced of the educated Africans."[13] Worse still, in Cohen's view, Bourdillon's scheme said nothing about municipal reform, in which there was "most scope for educated Africans" and nothing about "the democratisation of the native administrations themselves."[14]

11. CO 583/261/30453 F13, Bourdillon to Gater, 5 September 1943.
12. *Ibid.*, F15, Note on Bourdillon's proposals ... by D.J. Parkinson, no date but written in early October 1943.
13. Cohen was referring to the memorandum submitted by Azikiwe on his visit to England earlier in the year, when he led a delegation of West African editors. The delegation came at the invitation of the British Council, but the visit was in fact prompted by Colonial Office desires to make some personal contact with the future leaders of nationalist opinion.
14. CO 583/261/30453, Memorandum by A.B. Cohen, 14 October 1943.

Bourdillon, therefore, received a rough reception when he met officials at the Colonial Office on October 21. He began by insisting again on the vital importance of his royal commission idea, which he clearly regarded as much more important than any of the details of his proposals. The commission, he stressed, must be composed of independent people, not necessarily British members of Parliament, but certainly not colonial officials, who would not be acceptable to the Lagos politicians. He believed that there would be no demand for an African member of the commission and that anyone who had shown a real interest in African development and well-being would be acceptable. Sir George Gater countered that such a commission would find it very difficult to keep within its terms of reference, there would be the danger of a minority report, and the precedent would create a demand for similar commissions in other colonies. Gater felt that the new governor was in a good position to "make a personal inquiry." Bourdillon responded by stressing that an independent commission would be "more welcome to the people and likely to secure greater freedom of comment." In response to criticisms that his proposals were not radical enough, Bourdillon argued that the time was not ripe for a radical advance in political responsibility either at the centre or in the municipal sphere. Elucidating his thinking on the regional councils, it is worth noting that Bourdillon did not believe they held federal implications, but were "a temporary structure which might disappear at a later stage of political development in favour of a single Government on parliamentary lines."[15]

Early in November, Bourdillon had a final chance to press his scheme in a meeting with the secretary of state, Oliver Stanley, but again it became clear that the royal commission idea was a major stumbling block. Stanley pointed out that because the proposals were not very progressive, the government would be embarrassed if the commission recommended more radical reforms. Bourdillon once again insisted that the views of the Nigerian people had to be considered. Stanley then bluntly exposed the heart of the matter: if the commission was acceptable to the people, then there was no guarantee that it would recommend what the government wanted! Bourdillon now backed off, suggesting a compromise whereby a high official from the Colonial Office might examine the question locally. He argued that people would speak more freely to such a commissioner than to the governor. Stanley was not enamoured of that idea either.[16]

It was now late 1943. Stanley's pronouncement of African policy aims in Parliament on July 13 had resulted in a flood of Colonial Office activity. Planning committees were preparing postwar schemes in almost every sector of colonial policy —postwar reconstruction, demobilisation, housing, town planning, economic development, social welfare, health, agriculture, industrial development, Africanisation of the colonial service, and higher education. The new governor of Nigeria, Sir A. Richards, was briefed in these heady terms. Cohen prepared a position paper on constitutional development which stressed the inadequacy of Bourdillon's proposals. The Colonial Office was planning a general statement on constitutional

15. *Ibid.*, F16, Note of a meeting in Gater's room, 21 October 1943.
16. *Ibid.*, F19, Note of a meeting with the Secretary of State, 8 November 1943.

development in West Africa "to bring home to educated Africans that we mean business about constitutional reform and that any changes now are only a first step towards the ultimate goal." Likewise there would be a statement soon on educational expansion and the founding of new universities to train the Africans who would staff the civil service, on health and social services, "and the establishment of secondary industries with African participation." Constitutional reforms, therefore, must give "greater political responsibility to educated Africans." Those on the executive council must be attached to departments so as to train them for their future roles as ministers. An unofficial majority should be established in the legislative council, which would give "great satisfaction to educated African opinion." If regional councils were to be established, would they not become regional legislatures, analagous to the provincial legislatures in Canada? If so, then it would be necessary to consider the whole question of establishing regional administrations and the problems of federalism. Local government (a term which Cohen now consistently used in place of "native administration") must be thoroughly overhauled as "the only sure base for constitutional development on a larger scale."[17]

But when Richards met the secretary of state and senior Colonial Office officials on November 19, it soon became evident that he was not inspired by quite the same enthusiasms as Cohen; Richards' behaviour was indeed quite extraordinary, considering that he had never been to Nigeria. He began at once by pontificating at length about the sensitivities of the northern Emirs, doubting their wish to be included in the legislative council at all; insisted that there must be no public discussion of the constitution until he had met the Emirs personally and smoothed away their fears (which he had every confidence he could do); and generally adopted an obstructive stance. Richards emphasised that "our authority in the North was derived from the support given to the Government by the Emirs" and that it would be "wrong to go too fast." When Stanley objected that this, if it meant there was to be no step forward, would make it difficult "to hold the position in relation to the Lagos politicians," Richards cavalierly replied that it would be easy to work out changes in the legislative council confined to the eastern and western provinces alone.

Stanley had recently returned from an extensive visit to West Africa and so for once the politician could upstage the governor with more recent knowledge. Stanley had gleaned a very poor opinion of the Emirs, finding them unprogressive. He had found that "Azikiwe's paper was fairly widely read and he was not sure that the position of the Emirs was quite so sound underneath as it appeared on top." In talking with the Emirs, Richards had better stress that "their own position required consideration and that unless they progressed with the times, they might find their position precarious." In the end, it was agreed that Richards should be given time to tour the country and prepare proposals for constitutional

17. CO 583/261/30453, A.B. Cohen, "Constitutional Development in Nigeria: Note for discussions with Sir A. Richards", mid-November 1943.

reform. The Gold Coast would do likewise and, when both were ready, the secretary of state would issue his statement of policy on West Africa.[18]

Richards' constitutional proposals were submitted eight months later on 19 July 1944. They were conservative in the extreme, shifted the position considerably backwards from Bourdillon's proposals, and represented a distinct movement towards the "Lugardian position." In fact, despite Colonial Office objections, Richards had kept in close and constant touch with Lugard since before his appointment. This debt Richards now acknowledged, after some unpleasant references to the "unreality and sterility" of his predecessors' thinking, with a profuse string of *clichés*:

> I have steeped myself in the writings and the thought of Lord Lugard, who has had no successor in knowledge of the people and in grasp of the principles and practice of colonial administration.... He would have been the last to launch the Ship of State on a maiden voyage of discovery through uncharted seas in the sublime faith that the winds of chance would blow her at last into some safe haven.

In examining Richards' proposals, it is difficult to understand in what respects the governor felt that he was advocating any sort of liberal reforms whatsoever. The creation of regional councils for the North, East, and West was an expected change, virtually obligatory after Hailey's report, and Richards may have felt it a great step forward to provide each regional council with a budget (consisting of all the receipts from native administration revenues topped up with block grants from the central government). Necessarily this implied the creation of regional administrations, though Richards made no reference to the questions of federalism raised by Cohen.

Hailey and Bourdillon had both envisaged, though admittedly without any precision, that these regional assemblies could provide a kind of popular representation of the "peasant producers" by working out ways of electing regional councillors from the native administrations (and by other means). Richards provided for specific numbers of members in each regional house to be "nominated" by the native authorities, but put off this evil day by insisting that every single member of each regional legislature would be nominated directly by the governor for the first three years of the new constitution, whatever the nature of the constituency they were supposed to represent. Moreover, the official majority would remain in each of the regional legislatures. The northern region, unlike the rest, would have a house of chiefs, with a final vote on bills and the budget, and with the right to veto or amend, but not to initiate, budgetary items. The northern lower house of assembly would have nineteen officials and eighteen unofficials, the western house fourteen officials and thirteen unofficials, and the eastern house thirteen officials and twelve unofficials.

In the central legislative council, whose jurisdiction would now extend officially to the whole of Nigeria, the governor's power of nomination was less thor-

18. CO 554/132, F16, Note of a meeting held in the Secretary of State's room, 19 November 1943; another version in CO 583/261/30453 at F25.

oughly wielded, for here the northern house of chiefs would nominate four members, the northern lower house four more, the western house would nominate three members, the eastern house four, and the municipal council of Lagos two. Thus, stretching the word election somewhat, Richards could argue that there would now be seventeen members elected by other assemblies. The governor would nominate a member for the Cameroons, two chiefs for the western area, and three European unofficials for banking, shipping, and commerce, so he could claim a total of twenty-four unofficial members, while the official element totalled only nineteen. Thus, he argued, there would be the unofficial majority upon which the Colonial Office had insisted. But looked at racially, which was the way Nigerians were bound to count the numbers, this claim appeared almost a deliberate falsehood. If the three European commercial representatives voted with the nineteen officials, while the six chiefs voted with the fifteen other African representatives, the score was twenty-two Europeans to twenty-one Africans, even leaving the governor's casting vote aside.[19]

This extreme rigidity in building the legislature was not counterbalanced by any flexibility at the base, such as might have pleased Hailey. There was to be no reform of local government: "indirect rule would continue precisely as at present" was Richards sole comment on this question. As for municipal reform he would have none of it, for it had not captured the public imagination and "runs counter to established ideas."

Perhaps the most remarkable element in Richards' proposals, however, was what they omitted. There was no provision whatsoever in the legislative council for the elected members chosen by secret ballot by the franchised voters of Lagos and Calabar since the 1920s. Richards proposed to disfranchise Nigeria's minute electorate and to announce that the goal was the "ultimate substitution of choice according to African custom for nomination by the Governor" as "the probable line of future progress towards democratic control."[20] His entire despatch showed little concern with the "intelligentsia" of the South; rather he was at pains to show that his main preoccupations still lay with the North:

> ...my chief difficulty ... has been how to bring the Northern Chiefs willingly into a scheme devised to develop into real Nigerian unity....
>
> The verbiage of democracy neither impresses nor deceives the Northern Emir whose judgement of men and motives is more acute than is commonly supposed.

Summing up his proposals, Richards was confident that there was "reason to believe that the Chiefs might accept" them, while "Not the least merit is the oppor-

19. More realistically, however, the problem lay in the counting of chiefs, of whom four would be northern Emirs, as unofficials. This group was more likely to vote solidly with the government officials than was the European unofficial element.

20. The Chief Commissioner of the Eastern Provinces regarded this statement as so provocative to Nigerian educated opinion that he asked for it to be removed from the draft, fearing the reaction if the despatch were to be published. Richards overrode his objections. CO 583/286/30453, Chief Commissioner F.B. Carr to Richards, 3 July 1944.

tunity given to let Lagos, its Press and its politicians, sink into their true Nigerian perspective".[21]

The reception of these proposals in the Colonial Office was not as outraged as it ought to have been, but was extremely cool. Cohen could see that such a scheme would get the support of the northern Emirs, so that the North could be brought into a Nigerian central legislature. Cohen had consistently pushed for federal solutions to Nigerian political difficulties, so that he saw Richard's proposals as a distinct advance on Bourdillon's in that respect. But although Richards' scheme could be seen as a "framework for future constitutional advance on a Nigerian basis," it "does not in itself constitute any advance at all. In this respect it goes even less far than Sir Bernard Bourdillon's scheme, which was itself thought not to be sufficiently progressive."

In commenting on the details, Cohen's reactions became scathing. He saw very clearly through the arithmetic of representation and could not understand why unofficial majorities had not been conceded in the regions when Richards had virtually been instructed to do this. Moreover, he could not really accept that chiefs could be regarded as truly "unofficial." And why must the governor nominate all the regional members for the first three years? The supposed unofficial majority in the centre was a sham. Clearly the whole scheme "would be regarded as reactionary by educated African opinion" which, though only a small fraction of the population, was the only vocal section and would influence opinion in Britain and abroad. Richards had also insisted that his constitution would last unchanged for nine years. "In the present state of public opinion, both in this country and West Africa," Cohen asked, "can such a position be sustained?"[22]

Lord Hailey also anticipated strong opposition from the educated elements and felt that they would "find considerable support in some sections in England." Criticism that the proposals were reactionary could only be answered if it could be shown that the objective was "to create in Nigeria that sense of unity or nationhood which is an essential preliminary to self-government."[23] The colonial secretary of Nigeria, Grantham, was consulted while on leave in England. Gratham refused to put his comments on paper, but allowed a record to be made, provided that his views should not be used in any communication with Richards. Grantham supported the proposals in detail, but insisted that they would have to be discussed extensively and publicly, after consultations with "Nigerian opinion," and that Bourdillon's pledge must be honoured.[24]

Other officials, while welcoming the regional system, were unanimous in prophesying opposition in Nigeria. F.J. Pedler objected strongly to the disfranchisement of the existing electorate, to the absence of an unofficial majority which "might spoil a very sound scheme," and the poor representation of urban areas.

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21. CO 583/286/30453, F1, Richards to Stanley, 19 July 1944, secret.
22. CO 583/286/30453, Minute by Cohen, 9 August 1944.
23. *Ibid.*, Minute by Hailey, 5 September 1944.
24. *Ibid.*, Memorandum by Cohen, 28 August 1944, recording conversation with Grantham.

He went on to lambaste the Northern Emirate system, in a passage worth quoting at length as evidence of the disillusionment with indirect rule which was now present in the Colonial Office:

> In the Northern Provinces we have hitherto supported a conservative regime which is rapidly becoming reactionary. Though it is the home of the Native Administration policy, it is the place where that policy works worst. The fundamental weakness is that, while in our dealings with the Emirs, we go to extreme lengths to avoid offending the susceptibilities of the Emirs and their immediate advisors, the Emirs rarely follow the same practice in the arrangements they make for governing their own people....
>
> Meanwhile we are sending out from the schools a class of educated young men to whom we have commended high principles of government and public conduct. When they see the feudal graft and oppression which goes on they cannot understand why we tolerate it unless we are sharing a rake off. If the true state of affairs in Northern Nigeria were really known, I believe it would be more damaging to British colonial prestige than any other situation in Africa. It is therefore most important that these reforms should be worked in such a manner that a platform will be given for educated elements in the North, who are not associated with the interests of the Emirates.[25]

All the Colonial Office officials, and the secretary of state, were agreed that the Richards draft would not do. The real problem, however, lay with the method by which the proposals had been drawn up. The dynamic for reform lay in the Colonial Office, and resistance to reform in the colonial service. The Colonial Office had hitherto resisted any idea that constitutions for individual colonies could be drawn up by itself. The theory was that London would supply the overall goals, and the policy and spirit of planned decolonisation, but that the governor of each colony, with his advisors, because they were close to the colony and therefore supposedly knew its detailed needs and were aware of particular perils, must draw up the detailed constitutional plans. This process had now produced, in Britain's most important colony and the one which would inevitably become a model for the decolonisation of complex territories, a totally unsatisfactory set of proposals. It was not politically feasible simply to scrap Richards' plan. The Colonial Office was still not ready to contemplate writing constitutions in London (a process which would only become possible when African colonies possessed elected leaders who could be brought to London for advice, consultation, and bargaining). Any attempt to do this, moreover, would have certainly entailed Richards' resignation and an upsurge of nationalist feeling and activity in Nigeria. Thus, the best that could be done was to bring pressure on Richards to amend his draft, point by point, until it could be made to look like an acceptable move forward

25. *Ibid.*, Memorandum by Pedler, 29 September 1944.

in the direction of decolonisation. But by simply amending the proposals, it was likely that the Lugardian spirit of the original would continue to shine through.[26]

Richards was called back to London for discussions in November 1944, and Cohen wrote a preparatory memorandum at the end of October in which, besides raising various technical problems, he raised three main issues that needed resolution. The first and most important of these was the lacking of unofficial majorities at the centre and in the regions. The second was the "failure to provide for a democratic method of selection of members of the Councils;" Cohen conceded that perhaps nomination was the only possible method at present, but the constitution must make clear that this would be merely a temporary expedient and should indicate what method would replace it. Thirdly, Cohen wanted to know what process of consultation would take place with Nigerians, implying that at least the Northern "chiefs" and the unofficials on the legislative council would be asked for their views (which, of course, would have opened up the issue to wider debate, for the matter could then no longer be secret, though Cohen did not himself make this point).[27]

Three days before he was to meet Richards, who had been called back for consultations, the colonial secretary held a preparatory meeting with his advisers. Stanley began at once with the issue that the proposals "were in fact retrograde" in the withdrawal of elected representation from Lagos and Calabar. But it was not Nigerian opposition which concerned him. The end of the war in Europe was in sight and this would be followed by a general election in Britain. Richards' scheme was

> difficult politically since it might be held to take away more than it gave, while it contained no important counter-concession such as the grant of an unofficial majority. It was important that the new constitution would be acceptable to all parties in this country. Otherwise there was a danger that it might be thrown over in the event of a change of Government in the U.K.

To forestall such opposition, it was necessary that the "mistake" of withdrawing representation from Lagos and Calabar be rectified, that unofficial majorities in the regions and at the centre be clearly established, and that the detailed implications of federalism be worked out. The regions would not be temporary, and Stanley believed that they would inevitably develop their own strength and "the scheme seemed to him to lead eventually to a federal system." He was also worried about the question of public discussion of the proposals in the light of Bourdillon's pledge. It had been suggested that the submission of the scheme to the existing legislative

26. Indeed, the fact that Richards was working closely with Lugard was now accepted in the Colonial Office. At first Cohen had insisted that the files should not be shown to Lugard, who had no official status, but in a minute (*Ibid.*, 16 October 1944) Cohen authorised this to be done, commenting "I am sure that Sir A. Richards will wish to talk about his proposals with Lord Lugard when he is here".

27. *Ibid.*, Minute by Cohen, 16 October 1944, and "Analysis of Proposals", 16 October 1944.

councils for debate and approval might be held to meet the pledge, but Stanley found this a doubtful tactic.[28]

The meetings which were held early in November 1944 between Stanley, flanked by his officials, and Governor Richards present a curious spectacle. The governor, defensive and isolated, was assailed on all sides by the representatives of imperial central authority to liberalise his proposals. At the first meeting on November 2, Stanley began by stressing the overriding importance of British political considerations and the coming election. "Presentation" of the scheme was of vital significance. Thus, in the legislative council, it was important to concede not merely an unofficial majority, but an African majority. To this Richards agreed. Stanley then raised the question of direct elections for Lagos and Calabar, which must be retained if British public opinion were to support the scheme. Richards immediately and vehemently resisted this, being "most anxious to do away with the principle of representation through the ballot box. As long as it was kept, even in one place, it would constitute a focus for demands for its extension elsewhere. Already such demands were being made on behalf of Port Harcourt." To this Sir George Gater responded by asking whether there was anything wrong with this; should not elections be conceded to such towns as became formal municipalities? Answering, Richards revealed the gulf which separated him from Colonial Office thinking on the whole question of municipal development and local government; elections in Lagos, he declared, "had proved a farce; and ... the existence of Native Authorities cut across the idea of municipal organisation." However, if opposition to the ending of direct elections threatened the entire scheme, he "would be prepared to pay the necessary price."

Next, Richards was assailed on the matter of representation in the regional councils. It became clear that Richards' concept of representation was very different from that which Hailey had envisaged in his report, with its idea of a pyramid of representation from the village council level, through provincial councils, to the regional council and the central legislature, with the emphasis on constant "democratisation" of the councils by steady infiltration of the "progressive" younger elements as councillors. Richards defended his claim to nominate all the members in the first three years, by arguing that his nominees would, in practice, be those put up by the native authorities, but that only in the North were these responsible enough to be trusted with direct selection. He reiterated that below the regional councils indirect rule would continue "precisely as at present." Indeed, Richards seems not to have regarded his own creation very seriously; he thought the regional councils would meet only once, and briefly, each year and, when questioned by Cohen about their financial role in postwar economic and social development, replied that the possible solution was "to hand over the maintenance of such capital works to the Native Authorities." At this point, Stanley interjected that unofficial majorities in the regional councils would "greatly help the presentation." Richards responded that there was "no objection to this in the North. It might be more difficult in the East and West, but could probably be managed,

28. *Ibid.*, Notes of a meeting in the Secretary of State's room, 30 October 1944.

though it would make it necessary to be more careful in the selection of the unofficial members."

Asked how he would meet the problem raised by Bourdillon's pledge, Richards had a ready answer. He would hold special conferences with the Emirs in the North

> at which their assent would be formally sought. In the Western Provinces he would himself speak to the more important Chiefs. In the East he would speak confidentially to the unofficial members of the Legislative Council. The proposals would then be put before the Legislative Council. He thought that this procedure could fairly be held to satisfy the pledge given by Sir Bernard Bourdillon to consult the people of Nigeria before introducing any constitutional changes.

Evidently Sir Arthur regarded Nigeria, like Gaul, as divided into three parts![29]

Richards and Stanley met again on November 9. Richards now agreed to an African majority on the legislative councils and to unofficial majorities on the regional councils, but he

> still felt that ... direct election by ballot should be eliminated. He mentioned that he had discussed his proposals confidentially with Lord Lugard who had supported them whole-heartedly as being in direct succession to his own ideas and had in particular welcomed the movement away from the Westminster model represented by the exclusion of ballot box election. As long as this was retained, if only in one place, it would act as a focus for demands for its extension elsewhere.

To allay criticism, Richards suggested that he should nominate three members to represent Lagos. Stanley again insisted that he must have wide support in the House of Commons, and the parliamentary undersecretary, the Duke of Devonshire, argued, perhaps with a certain exaggeration, that their lordships in the upper house would not take kindly to the idea of disfranchisement of electors in Nigeria. Richards then responded by asking to be allowed to consult Lagos opinion to see if it would be satisfied for three members to be indirectly elected by the Lagos municipal council. If this failed, he would "pay the necessary price."[30] Pressed to incorporate some progressive ideas on the development of village, district, and provincial councils in his final despatch, so that some real intent of democratising local government, and thus the representation of the people through the native authorities, could be demonstrated, Richards promised to consider this, but nothing came of it.[31]

On December 6 Richards submitted his final revised draft on constitutional reform, incorporating the amendments Stanley had asked for, including the reten-

29. *Ibid.*, F18, Notes of a meeting held 2 November 1944.
30. *Ibid.*, F20, Notes of a meeting with Sir A. Richards in the Secretary of State's room, 9 November 1944.
31. *Ibid.*, Richards to Stanley, 6 December 1944, rejects the idea of forming provincial councils on the grounds that the boundaries of the provinces were not coterminous with those of the native authorities.

tion of elections for Lagos and Calabar. But still the Colonial Office was unhappy. The draft was poorly written and the tone of much of its language quite unsuited for publication, bearing in mind the potential reaction both from the British Labour party and the Nigerian nationalists. The whole thing needed "drastic rearrangement," which Cohen was deputed to do.[32]

Cohen's task, in essence, was to rewrite the despatch in such a way as to remove the reactionary philosophy which lay behind Richards' proposals and make them appear part of an early sequence in the implementation of the Colonial Office philosophy of planned decolonisation. Large chunks of opinionated speculation from Richards were simply excised. This was one such casualty:

> No religion is more democratic tham Islam, the religion of the majority of the people; there is therefore a natural sense of social democracy in the Emirates and it is growing as the number of educated youths increase. One of the principal tasks of administrators is to teach the people that political democracy is not a political system on a Westminster or any other pattern, but a way of life, a habit of thought, of thought for others. The proposals which I have made for the political development of the Northern Province on lines familiar to the Chiefs and people should, I feel, do this.[33]

In place of this kind of thing, Cohen inserted a short and pithy statement designed to show the constitution as a progressive instrument, defining its objectives as

> to promote the unity of Nigeria; to provide adequately within that unity for the diverse elements which make up the country; and to secure greater participation by Africans in the discussion of their own affairs.

Elsewhere, Cohen inserted little sentences here and there to alter the tone of Richards' draft to a progressive line, such as the comment that native administration "must keep pace with the development of the country and it must find a place for the more progressive and better educated men." Cohen also slipped in a minor, but useful, constitutional change, adding "special subjects committees" in the regional assemblies for subjects like finance, education, and development, "in order that members of the House of Assembly might keep in touch with administration and to give them practical experience." Cohen also inserted an acknowledgement in Richards' name of his indebtedness to Bourdillon's previous work, a courtesy which Richards had pointedly neglected to include.[34]

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32. *Ibid.*, Minutes on F25, Richards to C.O., 6 December 1944; by Cohen, 18 December 1944; Creasy, 19 December 1944; and Gater, 19 December 1944.
33. Richards had in fact lifted this passage directly from a letter written to him by the Chief Commissioner, Northern Provinces, on 14 July 1944, (*Ibid.*, Annexure I, in F1, Richards to Stanley, 19 July 1944).
34. Considering that Bourdillon was the real author of the proposals, which differed very little from Bourdillon's earlier draft except in the removal of the directly elected members (now reversed by the Colonial Office) and the provision for the Royal Commission, Richards' failure to acknowledge this debt was both dishonourable and did violence to historical accuracy.

To cap this edifice and place the proposed constitution formally in an evolutionary setting of decolonisation, a draft introduction was prepared with the greatest care[35] in the name of the secretary of state, declaring that the "object of the proposed reforms is to set up a framework within which development towards responsible government can be planned on practical lines...."[36] Curiously, this was the first reference in the documentation to the idea of responsible government, which was never discussed with Richards.[37] After considerable further refinements, Cohen's rewrite was then published as an official Nigerian sessional paper and as a British parliamentary paper.[38]

Once the proposals were published, this touched off the intense reaction of the educated elements in Nigeria who bitterly resented, as Bourdillon had prophesied, the imposition of the scheme without any Nigerian participation in the way it had been framed. This reaction was crucially important in Nigerian history, for it ushered in the modern mass nationalist parties.[39] The reaction was not anticipated in the Colonial Office nor, when it occurred, was its significance understood or regarded as of much importance. Richards played down the whole thing, reporting that the NCNC was

> really a two man show centred in Lagos and inspired by Azikiwe.... So far from representing 6 million Nigerians the Nigerian Council cannot be said to represent 6000. It is just a facade built up by Macauley and Azikiwe to impress opinion outside of [sic] Nigeria.

Richards preferred what he called more representative views such as those of the

35. Hailey was consulted in detail on this matter, and provided material for an historical introduction. It is interesting to note that Hailey was far from happy with the revised proposals, and felt that they were not nearly progressive enough. He believed that the role of chiefs and emirs in the new system was much too heavy, and was very unhappy that the move towards representation of the people through the native authorities, which he had long advocated, was not accompanied by some specific proposals for the democratisation of native authority institutions (*Ibid.*, F33, "Points Raised by Lord Hailey", n.d. but about mid-January 1945).
36. *Ibid.*, F32, Draft of an Introductory Note by the Secretary of State, n.d. but prepared about 11 January 1945.
37. Though, of course, in Colonial Office general and West African planning of decolonisation, the idea of a responsible government stage was frequently referred to.
38. *Ibid.*, Memorandum by Cohen, 18 December 1944; Memorandum by Cohen, 27 December 1944; F27 is Cohen's amended version, retaining the date 6 December 1944 of the governor's original despatch. F37 to Richards, 27 January 1945, sends the final version, with the Secretary of State's introduction. This became Nigerian Sessional Paper No. 4 of 1945, and Cmd. 6599, *Proposals for the Revision of the Constitution of Nigeria*, 1945.
39. These events have been discussed from the Nigeria perspective in G. Olusanya's, *The Second World War and Politics in Nigeria, 1939-1953* (London, 1973), pp. 72-99; and in Ezera, *Constitutional Developments in Nigeria*, pp. 76-81; as well as in Coleman's, *Nigeria: Background to Nationalism*, pp. 275-95.

Oba of Benin, who declared that "no sensible reformer can place power in the hands of fanatics. To do that is to play the Nazi."[40]

In fact, the Nigerian reaction had no effect on the Colonial Office. Stanley was concerned with what the British Labour party might think, with the election now close, and not with Nigerian opinion. Creech-Jones, as the party's main colonial critic, was consulted. While agreeing that the reforms were "a great step forward," he had numerous reservations. The franchise qualification for Lagos and Calabar was too high; democratic municipal councils had not been introduced; the unofficial majority of one in the legislative council was too cautious; and he objected to commercial representation (why not trade unions then?), disliked the heavy representation of chiefs from the North and West, and felt that the relationship of the executive to the legislative council should have been adjusted. In general, Creech-Jones feared "a stiffening of the inflexible feudal element" and wanted the new system to be used to admit more and more of the progressive and democratic elements in the population.[41] Richards was consulted about these objections, but predictably stood firm, describing municipal reform as "a wicked abandonment of the people to a minute group of irresponsible agitators" and characterising Creech-Jones' desire to cut down chiefly representation as "just ignorance of local conditions."[42]

But Stanley had British politics to consider and made a few concessions to Labour. The official representation on the legislative council was reduced by four, the franchise qualification in Lagos and Calabar halved (from £100 to £50), and the member for banking dropped. The commercial members were redefined so as to allow nomination of interests "not otherwise represented."[43] Creech-Jones pronounced himself "very gratified" by these changes.[44] Now came the legal and drafting work of issuing the constitution, which took several months and was plagued by shortage of staff. This meant that the final approval of the constitution went out above the signature not of Stanley, but of Labour's new colonial secretary, G. Hall, but no further modifications of the proposals were made.[45]

The making of the Richards constitution illustrates the dilemma which faced the Colonial Office in trying to plan evolutionary decolonisation in its early stages. With the initiative for constitution-making in the governors' hands, he, if he was determined to divert the course of events, still remained a powerful figure, especially if he was backed by his own civil service and the chiefly and aristocratic

40. CO 583/286/30453, Richards to C.O., tel. 29 March 1945.
41. *Ibid.*, Creech-Jones to Stanley, 17 April 1944.
42. *Ibid.*, F85, Richards to Creasy, 22 April 1945.
43. *Ibid.*, F94, Stanley to Creech-Jones, 23 June 1945.
44. *Ibid.*, F95, Creech-Jones to Stanley, 26 June 1945.
45. *Ibid.*, F99, Hall to Richards, 4 December 1945. The wording of this despatch, intended for publication, was clearly based on F88, Stanley to Creech-Jones, 28 May 1945, and one cannot detect an iota of Labour party influence upon it. I suspect that the draft was not altered, and perhaps not even read, by Hall. This despatch became Nigerian Sessional Paper No. 397, *Political and Constitutional Future of Nigeria* (Lagos, 1945).

elements among the African population which had hitherto been the foundation of British rule. True, Richards did not get all his own way; the frankly reactionary nature of his original proposals was modified considerably and the philosophy underlying them was cut about and altered. Nevertheless, Richards did succeed in saddling Nigeria for a time with a "Lugardian" experiment in representation. But the victory was Phyrric. This was the last occasion on which a governor would be able to draft a constitution without reference to Nigerian opinion. The imposition of the Richards constitution did more than any other single event to provoke the creation of a new, mass-based, and militant nationalism, outraged by the way the constitution had been framed, yet forewarned by the language of Cohen's amendments and the secretary of state's introduction that the day of responsible government was dawning. For a time, the old alliance between nationalists and the colonial reformers seemed broken, though in Nigeria it would later appear that this was not beyond repair. From now on, governors, and the colonial service, had to face the prospect of direct contact, bargaining, and even cooperation between the Colonial Office in London and the nationalist leadership on the spot.