

GHANA'S NEW CONSTITUTION

On Monday 7th March 1960 the draft constitution of the new Republic of Ghana was presented to the National Assembly.

Although the draft is silent on the subject, it is anticipated that Ghana will remain a member of the Commonwealth. This will place her on a comparable footing with India and Pakistan (both republics) and the Federation of Malaya (state and federal monarchies) as a member nation recognising the Queen as head of the Commonwealth but not as head of state.

The new constitution bears little resemblance to a parliamentary democracy. Whether this proves beneficial or detrimental to the governance of Ghana will depend on the president's interpretation of his office. For the most striking feature of the constitution is its conception of the presidency as an incorporation of the roles of head of state and head of government. It is difficult to view the office in any other light than as fashioned for the man who was instrumental in its creation and is assured of its first occupancy — Dr. Kwame Nkrumah.¹ An obvious precedent for tailor-made presidencies is that established for General de Gaulle by the constitution of the Fifth French Republic. But the extraordinary power vested in the French president (and its corresponding diminution in the premier) fades in comparison with that of his Ghanaian counterpart. Not only will Ghana have no separate office of prime minister; she will also lack a second chamber.

In addition to his combined role of head of state and of the government, the president will be the fount of all honour: he will appoint the Chief Justice and the judges² and control the reins of the civil service.³ The moral drawn from contemporary examples of the danger of military fingers in political pies has been invoked to justify the president's appointment as Commander-in-Chief of the armed forces.

Like the National Assembly he will hold office for five years and he may seek re-election. If the president dissolves the Assembly he must offer himself again for election or retire.

1. The Ghanaian concept of the president-premier bears a superficial resemblance to the president's role in the U.S.A. The main difference is that the intricate method of electing the former is calculated to avoid the possibility of a predominantly hostile legislature—a problem with which several American presidents have been confronted.
2. Members of the judiciary are removable only for misbehaviour or infirmity on a two-thirds majority vote of the Assembly.
3. The president is empowered to appoint, promote, dismiss and discipline civil servants. To assist him he will appoint a Civil Service Commission.

The Assembly will comprise 104 members elected on a constituency basis.⁴ The presence of the president at the head of the majority party, together with his power to veto bills passed by the Assembly, is bound (or calculated?) to restrict the growth of an effective opposition. It would appear to some critics that the holy cow of parliamentary democracy has not only been milked but also delivered to the butcher.

However, in a broadcast to the nation on 6th March, Dr. Nkrumah claimed that the new constitution was based firmly on the rule of law and that its elaborate statement of human rights precluded arbitrary action or discrimination against any individual or community.

He sees the new republic and its constitution as the architect of a United Africa. The second paragraph of the draft underlines this aim. It reads: "in the confident expectation of an early surrender of sovereignty to a union of African states and territories, the people now confer on Parliament the power to provide for the surrender of the whole or any part of the sovereignty of Ghana."

The realization or dissipation of this dream of an African Union is to a large measure contingent on the way Ghana sets about governing herself. And that, in turn, depends on the spirit in which the president-premier translates into effective actions the momentous breadth of his constitutional power.

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4. The first elections will take place at some time after July 1961. But it is not unlikely that the life of the present Parliament will be prolonged beyond this date.

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